

Title 3 PERSONNEL

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Prior Legislation - Ord. No. 139; Ord. No. 210; Ord. No. 212; Ord. No. 268; Ord. No. 281 §3; Ord. No. 306; Ord. No. 345A; Ord. No. 556; Ord. No. 604; Ord. No. 640; Ord. No. 651; Ord. No. 675 §§3, 4; Ord. No. 682; Ord. No. 689; Ord. No. 770; Ord. No. 803; Ord. No. 810; Ord. No. 823; Ord. No. 832; Ord. No. 837; Ord. No. 844; Ord. No. 871; Ord. No. 872; Ord. No. 881; Ord. No. 884; Ord. No. 888.

Editor's Note - By adoption of Res. No. 284 on January 16, 1978, the Ketchikan Gateway Borough established and implemented an affirmative action policy for equal employment opportunity, to improve [sic] minority and female employment in all areas of the borough service. Copies of said policy are on file and available for public inspection in the office of the borough clerk.

O.B.A. - Investigation of alleged improprieties of borough employees, 72-11; application of Fair Labor Standards Act to borough and borough employees, 74-14.

Cross References - Administration, KGBC Title 2; insurance benefits for borough employees, Res. No. 8; participation in state retirement system, Res. No. 85.

State Law Reference - Public officers and employees, AS 39.

Chapter 3.05 OVERVIEW

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3.05.010 Title.

This title shall be known as the “Ketchikan Gateway Borough Personnel Policies.” They may also be cited as the “personnel policies.” [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.005.]

3.05.020 Purpose.

The purpose of the personnel policies is to establish a system of personnel administration for the Ketchikan Gateway Borough based upon the principles of merit, fitness, and equal employment opportunity, and to establish fair and uniform procedures and regulations for the recruitment, hiring, development, maintenance, and retention of an effective, responsible, and professional borough staff. These stated policies shall be subject to review and modifications, as needed. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.010.]

3.05.030 Scope and applicability.

(a) The personnel policies shall apply to all borough employees who are not subject to a collective bargaining agreement to the extent that such coverage is not otherwise limited expressly in these personnel policies, the KGB Code, and

employment agreements negotiated for assembly appointed employees. These personnel policies shall apply to borough employees in a collective bargaining unit only to the extent that the section is listed in subsection (b) of this section or the relevant code section expressly provides for application to collective bargaining units. KGBC [3.10.050](#), [3.15.200](#), and [3.15.210](#) shall not apply to executive level employees who serve at the pleasure of the manager.

(b) The following sections of this title apply to all borough employees, including those subject to a collective bargaining unit: KGBC [3.10.030](#), [3.10.040](#), [3.15.010](#), [3.15.050](#), [3.15.060](#), [3.15.070](#), [3.15.080](#), [3.15.090](#), [3.15.100](#), [3.15.110](#), [3.15.120](#), [3.15.130](#), [3.15.140](#), [3.15.170](#), [3.15.180](#), [3.15.190](#), and Chapters [3.35](#) and [3.40](#) KGBC.

(c) Those responsibilities which are assigned to the borough manager in this title shall be exercised by the borough clerk for employees in the borough clerk's office and by the borough attorney for employees in the borough attorney's office. [Ord. No. 1736, §1, 9-2-14; Ord. No. 1369, §1, 9-19-05; Ord. No. 1205, §8, 3-18-02; Ord. No. 1056, §1, 1-5-98; Ord. No. 1040, §2, 8-4-97; Ord. No. 994, §6, 7-15-96; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.011.]

3.05.040 Responsibility of public offices.

Public officials and employees are always of the public purpose and serve for the benefit of the public. They shall uphold the Constitution of the United States, the Constitution of the State of Alaska, the KGB Code, rules, regulations and policies of the borough and shall carry out impartially the laws of the nation, State and borough. In their official acts, they shall discharge faithfully their duties, recognizing that the public interest is paramount. Public officials and employees must demonstrate the highest standards of integrity and ethics consistent with the requirements of their position and consistent with law. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.012.]

3.05.050 Employee notification.

It shall be required that each new and existing employee will be given a copy of these personnel policies and these employees shall certify, in writing, that they have received, read and understand these policies. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.013.]

3.05.060 Dedicated service.

In the performance of their duties, all officials and employees shall support governmental objectives expressed by the electorate and interpreted by the assembly and the borough programs developed to attain these objectives. Officials and employees shall adhere to work rules and performance standards established for their positions. The borough requires all officials and employees

to use good manners, to be considerate, to be accurate in statement, and to exercise sound judgment in the performance of their work. Unless written authorization is granted by the manager, during the hours covered by active borough employment, no official or employee shall work for any other employer or agency and neither conduct nor pursue any unauthorized activity for remuneration. Officials and employees shall neither exceed their authority nor breach the law nor ask others to do so. They shall work in full cooperation with one another and other public officials and employees unless prohibited from doing so by law or by officially recognized confidentiality of the work. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.014.]

3.05.070 Nondiscrimination.

No official or employee shall unlawfully grant any special consideration, treatment, or advantage to any person beyond that which is available to every other person in similar circumstances. No person shall be favored or discriminated against with respect to any appointment in the borough service because of associations, sex, race, religion, national origin, marital status, age, disability, political opinion or political affiliation. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.015.]

3.05.080 Policy-making authority.

This title is adopted, and may be revised or amended, by ordinance of the borough assembly. Borough policy takes precedent over department policy. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.016.]

3.05.090 Captions.

The captions and headings in this title are for convenience and reference only, and are not to be used to interpret or define the provisions of its sections. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.017.]

3.05.100 Severability.

If any section or subsection of this title shall at any time be deemed illegal or unenforceable, the remaining provisions shall not be affected thereby and shall remain valid and enforceable to the extent permitted by law. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.018.]

3.05.110 Definitions.

As used in this title, the following words, terms, and phrases shall have the meanings ascribed to them herein unless the content clearly indicates otherwise:

“Administrative appeal” means action brought by an employee seeking relief from the borough manager’s decision to suspend, demote, or dismiss that

employee.

“Alcohol” means any intoxicating liquor which can be taken as a beverage and which, when drunk to excess, will produce some level of intoxication.

“Anniversary date” means one calendar year after the date of appointment to a specific position, and annually thereafter.

“Applicant” means an individual who has completed and submitted an application for employment with the borough.

“Appointing authority” means the party who, under Alaska Statutes or the KGB Code, has the authority to appoint, transfer, promote, lay off, suspend, demote and remove a borough employee. This is the borough clerk, in the case of borough clerk’s office employees, the borough attorney, in the case of borough attorney’s office employees, and the borough manager, or designee, in the case of all other borough employees.

“Appointment” means the acceptance by a person of a position with the borough on a temporary, probationary, or regular basis.

“Borough” means the Ketchikan Gateway Borough, Alaska.

“Borough attorney’s office employee” means a borough employee whose normal duties may require handling of confidential communications directly between the borough attorney’s office and the assembly. Borough attorney’s office employees are subject to the provisions of this title to the same extent as other borough employees except that they do not report to, and are not supervised by, the borough manager.

“Borough clerk’s office employee” means a borough employee whose normal duties may require handling of confidential communications directly between the borough clerk’s office and the assembly. Borough clerk’s office employees are subject to the provisions of this title to the same extent as other borough employees except that they do not report to, and are not supervised by, the borough manager.

“Borough manager” means the borough manager of the Ketchikan Gateway Borough or the manager’s designee.

“Controlled substance” means any drug designated as such under either the federal Controlled Substances Act or AS 11.71.

“Date of hire” means the date that an employee first reports to work.

“Demotion” means an involuntary assignment of a regular employee to a position having a lower pay grade.

“Department head” means the chief administrative, executive officer, or employee in each department of the borough, or the department head’s designee.

“Disciplinary probation” means probation that a regular employee is noticed of and is placed on after repeated unsatisfactory performance with no satisfactory improvement. This may lead to termination.

“Drug” means any substance that impairs an employee’s ability to perform a job or duty, or poses a threat to the safety of the employees or to others. This includes controlled substances, which are those substances whose dissemination is controlled by regulation or statute, including but not limited to those drugs included in Schedules I and II as defined by 21 U.S.C. 801 et seq., the possession of which is illegal under Chapter 13 of that title. Such controlled substances are frequently and commonly referred to in familiar terms. In addition to the full body of the drug family, it includes such commonly known items as marijuana, cocaine (including crack), opiates (including heroin), phencyclidine (PCP), and amphetamines. It also includes over-the-counter drugs and/or drugs which require a prescription or other written approval from a licensed practitioner, physician, or dentist for their use, if such use could impair the employee’s ability to perform a job or duty, or poses a threat to the safety of the employee or others. It also includes any other substance capable of altering an individual’s mood, perception or judgment.

“Employee” means a person working for the borough for wages, salary, or as a volunteer on a regular or intermittent basis.

“Examination period” means a period where an incumbent employee is reassigned from one position to another and is subject to a performance evaluation reflecting the employee’s evaluation in the new position. This period may extend to a maximum of three months at the discretion of the borough manager.

“Executive level employee” means an employee who serves at the pleasure of the manager. This includes the assistant manager, airport manager, North Tongass fire chief, South Tongass fire chief, and the directors of finance, assessment, animal protection, planning, transit and public works.

“Exempt employee” means any employee who is exempt from the minimum wage

and overtime provisions of the Fair Labor Standards Act.

“Floating holiday” means a holiday that is earned by a full-time employee who has completed his/her probationary period and has completed a specific period of service which can be used at any time upon the approval of the employee’s supervisor.

“Full-time employee” means an employee who is hired to work a predetermined schedule of 40 hours or more per work week. This term includes certain shift employees who may work varied hours according to department schedules.

“Grievance” means any formal dispute or question concerning the interpretation or application of the personnel policies.

“Immediate family” means a spouse; sibling; grandparent; uncle; aunt; niece; nephew; regular member of the person’s household; a child, including a stepchild or adoptive child; grandchild; brother-in-law; sister-in-law; and a parent or sibling of the person’s spouse.

“Impaired” means a diminishing or worsening of an employee’s mental or physical condition which is the result of using alcohol or drugs.

“Job description” means a written statement describing the general duties, responsibilities, and entrance qualifications of a position.

“Job title” means the designation given to a specific job description.

“Layoff” means an involuntary, nondisciplinary separation of an employee from borough service for any reason the borough assembly or borough manager determines is in the best interests of the borough, and which results in a reduction in the number of borough employees.

“Leave without pay” means an approved period of unpaid absence from borough service for a specified period of time.

“Nonexempt employee” means an employee who is not exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act.

“Overtime” means any authorized time worked by a nonexempt employee in excess of the normal work week or work day.

“Overtime pay” means the compensation paid to a nonexempt employee for authorized overtime work.

“Part-time employee” means an employee who is hired to regularly work less time

than a full-time employee.

“Pay plan” means the official schedule of compensation for borough employees approved by the borough assembly assigning a pay rate or range to each position.

“Pay rate” means the specific salary or hourly rate of pay for a position.

“Personal relationship” means a relationship involving employees who are dating or engaged in a romantic relationship.

“Position” means an authorized full-time employee.

Possession. A person shall be deemed to be in “possession” of an alcoholic beverage, drug not medically authorized or controlled substance when these are in the possession of immediate occupancy and physical control of the employee while at their place of employment.

“Probationary employee” means an employee in a new position who has not completed the probationary period.

“Probationary period” means the first 1,040 worked hours of continual full-time employment per position; provided, however, that the 1,040 worked hours probationary period may be extended by the borough manager for any period not to exceed 520 worked hours based upon the six-month written performance evaluation. The probationary period for borough employees who change to a new position and who have previously successfully completed 1,040 worked hours probationary period upon initial employment shall be 520 worked hours.

“Promotion” means the assignment of an employee from one position to another position with a higher pay rate or range. A transfer from one bargaining unit to another shall not be considered a promotion.

“Proper medical authorization” means a prescription or other written approval from a licensed practitioner/physician or dentist for the use of a drug in the course of medical treatment. It must include the name of the substance, the period of authorization, and whether the prescribed medication may impair job performance. This requirement also applies to refills of prescribed drugs.

“Qualified health care provider” means a physician, nurse practitioner, physician’s assistant or any another health care professional qualified by education or medical board or other qualified agency to render a medical judgment regarding an employee’s ability to perform the duties and

responsibilities of the employee's position.

"Reasonable accommodation" means any accommodation for an employee that would not impose an undue hardship on the borough or require a substantial modification of the essential duties and/or responsibilities of an employee's position.

"Reassignment" means a voluntary or involuntary placement of a probationary or a regular employee for any reason other than a demotion.

"Regular employee" means an employee who has satisfactorily completed the probationary period of employment.

"Resignation" means a voluntary separation from borough employment by an employee.

"Selection procedure" means any written or oral test, physical test, physical examination, interview, or other criteria, or any combination thereof, that is used to measure an employee/applicant's qualifications for the essential functions of the position for which the employee/applicant seeks promotion or appointment.

"Seniority" means the length of time an employee has been employed by the borough, or has held a specific position, since the date of hire or appointment to a specific position.

"Substance abuse" means use of a drug or alcohol in violation of this policy.

"Suspension" means a forced period of absence for disciplinary reasons or pending investigation of charges made against an employee. This period of absence may be with or without pay depending upon the particular circumstances which led to the employee being suspended.

"Temporary employee" means an employee who is hired for a position for a limited period of time, not to exceed six (6) calendar months, unless an extension is approved by the borough manager.

"Termination" means an involuntary, disciplinary separation by the borough of an employee from borough employment.

"Transfer" means an assignment of an employee to a different position with the same or lower pay rate or an assignment of a borough employee to a position in a different bargaining unit regardless of change in pay.

Volunteers. Except for volunteer firemen, "volunteers" are individuals providing

services or labor to the borough for no compensation and who are not entitled to any pay or benefits. For the purposes of this chapter, volunteer firemen are volunteers except to the extent that they may be entitled to the benefit of workers' compensation insurance coverage and for pay for time spent in training, or on a call.

"Workday" means a consecutive twenty-four-hour period.

"Working day" means each day an employee is scheduled to work, excluding borough holidays, except as provided for under labor agreements.

"Workplace" means any premises owned or leased by the borough, including but not limited to buildings, property, vehicles and equipment, used for the performance of borough work by borough employees during borough work hours.

"Workweek" means a fixed and regularly recurring period of seven consecutive twenty-four-hour periods beginning on Monday and ending on Sunday. [Ord. No. 1807, §1, 7-18-16; Ord. No. 1763, §3, 8-17-15; Ord. No. 1299, §6, 3-15-04; Ord. No. 1228, §1, 9-3-02; Ord. No. 1205, §9, 3-18-02; Ord. No. 1056, §2, 1-5-98; Ord. No. 994, §§7, 8, 7-15-96; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.019.]

3.05.120 Computation of time.

(a) Whenever these personnel policies require or provide for the giving of written notice to, or service of any document on, an employee or other person, such notice or document shall be served on such employee or other person by either delivering such notice or other document to the person or by depositing a copy of the notice or document in the United States mail, postage prepaid, addressed to the employee at the employee's last known address as shown on borough personnel records or, in the case of notice to or service on the borough manager, the employee's supervisor or department head, to the attention of such person at 1900 First Avenue, Ketchikan, AK 99901. Service of a notice or other document shall be deemed to be effective, upon delivery, if delivered personally, or if service is by mail, upon the expiration of five days after the date on return receipt, the notice or other document is deposited into the United States mail as provided herein.

(b) The time prescribed in these personnel policies for performance of any act, for requesting any review, or for filing any grievance, appeal, notice, or other document, shall commence to run from the date the action or decision complained of occurred, or from the date service of the document or written notice of the action complained of is effective as provided in subsection (a) of this section, whichever date is later. In the event these personnel policies specify

a time within which notice must be given, or an act must be done, such time period shall be computed by excluding the first day (i.e., the day the act occurred or service became effective) and including the last day, unless the last day falls on a Saturday, Sunday, or borough holiday. When a period of time prescribed by these policies is less than seven days, intermediate Saturdays, Sundays, and borough holidays shall be excluded in computation. [Ord. No. 1541, §5, 11-23-09; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.10.020.]

Chapter 3.10
RECRUITMENT AND SELECTION OF EMPLOYEES

Sections:

3.10.010 Recruitment, position vacancy announcements and applications.

3.10.020 Selection of employees.

3.10.030 Residency.

3.10.040 Nepotism.

3.10.050 Probationary period.

3.10.010 Recruitment, position vacancy announcements and applications.

(a) The borough manager shall recruit qualified applicants for any position vacancies, which recruitment may include, but is not limited to, internal job postings, help-wanted advertisements, or employment agencies. The vacancy may be advertised to the public concurrently with in-house postings. When a qualified regular employee applies for any borough position they shall be afforded the opportunity to be interviewed for the opening. However, the borough will strive to fill any and all vacancies with the most qualified candidates.

(b) Published announcements of position vacancies shall include the title of the position, the application deadline (if any), instructions for obtaining application forms, the place and manner of filing applications, other pertinent information, and any such information as may be required by law. All such announcements shall state that the borough is an equal opportunity employer, and shall be published for a period of not less than seven days prior to the application deadline.

(c) When determined by the borough manager as advantageous to the borough, any position recruitment period may be authorized and advertised to be open until filled. Further, when determined by the borough manager to be advantageous to the borough, an active registry may be developed to help keep frequently vacated positions filled.

(d) All applications for positions shall be made on a form provided, or in the manner required, by the borough manager. Any information submitted on the form, or any other required documents, may be verified and investigated prior to appointment by the appointing authority to the extent necessary to determine the applicant's qualifications for appointment. The applicant shall authorize in

writing any investigation necessary to verify the information provided by the applicant, including reference checks. The supplying of false or misleading information as part of an application or the omission of any material information from an application for employment may be grounds for rejection of the applicant or later removal of the employee.

(e) In addition to the application requirements outlined in subsection (d) of this section, all persons who have been offered positions with the borough shall be required to complete an immigration form and present evidence that they are eligible to be employed in the United States, in accordance with the requirements of federal immigration statutes and regulations. Failure to comply with these requirements, or ineligibility for employment under federal law, shall result in the withdrawal of the offer of employment, and in the case of a person who has become employed, constitutes independent and sufficient grounds for termination of employment. [Ord. No. 1172, §1, 2-20-01; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.20.005.]

3.10.020 Selection of employees.

(a) The borough manager shall establish procedures for the initial selection or promotion of employees. All selection procedures and rules shall relate to the applicant's or employee's merit, fitness, and ability to perform the duties and responsibilities of the position to which the applicant or employee seeks appointment or promotion. Experience and training may be considered when evaluating an applicant's or employee's fitness for a particular position. Drug testing requirements set forth by any State or federal law will be followed if applicable.

(b) Selection procedures may include examinations which measure the applicant's or employee's job-related ability, knowledge and skills. The appropriate form of each examination shall be determined by the borough manager and may include, but need not be limited to, oral, written, graded, pass-fail tests, resume analysis, employment references, reports of supervisors, performance evaluations and work sampling. Any setting of minimum qualifying scores or standards for any required examinations will be stated prior to announcing and recruiting. All selection procedures shall comply with KGBC [3.15.020](#) and other applicable laws.

(c) Depending upon the particular job offered, a physical examination may be required after offer of employment is made. Any physical examination so required must be completed by a qualified health care provider before an applicant is appointed or an employee is promoted to a particular position. Any

minimum medical and physical standards which relate to the essential duties and responsibilities of a particular position will be defined in the job description. The standards may differ based on the essential duties and/or responsibilities of each position. No appointment or promotion shall be effective until the applicant or employee demonstrates satisfaction of any required minimum medical or physical standards. Failure to meet the required minimum standards shall result in disqualification for appointment or promotion to the position. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.20.015.]

3.10.030 Residency.

Residency within the borough shall not be a condition of initial appointment or selection as an employee. However, all employees shall and as a condition of their continued employment, reside within the corporate boundaries of the borough within three months after the later of October 1, 2005, or their date of hire. The requirements of this section may be waived on the written recommendation of the borough manager approved by motion or resolution of the assembly based on a finding that such waiver is found to enhance the efficiency or effectiveness of the borough work force. Such recommendation shall set forth the justification for the exception and any conditions which apply. [Ord. No. 1369, §2, 9-19-05; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.20.016.]

3.10.040 Nepotism.

No person shall be employed who is under the direct or indirect authority of a supervisor, director or manager who is an immediate family member as defined in KGBC [3.05.110](#) or is in a personal relationship, as defined in KGBC [3.05.110](#). Employees found in violation of this section may be subject to disciplinary action up to and including termination. No immediate family member of the borough manager, assistant borough manager, borough mayor or an assembly member may be employed without prior approval of the borough assembly. No person shall be employed with the borough who is in a personal relationship, as defined in KGBC [3.05.110](#), with the borough manager, assistant borough manager, borough mayor, or an assembly member. This section does not apply to volunteers of the North and South Tongass fire departments, and members of the planning commission or school board. Any employee who becomes involved in a personal relationship prohibited by this section shall immediately inform the assistant manager or human resources administrator of the existence of such relationship. [Ord. No. 1807, §2, 7-18-16; Ord. No. 1736, §2, 9-2-14; Ord. No. 970A, §4, 5-20-96; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.20.017.]

3.10.050 Probationary period.

(a) The probationary period shall be considered an integral part of the

employee selection and examination process. During the probationary period, the employee's supervisor shall review, examine and monitor the conduct, capacity, efficiency, skill, responsibility, integrity, and effectiveness of the employee to determine whether the employee is fully qualified for employment in the classification and position to which the employee has been appointed.

(b) All employees, except the borough attorney, the borough clerk, and the borough manager appointed to regular positions with the borough, are on probation.

(c) If at any time during the probationary period the probationary employee does not satisfactorily meet the requirements of the job for any reason, the probationary employee may be terminated from that position. At management's option, the supervisor may propose the use of subsection (h) of this section. If retained after six months in the same position, such employees shall thereafter be considered a regular employee.

(d) During the probationary period described in this section, the employee is not covered by KGBC [3.15.200](#) or [3.15.210](#) and has no right to appeal a suspension without pay, demotion or removal.

(e) Any employee who is promoted shall be given a reasonable trial period, not to exceed 65 days, to become acquainted with the job and to demonstrate ability to fill the job satisfactorily. If, during this trial period, the employee demonstrates unsatisfactory ability for the job or at the employee's request, the employee shall be returned to the employee's former job without loss of benefits. If an employee accepts a position vacated by an employee who has been promoted or transferred, the appointment shall be conditioned upon the successful completion of the promoted or transferred employee's trial period.

(f) A probationary employee is not and shall not be considered to be a temporary employee. Temporary employees are not eligible for group insurance, paid annual leave, paid sick leave, holiday pay, personal days, or pay increases. Up to three months of time served as a temporary employee may be counted toward the employee's six month probationary period.

(g) Hours of work shall be specified by job title. The number of hours of work may vary for different positions, but shall be uniform for all employees within the same job title.

(h) After written evaluation and upon written mutual agreement among the employee, the employee's supervisor and the manager, the probationary period

of a new employee may be extended for up to one additional period not to exceed 90 work days. Upon successful completion of the extended probationary period, the employee shall thereafter be considered a regular employee. [Ord. No. 1095, §§1 - 3, 4-5-99; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.20.018.]

**Chapter 3.15
GENERAL PERSONNEL POLICIES AND PRACTICES**

Sections:

3.15.010 Equal employment opportunity.

3.15.020 Equal opportunity employer.

3.15.030 Performance evaluations.

3.15.035 Deficient performance review.

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3.15.200 Discipline, removal, and appeal.

3.15.210 Grievance procedure.

3.15.220 Personnel files.**3.15.230 Discipline and removal of executive level employees.****3.15.010 Equal employment opportunity.**

It is the borough's policy to treat all applicants and employees fairly and to recruit, hire, train, promote, lay off, discipline, remove or conduct any other personnel actions without regard to the applicant's or employee's race, color, religion, creed, national origin, age, disability, sex, marital or veteran status, or the citizenship status of a person otherwise authorized under federal law to work in the United States, or on any other basis that is prohibited by federal, state or local law. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.005.]

3.15.020 Equal opportunity employer.

(a) It is the policy of the borough to provide equal employment opportunities for all persons from all segments of the population without discrimination as to race, color, religion, creed, national origin, sex, age, marital or veteran status, citizenship status of a person otherwise authorized under federal law to work in the United States, or disability. The borough policy shall be consistent with all federal and State laws and regulations.

(b) The responsibility for implementation and administration of the borough's equal opportunity policy shall rest with the borough manager. The manager may delegate responsibility for developing and implementing an equal opportunity program.

(c) All management and staff throughout the borough are responsible for supporting the borough's equal employment opportunity policy.

(d) The borough manager is responsible for the evaluation, coordination, implementation, monitoring, and administration of the equal opportunity program. The manager is also responsible for administration of the personnel policies and practices for compliance with EEO laws and regulations.

(e) All managerial and supervisory staff are responsible for supporting the borough's commitment to equal opportunity employment as reflected in their annual goals and job descriptions. Department heads are responsible for ensuring that employees are not harassed in violation of the borough's equal employment opportunity and antiharassment policies.

(f) The borough will conduct periodic internal audits of personnel policies and practices to ensure that all personnel actions such as referrals, placements, transfers, promotions, demotions, layoffs, discipline, and terminations at all

levels within the borough are nondiscriminating and consistent with the borough's equal employment opportunity policy and any applicable laws and regulations. [Ord. No. 1736, §3, 9-2-14; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.015.]

3.15.030 Performance evaluations.

(a) During the probationary period, a probationary employee's supervisor shall continually evaluate, as appropriate, the employee's performance. The probationary employee may be terminated from that position for any reason.

(b) The performance of personnel who are on probationary status will be evaluated at the end of the probationary period. If the evaluation is late, it shall not delay the transition from probationary to regular employee status. Evaluations of personnel who have reached regular status shall be done by the anniversary date. Should an evaluation not be completed by the employee's anniversary date, the employee shall receive an automatic step increase on their anniversary date. For an employee that has reached the top of their pay grade, the employee shall receive an automatic one and one-half percent bonus payment, calculated on the base annual salary without regard to any premium. The base annual salary for nonexempt employees shall be calculated as the base hourly rate times 2,080 hours. The original copy of the evaluation shall be incorporated into the confidential personnel file of the employee evaluated.

(c) Performance evaluations shall be in writing in the format on file in the borough manager's office. The evaluation will be performed by the employee's direct supervisor, and reviewed by the employee, department head and borough manager. Any party reviewing the evaluation may make comments relating to the review. If the annual performance evaluation falls during a period of leave, the performance evaluation may be postponed until the employee has returned to work.

(d) Prior to completion of the probationary period, the department head shall furnish the borough manager with a written evaluation of the employee based on ability or performance. If the employee's ability and performance are unsatisfactory, the employee may be terminated at or before the end of the probationary period. The date of hire or promotion constitutes an employee's performance anniversary date. The performance of each regular employee shall thereafter be reviewed in writing at least annually, within 45 days of the employee's anniversary date, by the department head and borough manager. [Ord. No. 1807, §3, 7-18-16; Ord. No. 1736, §4, 9-2-14; Ord. No. 1095, §§4 - 6, 4-5-99; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.016.]

3.15.035 Deficient performance review.

(a) In the event that the performance of a regular employee falls below acceptable levels, the supervisor may place the employee on probation due to deficient performance pursuant to this section. The supervisor shall provide written notice of the probationary status to the employee and the human resources administrator or assistant manager. This section does not apply to executive level employees or the borough manager, clerk, and attorney.

(b) Whenever a regular employee's performance of tasks or responsibilities which are within the scope of the employee's job description falls to a level unacceptable to the employee's supervisor or behavior fails to meet the standards in the borough code, the employee shall be informed in writing by his or her supervisor of the unacceptable behavior or performance and what must be done to correct the situation. This initial notice of deficient performance:

(1) Shall be considered a warning.

(2) Shall be signed by both the employee and supervisor and placed in the employee's personnel file. The employee's signature on the warning acknowledges the contents of the notice only.

(3) If the warning includes probation for deficient performance it shall provide a probationary period of not less than 90 nor more than 180 days and involve a reevaluation before the end of the probationary period to determine whether the deficient performance has been improved sufficiently or whether remedial or disciplinary action, up to and including termination, is appropriate.

(4) If the warning does not place the employee on probation, the deficiencies may be addressed at the next regular annual evaluation occurring more than 90 days after the warning. If the next regular annual evaluation falls within 90 days, the supervisor may schedule a special evaluation 90 days after the warning to review the employee's progress in remedying the deficiencies.

(5) Neither a deficient performance probation notice nor a warning notice is a disciplinary action subject to grievance. Any disciplinary action taken under KGBC [3.15.200\(c\)](#) in connection with the delivery of the warning or imposition of deficient performance probation may be grieved under KGBC [3.15.210](#).

(c) If an employee is placed on a timeline for review of deficient performance,

the supervisor shall conduct a written performance evaluation at the conclusion of the period of review. If the performance has failed to improve to the acceptable performance level described in the warning, the employee may be disciplined, up to and including termination. Disciplinary action as a result of a special performance review period is subject to the grievance procedures in KGBC [3.15.210](#). [Ord. No. 1807, §4, 7-18-16.]

3.15.040 Layoffs.

(a) Employees may be laid off whenever the borough assembly eliminates the position through the budget process or the borough manager determines that a shortage of work or funds, the abolishment of a position, or other changes in the borough's organization necessitate a reduction in the number of employees is in the best interests of the borough.

(b) When there is more than one employee in a classification, employees within a classification shall be selected for layoff based on hire date so long as the employee is qualified for the position. The least senior employee shall be laid off first. For the purpose of this section, seniority shall be based on date of hire. Two positions are in the same classification if:

- (1) They have the same position title and job description or they are substantially similar in duties and skills to the extent that an individual who is qualified for one position would always be qualified for the other position;
- (2) The positions at issue are both nonrepresented; and
- (3) The pay scale for the two positions has less than a 10 percent differential in pay.

(c) A layoff is not a disciplinary action and is not subject to grievance procedures except regarding a dispute as to whether two positions are within the same classification.

(d) If any nonrepresented employee is laid off, the employer shall give the affected employee notice in writing 30 days in advance.

(e) Employees who are laid off are eligible for rehire. For a period of one year following layoff, a laid off employee will be afforded the opportunity to apply for any position for which he/she is qualified and will, if qualifications are at least equal, be given preferential hire to the vacancy. If within that one year period a position becomes vacant which is the same or substantially the same as the one from which the individual was laid off, he/she will be offered the position before any recruitment. A laid off employee who is re-employed in the same job

description will not be required to serve a new probationary period. All layoff return rights expire one year after the effective date of the layoff. [Ord. No. 1255, §1, 3-17-03; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.020.]

3.15.050 Outside work.

(a) Employees must notify the borough manager in writing before accepting outside employment or becoming self-employed. This includes service on any elected or appointed board for which the employee receives financial compensation. A conflict of interest shall be deemed to exist where a reasonable and prudent person would believe that such employment would conflict with the best interest of the borough. A conflict of interest for purposes of this section is distinct from financial conflicts of interest outlined under Chapter [3.40](#) KGBC. An employee for purposes of this section includes a regular employee or probationary employee but does not include a person who may only be considered an employee for other regulatory purposes due to their status as a volunteer of the North or South Tongass fire departments, a temporary employee, the borough mayor, and members of the planning commission, borough assembly, or school board.

(b) The borough manager shall notify the employee in writing if such outside employment or self-employment will detract from the employee's performance or create a conflict of interest or the appearance of a conflict of interest. A conflict of interest, or the appearance of a conflict of interest, shall be deemed to exist where a reasonable and prudent person would believe that such employment would conflict with the best interests of the borough. [Ord. No. 1807, §5, 7-18-16; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.021.]

3.15.060 Solicitations.

(a) In order to maintain an orderly work environment, avoid intrusion upon employees at their work and preserve security throughout the borough's offices and departments as to funds, supplies and records, individuals not employed by the borough may not at any time solicit, petition, or distribute literature in nonpublic access work areas, except for bona fide borough purposes otherwise permitted in the code.

(b) Employees may not solicit for any purpose other than borough related business during working time. Working time includes both the soliciting and the solicited employee's working time. Solicitation between employees will be permitted during nonworking times such as before or after work or during authorized meal or break periods. [Ord. No. 1736, §5, 9-2-14; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.022.]

3.15.070 Dress and appearance.

The borough manager may issue guidelines regarding acceptable attire for each department or for particular positions. In some instances for certain positions, uniforms may be required. Employees shall dress appropriately for their job position and particular duties. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.026.]

3.15.080 Personal conduct.

(a) All employees during working hours shall conduct themselves in a manner that reflects positively on the borough. All employees shall make every effort to perform their duties as efficiently as possible to assure efficient allocation of public resources.

(b) Racially and sexually offensive materials and talk at the work place or in borough facilities or vehicles is strictly prohibited. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.027.]

3.15.090 Duty to deal courteously.

(a) It is the duty of each borough employee to deal courteously with the public and other employees. Favorable impressions created by courteous public relations develop citizen goodwill and support for the employee, the department and the borough as a whole. Any disposition or demeanor indicating an attitude of discourteousness toward the public or other employees will be cause for disciplinary action in accordance with KGBC [3.15.200](#).

(b) When greeting the public, it is the responsibility of each borough employee to provide necessary introduction information including some or all of the following: employee's name, department employed by, and a salutation indicating a desire to be of assistance. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.028.]

3.15.100 Antiharassment policy.

(a) Harassment or any derogatory conduct based on a person's race, color, religion, creed, national origin, age, disability or sex, where such conduct or harassment has the effect or purpose of interfering with the person's work performance or creates an intimidating, hostile or offensive work environment, is not tolerated or condoned by the borough.

Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) Persons who think that they are being harassed in any of the above-described ways are encouraged to confront the person or persons responsible for the offensive conduct. If the harassment continues, it is encouraged to immediately raise concerns and/or complaints regarding the incidents of harassment with their immediate supervisor. Because of the nature of the complaint and for purposes of this policy only, complaints may be brought to the attention of the immediate supervisor or, if the person is uncomfortable with the immediate supervisor, with another supervisor in the borough or, if desired, directly to the borough manager. The supervisor will immediately inform the department head and the borough manager.

(c) All harassment complaints will be handled in the strictest of confidence and will be thoroughly and immediately investigated by the borough manager. Such investigation will necessarily include the interviewing of any and all witnesses, including, but not limited to, the complainant and the person complained about. If harassment has in fact occurred, appropriate disciplinary action will result, the level of which will depend upon the nature and scope of harassment involved.

(d) The borough will make every effort, including, but not limited to, employee training, to provide a work environment free of any harassment. [Ord. No. 1736, §6, 9-2-14; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.029.]

3.15.110 Licensed employees.

An employee who works in a position for which a valid State of Alaska driver's license or any other license or certification is required shall notify his or her department head immediately if that license or certification is suspended, revoked, expired, or withheld for any reason. Reasonable accommodation may be made to allow continuation of employment if it is in the best interests of the borough as such is determined by the borough manager. If reasonable accommodation cannot be made, the employee may either be suspended without pay pending reinstatement of the license, certification or entitlement, or may be terminated. Any such suspension without pay or removal of a regular employee shall follow the procedures applicable to such action. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.030.]

3.15.120 Safety.

(a) All employees shall coordinate and cooperate with other employees and the borough in an attempt to create and maintain a safe work environment including proper care of all safety equipment. Employees shall observe all safety practices governing their work. Employees may offer safety suggestions that contribute to a safer work environment. Employees shall apply the principles of accident prevention in their daily work and shall use proper safety devices and protective equipment as required by their supervisors, department head, or the borough manager.

(b) The borough will develop safety manuals to help ensure employee safety. All employees are expected to learn and comply with the safety manual applicable to their respective position.

(c) Employees shall report any suspected or actual on-the-job injury or occupational illness regardless of degree of severity to their immediate supervisors. Employees shall also report any accidents causing damage to public or private property or equipment, occurring before, during or after working hours and involving borough equipment or property, to their immediate supervisors. Such reports shall be made as soon as possible, but in any case no later than 24 hours following such accident or the actual or suspected injury or occupational illness. Employees shall compile any accident reports requested by their supervisors. In the case of a motor vehicle accident involving borough property or equipment or involving an employee while engaged in the performance of the employee's duties, the city police department or State troopers shall also be immediately notified. Employees involved in the accident shall request that a written report be prepared by the appropriate agency.

(d) The borough manager shall be notified of any actual or suspected on-the-job accidents, occupational illnesses, or injuries as soon as practicable, but no later than one working day following the filing of any accident report. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.031.]

3.15.130 Personal addresses.

All employees, including those on leave without pay status, are required to keep the borough manager informed of their current mailing addresses and home telephone contacts. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.032.]

3.15.140 Borough identification cards.

All borough employees shall be issued identification cards as necessary in the performance of their duties. Any misuse of such identification card is prohibited and subject to disciplinary action. [Ord. No. 956B, §1, 5-1-95. Code 1974

§30.30.033.]

3.15.150 Training.

(a) Training for employees shall be encouraged. Departmental or borough-wide training programs may be developed to meet borough-wide personnel needs or prepare employees for promotions, when it is determined such programs will improve the efficiency or effectiveness of the services rendered by borough employees.

(b) Employees may request time off or borough financial support or both to attend conferences or training meetings sponsored by institutions or professional organizations. The subject matter to be presented must relate directly to the employee's position or provide beneficial information to be shared in the employee's department or will result in enhanced performance by the employee. The above will not exclude the employee from taking vacation time to attend any conference or training of his/her choice.

(c) The employee's department head and the borough manager must approve the employee's participation in the conference or meeting which is paid for by the borough or approved for time off.

(d) The borough will pay for the following if attendance and payment is approved:

(1) Tuition or registration fees;

(2) Travel costs;

(3) Lodging; and

(4) Meal costs.

(5) Employees may receive a travel advance or pay expenses themselves and request reimbursement for all travel expenses. When submitting for reimbursement or verifying advances, the employee shall submit copies of all charges incurred. The employee shall also submit a written statement along with the request stating the benefit of the training to the borough.

(e) Time off for attendance and travel during normal working hours will be paid at the normal or regular rate of pay.

(f) Employees shall not be compensated for any time spent at training sessions held outside of the employee's regular working hours unless required by Fair Labor Standards Act or other statute. [Ord. No. 1084, §2, 1-18-99; Ord. No. 956B,

§1, 5-1-95. Code 1974 §30.30.034.]

3.15.160 Attendance and tardiness.

- (a) An employee shall be in attendance during the regular work hours designated by the borough manager or the employee's department head. Employees shall report to and return to work at their scheduled time.
- (b) Any employee unable to report to work for any reason other than personal illness or injury or any other reason authorized by this title must obtain prior authorization for the absence from the employee's immediate supervisor.
- (c) Any employee absent due to personal illness or injury or any other reason authorized by this title shall report the absence as soon as possible. If the absence continues beyond the first working day, the employee shall notify the employee's supervisor of each day's successive absence before the start of the employee's regular shift if possible, unless other arrangements are made by the employee with the department head.
- (d) Any employee absent without prior authorization or notice in accordance with departmental policy shall be deemed to have forfeited any sick pay or other paid leave, shall be considered on leave without pay, and may be disciplined.
- (e) Employees may be disciplined up to and including termination for excessive tardiness or absenteeism in accordance with procedures set out in KGBC [3.15.200](#). The supervisor shall determine what constitutes excessive absenteeism or tardiness and shall recommend to the borough manager the manner in which employees should be disciplined for excessive absenteeism or tardiness. These determinations may differ according to the needs of each department or the duties and responsibilities of each position, but shall be uniform for all employees within the same job description. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.035.]

3.15.170 Work scheduling.

- (a) Unless otherwise specified by job description, the borough manager may establish work hours and schedules for employees based upon the best interests of the borough and the particular needs of each department.
- (b) The job descriptions shall assign employees to one of two general work schedules set forth below:
- (1) Schedule A. The normal workweek shall be 40 hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., with a one-hour lunch period. To meet the needs of the public, an emergency or other unusual circumstances, the

borough manager, or a department head with the approval of the borough manager, may designate other hours of work.

When an employee is required to work in excess of 40 hours in any one week, such time shall be paid for at the rate of time and one-half. All claims by employees for overtime shall be submitted to the department head.

Overtime work done by employees should be performed only with prior written authorization of the department head or borough manager. Records of overtime work and payments shall be kept and maintained by the finance department and shall be public records. Unauthorized overtime will be paid, but, if determined by the department head or the borough manager to be unnecessary, may be subject to disciplinary action. Compensation time is not available and all hours of work in excess of 40 hours will be paid at a rate of time and one-half.

Regular department of transportation services employees shall work the same number of hours per subject month as other schedule A employees. Their work schedule may, however, differ from the other schedule A employees, and said work schedules shall be determined by the director of transportation services or his designee, and the borough manager.

(2) Schedule B. Professional or supervisory employees, or those who are assigned a work program which cannot be restricted to a schedule of specific hours, shall work the hours necessary to perform their duties without overtime compensation or compensatory leave.

(c) A department may experiment with innovative or variable workweeks in order to meet the varying needs of the department. However, any variance from one of the two work schedules authorized by this section shall be only upon the written approval of the department head and the borough manager.

(d) Each department head shall ensure that his/her department maintains proper attendance, records and that the finance department and the borough manager are notified of all pertinent leave, pay and all such other personnel actions. [Ord. No. 1369, §3, 9-19-05; Ord. No. 1228, §1, 9-3-02; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.036.]

3.15.180 Resignations.

An employee may voluntarily resign by giving the department head written notice of the effective date of resignation as far in advance as possible, but in all cases at least 14 calendar days before the effective date of resignation. In the case of professional personnel or department heads, a 30-day notice must be

given unless this requirement is waived by the borough manager. The written notice shall state the reasons the employee is resigning. The department head shall forward the resignation notice to the borough manager with a written summary of the employee's current work performance and any additional information regarding the employee's reasons for resignation. An employee's failure to comply with this section may be grounds for denying reemployment with the borough. The borough manager may waive the 14-day written notice requirements and permit shorter written notice period. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.037.]

3.15.190 Work location.

Borough employees shall report to a regular work location designated by the borough manager or designee. All regular work locations to which borough employees report for work shall be controlled by the borough, whether as a borough-owned or borough-leased facility. Where a borough employee performs services which require movement from location to location, the regular work location shall be that designated site to which the employee routinely reports at the beginning of a shift. The provisions of this section may be waived only to the extent and upon the terms authorized by the borough manager in writing and approved by the assembly by motion or resolution. [Ord. No. 1369, §4, 9-19-05. Code 1974 §30.30.038.]

3.15.200 Discipline, removal, and appeal.

(a) In the event that a regular employee fails to comply with any of these personnel policies that employee will be subject to disciplinary action up to and including termination.

(b) A regular employee may be placed on disciplinary probation, suspended without pay, demoted, or removed by such employee's supervisor, if the seriousness of a specific incident, or pattern of the regular employee's past conduct or disciplinary history justifies the imposition of more severe disciplinary action in the first instance. Reasons for removal may include, but are not limited to: dishonesty (including falsification of the employment application), continuing unsatisfactory performance or neglect of assigned duties, negligence, incompetency or inefficiency, intoxication, insubordination (including disobedience of the employer's rules, instructions or orders), insolence or disrespect, fighting, excessive absenteeism, theft, property destruction, unsafe conduct, conviction of a felony, or failure to comply with personnel policies.

(c) Before a regular employee is to be demoted, terminated, or suspended without pay for disciplinary reasons, such employee shall be given a written

notice of the contemplated personnel action. The written notice shall state the personnel action contemplated, describe the reason(s) for such action, and advise the employee that he or she may appeal such contemplated personnel action by filing a grievance as provided in KGBC [3.15.210](#). Discipline such as a written or verbal reprimand; suspension with pay; imposition of a disciplinary probation; or other disciplinary action which does not result in reduced compensation, loss of position, loss of pay, or termination may not be grieved. A grievance reviewing a demotion, suspension without pay or termination which relies upon a prior nongrievable disciplinary action may address the validity of the prior nongrievable discipline.

(d) In situations where the regular employee's continued presence on the job prior to the effective date of the contemplated personnel action poses a significant and immediate threat to public health or safety, a coworker, or borough property, such employee may be suspended with pay prior to the effective date of the contemplated personnel action.

(e) A regular employee during a period of suspension without pay may not use any earned but unused paid time off or floating holiday. A regular employee's group medical and life insurance coverage as provided under the terms of such insurance policies shall remain in force during any period of suspension. [Ord. No. 1807, §6, 7-18-16; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.040.]

3.15.210 Grievance procedure.

(a) Filing of a grievance is an appellate remedy available to an employee who has been subject to a grievable disciplinary action under KGBC [3.15.200](#)(c). In addition, a grievance may be filed by an employee who alleges that that employee has suffered as a result of management action or inaction in breach of personnel policies. Time limits set forth in the following steps may only be extended by mutual written consent of the parties hereto. This section does not apply to executive level employees who serve at the pleasure of the manager, or the borough manager, clerk or attorney who serve at the pleasure of the mayor and assembly. After a timely written grievance has been submitted, the employee's department head may give written consent to extension of the time limits, set forth in subsection (c) of this section, Step I - Department Head. Any other extensions of time for grievance procedures must be agreed to in writing by the borough manager.

(b) Grievances should be resolved, if possible, quickly, informally and at the lowest level of supervision. The employee shall discuss it with the employee's immediate supervisor and attempt to resolve it informally. If it cannot be

resolved informally, the following procedure shall be followed.

(c) Step I - Department Head. The employee shall set forth the grievance in writing and submit such written grievance to the employee's department head for receipt within 14 calendar days after the employee knew or should have known that he or she had a grievance, whichever is earlier. The written grievance shall contain a description of the alleged problem, the section of the policies involved, the date it occurred, and the corrective action desired. A meeting between the department head and the employee shall be held within 10 calendar days after the grievance is received, and the department head shall respond in writing within 10 calendar days of the meeting.

(d) Step II - Borough Manager. If not satisfied with the reply, the employee may within 10 calendar days of receipt of the reply present the written grievance to the borough manager or designee who shall meet with the employee within 10 calendar days after presentation for the purpose of resolving the grievance. The borough manager or designee shall respond in writing to the grievance within 10 calendar days after the step II meeting. Nonexecutive level employees under the direct supervision of the borough manager, clerk and attorney shall skip step II and immediately move to step III of the grievance process.

(e) Step III - Personnel Appeal Board. If not settled, the employee may submit in writing the grievance to the personnel appeal board, which is a three-member board appointed by the mayor and confirmed by the borough assembly. When the personnel appeal board is meeting solely to hear and adjudicate a grievance filed under this section, its meetings are not open to the public. If the board convenes a meeting to consider setting borough policy or making recommendations to the borough assembly, such meeting shall convene as a public meeting and be held in accordance with the Open Meetings Act.

(f) The personnel appeal board function is to interpret the policies and borough code. The personnel appeal board shall consider only the particular issues presented in writing by the borough manager, clerk or attorney and/or the employee. The personnel appeal board shall have no authority or power to add to, delete from, disregard, or alter any of the provisions of the policies, but shall be authorized only to interpret the existing provisions of the policies or the borough code as they may apply to the specific facts of the issue in dispute. The board shall not decide on the merit or wisdom of any action or failure to act, but only on the contractual obligation inherent in borough code and policies. If the personnel appeal board should find that the manager, clerk or attorney was not prohibited by borough code or policies from taking, or not taking, the action grieved, the

board shall have no authority to change or restrict the action or to substitute its own judgment for that of the manager, clerk or attorney. Unless a specific provision of borough code or policies expressly grants the employee a right, privilege, or benefit claimed by him/her, the personnel appeal board shall not award any such right, privilege, or benefit to the employee.

(g) **Hearing Procedures.** The personnel appeal board shall convene a hearing on the grievance within 30 days, unless the board determines that good cause requires a delay in the hearing. Either party may present testimony and witnesses and may be represented by counsel. Formal rules of procedure shall not apply. An audio recording of the hearing will be kept in the office of the human resources administrator. The decision of the personnel appeal board shall be made within 15 days of the hearing. The decision of the personnel appeal board shall be final and binding and shall be in writing and forwarded to both parties.

(h) If an employee fails to process a grievance at any step within the time limits set forth above and the procedure is not waived by mutual written agreement, the grievance shall be deemed waived and such failure shall constitute a bar to any future actions thereon. If the employer fails to answer a grievance at any step within the time limits set forth above and the procedure is not waived by mutual written agreement, the grievance shall be granted on a nonprecedent-setting basis. [Ord. No. 1807, §7, 7-18-16; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.041.]

3.15.220 Personnel files.

(a) Employee personnel files shall include but are not limited to confidential documents such as the employee's performance evaluations and disciplinary action reports.

(b) Access to these files by other than the borough manager, legal counsel, and the employee's department head shall not be allowed without the prior approval of both the borough manager and the employee. The confidential documents referred to in this subsection are declared to be private and protected by Article I, Sections 14 and 22 of the Constitution of the State of Alaska, Article I, Section 10 of the Constitution of the United States of America, and the Fourteenth Amendment to the Constitution of the United States of America. The personnel file is maintained by management. Employees are not entitled to place or remove material in their personnel file unless specifically allowed by policy, borough code, or a collective bargaining agreement. [Ord. No. 1807, §8, 7-18-16; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.30.042.]

3.15.230 Discipline and removal of executive level employees.

- (a) An executive level employee may be placed on disciplinary probation, suspended without pay, demoted, or terminated by the manager. If such employee is terminated by the manager they shall be given two weeks' notice and, in addition, shall receive two weeks' pay as severance pay.
- (b) In situations where the manager does not desire the employee's continued presence on the job during the two-week notice period, the manager may direct that the employee be terminated effective immediately and the employee provided with four weeks' pay as severance pay.
- (c) In situations where the regular employee's continued presence on the job prior to the effective date of the contemplated personnel action poses a significant and immediate threat to public health or safety, a coworker, or borough property, such employee may be suspended with pay prior to the effective date of the contemplated personnel action. [Ord. No. 1205, §10, 3-18-02. Code 1974 §30.30.043.]

Chapter 3.20 COMPENSATION

Sections:

3.20.010 Job descriptions.

3.20.020 Administration of pay plan.

3.20.030 Official travel.

3.20.040 Penalties for manipulation of pay plan.

3.20.010 Job descriptions.

Each job description shall include, but need not be limited to, the following information: The job title, a general statement of the duties and responsibilities of the position indicating those which are essential, a brief description of the job conditions and any entry level education, work experience, and other relevant skills that must be possessed by any person to be considered for the position, and the pay plan to which the position is assigned. The job description for a position that is filled on a temporary or part-time basis may be the job description that would have been applicable had the position been filled on a regular or full-time basis. Job descriptions are to be considered descriptive guidelines only and not as including all of the duties of the position allocated to a job. To the extent possible, job descriptions are to be kept current so that they reflect actual duties, responsibilities and minimum qualifications of all positions. These descriptions shall conform to Americans with Disabilities Act (ADA) requirements regarding essential and nonessential functions and physical qualifications. Copies of current job descriptions are to be made available in the borough clerk's and borough manager's office. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.40.005.]

3.20.020 Administration of pay plan.

(a) The official pay plan shall consist of that schedule adopted by the assembly by resolution, plus the schedules included in all current collective bargaining agreements approved by the assembly. Each position in the classification plan will be assigned an appropriate grade in the compensation plan.

(b) In recommending to which grade classes shall be assigned, the borough manager shall give appropriate consideration to the following:

- (1) Maintenance of equitable relationships between classes based on their relative duties and responsibilities;
- (2) The level of prevailing rates for comparable work in private and public

employment; and

(3) Available cost of living information.

(c) The compensation schedule will contain rates for hourly, monthly, and annual full-time salaries. The differential between each grade is approximately one and one-half percent and the differential between each step is also approximately one and one-half percent.

(d) The grade for each class represents the range of pay ranges for full-time regular employees, and reimbursement of an employee for expenses incurred in operating their private motor vehicle for the convenience of the borough shall not be deemed to be a part of total compensation.

(e) The pay plan is to be used as a guide for recruiting and selecting applicants for employment, determining lines of promotion or demotion, developing employee training programs, determining the pay rate for various types of work, determining personnel costs and departmental budgets, and as a uniform way of referring to positions in the borough that is understood by all borough employees and the general public.

(f) The borough manager is responsible for maintaining the pay plan to ensure that it reflects the current duties, responsibilities, and qualifications of each job description. When new positions are created, it is the borough manager's duty to review the duties, responsibilities and qualifications of the positions. Whenever there are material changes in the duties, responsibilities, or qualifications of a position, the borough manager shall review the changes and shall make recommendations to the assembly of any necessary and appropriate changes in the pay rate. The borough manager shall also periodically review the entire pay plan and make any appropriate and necessary changes in job descriptions or recommend any other appropriate changes to the pay plan.

(g) Whenever a new position is created or the duties of an existing position materially change, the appropriate department head shall provide to the borough manager a written, comprehensive job description describing in detail the duties, responsibilities and qualifications of the affected position indicating those which are essential. The borough manager shall investigate the suggested or actual duties, responsibilities and qualifications, and take whatever action may be appropriate or necessary to accurately maintain a job description and the pay plan.

(h) The pay range assigned a non-union position shall be based upon other pay

rates, the requisite duties, responsibilities, and entry level qualifications of the position, the rates of pay for similar work in the public and private sector, cost of living data, suggestions from department heads, borough financial policies and position, and any other relevant and nondiscriminatory considerations.

(i) When a position is reassigned from one pay range to a higher or lower pay range, the method of filling the position shall be in accordance with this title. However, whenever the reassignment affects an incumbent employee, such employee may be appointed to the reassigned position upon the recommendation of the department head after approval by the borough manager. Such an appointment shall not be considered a demotion. Furthermore, whenever the new pay range is the result of the incumbent employee's diligent and appropriate assumption of difficult and additional duties and responsibilities, so that the position warrants a higher pay range, the department head may recommend to the borough manager that such employee be appointed to the reassigned position without a probationary period. The borough manager shall consider the department head's recommendation and make the final decision regarding how such a position shall be filled and at what level of compensation to place the employee on the reassigned pay range.

(j) The pay plan is intended to provide appropriate and equitable compensation for all positions, taking into consideration those factors listed in subsection (f) of this section. The borough manager from time to time shall comprehensively study all factors affecting the level of pay rates and recommend appropriate adjustment in the pay plan.

(k) Upon the recommendation of the borough manager, the borough assembly may approve the raising or lowering of ranges in the pay grade plan when it is in the best interests of the borough.

(l) When recruiting and selecting applicants for employment the borough manager is authorized to assign an initial salary level at any point within the assigned pay range based on the employee's experience, qualifications and education. An initial salary level outside the assigned pay range must be approved by the borough assembly.

(m) Merit salary increases for regular positions in the borough shall be as prescribed by the applicable collective bargaining agreement or, in the case of non-union employees, by resolution.

(n) No performance increase may place an employee at a higher salary level than the top of the assigned pay range for the position, unless specifically

approved by the borough assembly.

(o) Upon satisfactory completion of the probationary period, an employee not subject to the provisions of a collective bargaining agreement may at that time be granted a salary increase by the borough manager of one to two steps within the prescribed pay grade which is subject thereafter to a performance compensation adjustment.

(p) Employees placed in an acting position for five days or more shall receive a temporary adjustment in salary of eight percent commencing on the fifth day.

After the thirtieth day in an acting capacity, the employee shall receive the salary equal to the first step of the salary range for the person they are acting on behalf of or the eight percent provided above, whichever is greater. For an employee acting in the position of the borough attorney, the borough clerk or the borough manager for more than 30 days, the salary shall be set by motion adopted by the assembly.

(q) Each year as part of the budget process the borough manager shall submit to the assembly any proposed changes to the salary schedule which shall include, but not be limited to, cost of living increases.

(r) The pay period shall end on the last day of each month. Employees shall be paid semimonthly by the fifth and twentieth day of each month. If payday falls on a holiday or weekend, employees shall be paid the preceding business day. [Ord. No. 1387, §1, 3-6-06; Ord. No. 1007, §1, 12-2-96; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.40.010.]

3.20.030 Official travel.

(a) Appointed officials and employees of the borough, while traveling on official business and away from the borough, shall comply with the most current administratively adopted guidelines. Elected officials shall comply with the Travel and Training Policy and Procedures effective January 19, 2009.

(b) Employees who are required by job description or by written requirement of the borough manager to use their personal vehicle on a regular and continuing basis shall be reimbursed at the following rate:

(1) All vehicle use on borough business shall be reported on a monthly mileage log, whether it is a borough or a personal vehicle.

In the case of personal vehicle use, the employees will be reimbursed the following month based on the following schedule:

Reimbursement will be based on the IRS rate.

- (2) Incremental cost of vehicle liability insurance incurred as a result of use of one personal vehicle per employee for borough business.
- (3) Actual expenses incurred for monthly parking at a lot, space, or garage designated and approved by the borough manager.
- (4) Employees who, with prior written authorization, must use their personal vehicles on borough business on an occasional or an intermittent basis shall be reimbursed for such use at the rate equal to IRS allowed rate for documented mileage driven on borough business, provided a written request for reimbursement is made not later than 30 business days after the date the personal vehicle is used on borough business.
- (5) Reimbursement will be made upon approval by the borough manager of vouchers submitted on the form specified by the manager.
- (6) Travel advances and preregistration for budgeted or authorized business meetings, conferences, seminars, training or educational sessions may be authorized by the borough manager. [Ord. No. 1507, §1, 1-19-09; Ord. No. 1341, §1, 3-7-05; Ord. No. 1311, §1, 6-7-04; Ord. No. 1084, §3, 1-18-99; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.40.015.]

3.20.040 Penalties for manipulation of pay plan.

The manager is responsible for ensuring that no borough employee receives a cash bonus or reward for services rendered, including temporary adjustments to compensation in accordance with KGBC [3.20.020](#) or applicable collective bargaining agreements, which are not bona fide temporary or reclassified assignments authorized by the manager or designee. Should a supervisor authorize increases in compensation, temporarily or permanently, or manipulation of the pay plan to result in enhanced or balloon payments of compensation beyond the changes in rates approved by the assembly, such payments are unauthorized and may result in disciplinary action. [Ord. No. 1754, §1, 5-4-15.]

Chapter 3.25 HOURS OF WORK AND OVERTIME

Sections:

3.25.010 Hours of work.

3.25.020 Overtime.

3.25.010 Hours of work.

(a) For payroll and accounting purposes, the workweek for all employees begins with the start of the first shift after 12:01 a.m. Monday and ends at the conclusion of the last shift that started before midnight on Sunday.

(b) Work schedules shall be established by the department head. Employees are expected to work all of the hours and days assigned. Regular work schedule changes for all departments shall be posted at least one (1) week in advance by the department head or designee. Any work schedule may be modified whenever such modifications are in the best interests of the borough.

(c) Flexible (“flex”) schedules may be allowed by a department head. Any “flex” schedule arrangements or designation of shifts must be in writing. A copy of every memorandum designating shifts or flex schedules must be provided to the finance director and to the director of human resources. [Ord. No. 1228, §1, 9-3-02; Ord. No. 1212, §1, 5-6-02; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.50.005.]

3.25.020 Overtime.

(a) Nonexempt employees will be paid only for the time actually worked. The regular workweek for all full-time nonexempt employees, except ferry workers and airport police, is forty (40) working hours. On some occasions overtime work is required.

(b) All overtime work by nonexempt employees shall be authorized by the appropriate department head. All nonexempt employees shall be paid one and one-half (1-1/2) times their regular rate of pay for authorized overtime hours worked in excess of forty (40) working hours in one (1) workweek.

(c) Exempt employees are not eligible to receive overtime pay for any hours worked in excess of forty (40) hours in one (1) workweek as they receive a salary which is considered to be adequate compensation for all hours actually worked during the workweek.

(d) At least annually, the borough manager shall update a list of all exempt and nonexempt positions within the borough. [Ord. No. 1340, §1, 2-22-05; Ord. No.

1237, §1, 10-21-02; Ord. No. 1212, §2, 5-6-02; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.50.010.]

Chapter 3.30 EMPLOYEE BENEFITS

Sections:

[3.30.010 Holidays.](#)

[3.30.020 Floating holidays.](#)

[3.30.030 Paid time off benefits.](#)

[3.30.040 Unexpected absences.](#)

[3.30.050 Disability leave.](#)

[3.30.060 Family leave.](#)

[3.30.070 Jury duty and witness leave.](#)

[3.30.080 Bereavement leave.](#)

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[3.30.120 Leave cancellation.](#)

[3.30.130 Health benefits.](#)

[3.30.140 Deductions.](#)

[3.30.150 Retirement.](#)

[3.30.160 Repealed.](#)

3.30.010 Holidays.

(a) The following are paid borough holidays:

New Year's Day, January 1st;

President's Day, third Monday of February;

Memorial Day, last Monday of May;

Independence Day, July 4th;

Labor Day, first Monday of September;

Alaska Day, October 18th;

Veterans' Day, November 11th;

Thanksgiving Day, fourth Thursday of November;

Christmas Day, December 25th.

(b) When a borough holiday falls on a Saturday, the preceding Friday shall be declared a holiday. When a borough holiday falls on a Sunday, the following Monday shall be declared a holiday.

(c) In addition to the holidays provided for in subsections (a) and (b) of this section, the borough will also recognize as a paid holiday any other day designated as a borough holiday by ordinance.

(d) Regular full-time employees who do not work on a holiday shall receive eight hours of holiday pay at their regular rate of pay, provided they were compensated for the last scheduled workday before and the first scheduled workday after the holiday. Regular part-time employees who do not work on a holiday shall receive prorated holiday pay provided they were compensated for the last scheduled workday before and the first scheduled workday after the holiday. The borough manager shall prorate holiday pay for regular part-time employees in direct proportion to the number of hours worked as a part-time employee. Temporary employees do not receive holiday pay. Employees who are on suspension without pay or leave without pay are not entitled to receive holiday pay.

(e) Nonexempt employees who are required to work on a holiday shall be paid at the rate of one and one-half (1-1/2) times the employee's regular rate of pay. Nonexempt employees who work on a holiday shall also receive the holiday pay they would have been paid under subsection (a) of this section. Temporary employees who work on a holiday shall be paid for all hours actually worked at their regular rate of pay. An unexcused absence from scheduled work on a holiday will result in loss of holiday pay for the holiday.

(f) If a holiday falls during the time a full-time or part-time employee is using paid time off (PTO), the employee shall be paid for the holiday and the holiday absence shall not be charged against the employee's accumulated PTO benefits.

(g) If a holiday falls during a period the employee is on approved PTO, the employee shall receive holiday pay and the absence shall not be charged against the employee's accumulated PTO. [Ord. No. 1364, §1, 8-1-05; Ord. No. 956B, §1, 5-

1-95. Code 1974 §30.60.005.]

3.30.020 Floating holidays.

(a) In addition to the holidays granted in KGBC [3.30.010](#), all regular employees who have completed the probationary period of employment shall receive one (1) floating holiday to be taken at a time approved by the employee’s department head in writing.

(b) All regular full-time employees who have completed twelve (12) months of employment shall receive one (1) floating holiday at their first year anniversary, for a total of two (2) floating holidays for the first year; and two (2) floating holidays on the employee’s subsequent anniversary date each year of employment. These holidays are to be taken at a time approved by the employee’s department head in writing.

(c) Floating holidays shall be scheduled by the employee’s department head based upon staffing and workload requirements. Employees may request in writing that their floating holidays be scheduled at a particular time and the department head may give consideration to such requests as are consistent with the department’s workload and staffing requirements. An employee’s department head may change previously approved floating holiday schedules whenever necessary to meet the needs of the department.

(d) Any floating holidays not taken by the employee within twelve (12) months of receipt shall be converted to paid time off (PTO).

(e) Employees who are on suspension without pay are not entitled to take a floating holiday during such suspension. [Ord. No. 1613, §1, 1-3-12; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.010.]

3.30.030 Paid time off benefits.

(a) Paid time off (PTO) benefits are hours credited per pay period to employees based on years of service to be used to continue pay when away from work for vacation, sickness, immediate family illness or emergency, and/or doctor and dentist appointments.

(b) Regular full-time or part-time employees, subject to the limitations of the KGB Code, shall accrue from the date of hire as probationary employees PTO benefits according to the following schedule:

Years of Continuous Service	PTO Accrued Per Year
1st and 2nd year	22 days (176 hours)

3rd, 4th and 5th years	28 days (224 hours)
6th through 10th years	31 days (248 hours)
11th through 15th years	34 days (272 hours)
16th year and over	36 days (288 hours)

(c) PTO may be taken during an initial probationary period only for the purpose of sickness or immediate family emergency, provided the employee has accrued such time.

(d) PTO shall be the amount which the employee would have earned had the employee worked during the time off at the employee's current regular rate of pay. Part-time employees shall receive prorated PTO benefits. Temporary employees do not earn PTO benefits.

(e) Except for illness or an emergency, a PTO request must be submitted in advance in writing and approved by the employee's supervisor or department director. PTO will, so far as possible, consistent with operational requirements of the borough, be granted at times most desired by the employee. An employee's department head may change or cancel previously approved PTO whenever necessary to meet the operating needs of the department. Reimbursements for nonrefundable tickets purchased for PTO that has been canceled shall be made.

(f) PTO shall be payable on the first day of a bona fide illness or disability of the employee or of the employee's immediate family residing in his or her household. The employee shall be required to notify the borough as soon as possible prior to the beginning of the employee's shift. Failure to do so may result in the loss of pay for that day and disciplinary action.

(g) The borough may require reasonable proof (such as a doctor's certificate) of illness or disability if more than two (2) days are used, or when fraud is suspected. Abuse of PTO shall be grounds for discipline except that blatant abuse may subject an employee to discharge.

(h) An employee shall be allowed to use PTO for medical or dental appointments. The employee must notify his or her supervisor as far in advance as possible, but in any event not less than three (3) working days, except in an urgent situation.

(i) An employee may not accumulate more than seven hundred twenty (720) hours of accrued PTO credits as of the end of any calendar year without written approval of the borough manager. Employees who have accrued more than seven

hundred twenty (720) hours shall be paid for unused PTO at the rate of one hundred (100) percent of the value of the PTO in excess of the seven hundred twenty (720) hours, provided a minimum of eighty (80) hours are taken as vacation during that calendar year. If less than eighty (80) hours are taken, sufficient hours shall be deducted without compensation to total the eighty (80) hours, prior to any payment for PTO in excess of seven hundred twenty (720) hours.

(j) After the completion of an employee's probationary period, an employee shall be paid upon termination for one hundred (100) percent of the value for all PTO accrued (up to the maximum) but not used. Employees will not be paid for accrued PTO if terminated during the probationary period.

(k) Employees may, at their sole discretion and with the approval of the borough manager or his designee, volunteer to transfer PTO to another borough employee. All transfers of such time must be in writing, signed by the employee wishing to make the transfer, and presented to the manager's office. All transferred hours will be computed as a cash value transfer in such a way as to be revenue neutral to the borough.

(l) An employee who is entitled to receive compensation benefits under the Alaska Workers' Compensation Act or other similar legislation shall continue to earn PTO benefits, and the borough shall continue to pay its portion of such employee's group medical and life insurance premiums during the period the employee is unable to return to work, until his or her accrued PTO benefits are exhausted. If, at the exhaustion of such benefits, the employee is still unable to return to work, the employee shall cease to earn the PTO benefits, and the borough will not continue to pay its portion of the employee's group medical and life insurance premiums; provided, however, that the employee, at his or her sole option, may elect to continue such insurance coverage at the employee's cost as provided under the terms of such insurance policies and any applicable state or federal laws. An employee who is injured on the job and eligible for said benefits shall suffer no loss of pay for the day of injury, and shall be entitled to use PTO benefits for the difference between the worker's compensation benefit and the employee's regular pay. Except as specifically provided in this section, PTO benefits may not be used for any absences when the employee is entitled to receive compensation benefits under the Alaska Worker's Compensation Act or similar legislation. [Ord. No. 1559, §1, 5-17-10; Ord. No. 1364, §2, 8-1-05; Ord. No. 1228, §1, 9-3-02; Ord. No. 1066, §3, 7-6-98. Code 1974 §30.60.016.]

3.30.040 Unexpected absences.

In case of emergencies or situations requiring unexpected absence or tardiness, the borough manager or department head shall be notified as soon as possible to minimize problems created by employee's absence. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.021.]

3.30.050 Disability leave.

Employees may use PTO and be granted leave without pay for actual periods of temporary disability of employees and recovery therefrom. The stage at which leave should be allowed, and the period for recovery, shall be determined based upon the recommendation of the employee's physician. [Ord. No. 1364, §3, 8-1-05; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.022.]

3.30.060 Family leave.

(a) In addition to the provisions of KGBC [3.30.030](#), eligible employees may be granted family leave as provided in AS 39.20.500 through 39.20.550.

(b) Family leave not otherwise covered by this policy shall be provided in accordance with state and/or federal law. [Ord. No. 1364, §4, 8-1-05; Ord. No. 1056, §5, 1-5-98; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.023.]

3.30.070 Jury duty and witness leave.

Employees who are called to serve jury duty, or who are subpoenaed to testify in court on a matter related to their employment or volunteer activities on behalf of the borough or subpoenaed to serve as a witness for the federal government, the state of Alaska or a political subdivision thereof, shall be compensated by the borough for the difference between their jury duty or witness pay and their normal straight-time pay. If the employee is temporarily or permanently excused from jury or witness duty, the employee shall promptly return to work. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.025.]

3.30.080 Bereavement leave.

Up to five (5) days for funeral leave (up to ten (10) days if the funeral is outside of southeastern Alaska) may be allowed for a death in a regular employee's immediate family, to be charged to accumulated PTO, and with prior approval of the borough manager. [Ord. No. 1364, §5, 8-1-05; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.026.]

3.30.090 Leave for volunteer services.

Employees who are members of volunteer fire departments or search and rescue operations may be allowed to respond to emergency situations without loss of pay at the supervisor's discretion. Such leave may be granted only if the employee's absence does not impair borough operations and is to be limited to

the duration as necessary to respond to the emergency with the employee returning to work as soon as the emergency situation has been brought under control and the volunteer's presence is not required. [Ord. No. 1038, §1, 7-7-97. Code 1974 §30.60.027.]

3.30.100 Leave without pay.

(a) Leave without pay may be granted by the borough manager in order to allow a regular employee to take time off from work without pay for personal or family reasons or to take time off beyond the medically certified period of temporary disability. The foregoing reasons for granting a leave without pay shall not be considered all inclusive and the borough manager shall have the discretion to grant leave without pay for other reasons so long as any leave without pay that is granted is consistent with the best interests of the borough. Only regular full or part-time employees may be granted leave without pay.

(b) Leave without pay must be requested by the employee in writing as soon as the need for such leave is known. All written requests shall state the reasons the leave is being requested and the amount of leave time requested. Written requests shall be submitted to the employee's department head, who shall review and refer the written request to the borough manager, with the department head's recommendation as to approval. A written reply granting or denying the request shall be given by the borough manager within thirty (30) days except in case of an emergency.

(c) Leave without pay may be granted for any period not to exceed one hundred twenty (120) calendar days without loss of accrued benefits. Leave without pay may be extended by the borough manager for an additional period so long as the request for the extension is made in writing and the extension is in the best interests of the borough.

(d) Failure of an employee to return from any leave without pay on or before the designated date without prior notice may be considered cause for termination and the denial of reemployment with the borough.

(e) Holiday pay and PTO are not earned while an employee is on extended leave without pay. The borough will not continue to pay its portion of the employee's group medical and life insurance premiums while the employee is on a leave without pay for fourteen (14) or more calendar days. The employee, at his or her option, may elect to continue such insurance coverage as provided under the terms of such insurance policies at their expense. If the employee has elected not to continue insurance coverage and returns to employment, that employee has to reapply to determine insurability.

(f) Employees who are placed on leave without pay status for medical or disability reasons must use all accrued PTO prior to commencing the leave without pay. Any employee returning from leave without pay due to medical or disability reasons shall be required to provide a written release to return to work from a qualified health care provider whenever requested by the employee's immediate supervisor or department head. [Ord. No. 1364, §6, 8-1-05; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.028.]

3.30.110 Military leaves of absence.

Leave required in order for an employee to maintain status in the National Guard or a military reserve of the United States shall be granted without pay and without loss of benefits accrued to the date such leave commences. Regular full-time employees on such leave shall be compensated by the borough for the difference between their military pay and their regular pay up to a maximum of two (2) weeks. A copy of the order issued by the appropriate authority for military training shall accompany requests for special military leave. Upon return to duty, the employee shall furnish the borough evidence of the amount of National Guard or reserve pay received during the period of special military leave. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.029.]

3.30.120 Leave cancellation.

All leaves of absence shall be subject to cancellation by the department head at any time upon written notice to the employee and the borough manager specifying a reasonable date of termination of leave. The borough manager, upon prior notice to the employee and the department head, may cancel an approved leave of absence at any time the borough manager determines that the employee is using the leave for purposes other than those specified at the time of approval. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.030.]

3.30.130 Health benefits.

The borough will provide regular full-time employees with a life, medical, dental, vision and hospitalization insurance plan as approved by the assembly by resolution. [Ord. No. 1056, §6, 1-5-98; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.031.]

3.30.140 Deductions.

Deductions shall be made from employee paychecks in accordance with federal and state law, borough code and resolutions, court orders and collective bargaining agreements. Compensation may be withheld in accordance with a recognized deferred compensation plan or credit union upon written request of the employee and approval by the borough manager. [Ord. No. 956B, §1, 5-1-95.]

Code 1974 §30.60.032.]

3.30.150 Retirement.

All regular full-time employees shall be included, as appropriate, under the borough's participation in the Alaska Public Employees Retirement System (PERS). [Ord. No. 1364, §7, 8-1-05; Ord. No. 1219, §1, 6-17-02; Ord. No. 956B, §1, 5-1-95. Code 1974 §30.60.035.]

3.30.160 Re-employment of PERS retirees.

Repealed by Ord. 1807. [Ord. No. 1364, §8, 8-1-05. Code 1974 §30.60.040.]

Chapter 3.35 DRUGS AND SUBSTANCE ABUSE POLICY

Sections:

[3.35.010 Introduction.](#)

[3.35.020 Purpose and effect.](#)

[3.35.030 Policy responsibility.](#)

[3.35.040 Substance abuse.](#)

[3.35.050 Fitness for duty.](#)

[3.35.060 Possession and confiscation.](#)

[3.35.070 Enforcement and discipline.](#)

[3.35.080 Reporting violations.](#)

[3.35.090 Rehabilitation.](#)

[3.35.100 Privacy.](#)

[3.35.110 Policy commitment, notice and training.](#)

3.35.010 Introduction.

The use and abuse of alcohol, drugs, and other chemical substances can impact the general health, welfare and safety of the workplace and the community. In recognition of this potential problem and in compliance with federal, state, and local requirements, efforts to help prevent drug and alcohol abuse in the workplace must be made by public employers by taking necessary action, alerting employees to the dangers and responsibilities related to this problem, and providing assistance to employees when requested and appropriate. This policy statement on drugs and substance abuse has been developed to assist the borough and its employees in responding to this issue in the workplace. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.005.]

3.35.020 Purpose and effect.

It is the policy and intent of the borough to maintain a safe and healthy working environment for all of its employees, to ensure effective and safe service to its citizens and the public, to protect the borough and its employees from liability, to safeguard borough property and other assets, and to comply with all applicable laws and regulations regarding substance abuse, including the abuse of alcohol and drugs.

The borough is committed to a drug-free workplace and recognizes its obligation to ensure that its services meet high standards of public safety and reliability. Therefore, the manufacture, distribution, dispensation, possession, or use of any controlled substance, a drug not medically authorized, or other substances which would impair job performance or pose a hazard to the safety of the employee or the employee's working environment, the public, or to other employees, or the possession or use of alcohol at the workplace and in violation of this policy, is strictly prohibited.

This policy applies to all borough employees. Employees may be subject to disciplinary action or completion of an approved rehabilitation program in accordance with the provisions of this policy for violations of the prohibitions herein.

It is imperative that employees be aware of the seriousness of drug and substance abuse in the workplace, as defined in this policy, and of the potential penalties and disciplinary action resulting from such abuse. All employees with any type of drug or substance abuse problem are encouraged to receive any and all assistance and treatment as needed. All employees must strictly comply with the guidelines and rules established by this policy. In addition to this policy, all borough employees working on borough-owned ferries must comply with all U.S. Coast Guard drug and substance abuse regulations. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.010.]

3.35.030 Policy responsibility.

- (a) All department heads and supervisory employees of the borough are responsible for taking immediate action consistent with this policy and its applicable procedures.
- (b) Because of the major public service, health, safety, and disciplinary problems created by drug and substance abuse in the workplace, all borough employees must abide by the terms of this chapter as a condition of employment. All employees are required to notify the borough manager of their criminal drug statute convictions for violations occurring in the workplace no later than five (5) days after such conviction. Employees are also encouraged to seek appropriate medical or other assistance with drug or substance abuse problems to ensure the public's safety and effective service. Upon request, the borough manager and department heads will provide information regarding available rehabilitation or assistance programs. Regardless of any drug, substance or alcohol dependency or condition, each employee is expected to maintain his/her job performance at a satisfactory or better level. It is therefore the duty of each individual employee

to comply with this chapter. Employees violating this chapter are subject to discipline, including possible dismissal or completion of a borough approved rehabilitation program.

(c) The borough manager is responsible for taking the necessary steps to ensure that all employees, contractors, suppliers, and others who may be performing work or providing services on borough property, or on behalf of the borough, comply with this chapter and all applicable laws and regulations. This includes instituting and maintaining this chapter designed to achieve a drug-free workplace and complying with all applicable laws and regulations, such as developing and implementing a drug and alcohol awareness information program to its employees. The manager is also responsible for the training of management personnel in the implementation of this chapter and its procedures, and to emphasize to its employees the importance of this chapter and program. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.015.]

3.35.040 Substance abuse.

(a) The use of alcohol at the workplace is prohibited. Employees shall not work or perform any borough business or duties while under any influence of alcohol.

(b) The manufacture, distribution, dispensation, possession, or use of a controlled substance, drug not medically authorized, or other substance which could impair job performance or pose a hazard to the safety and welfare of the employee, the public, or other employees is prohibited at the workplace. Employees shall not work or perform any borough business while under the influence of any drug, including prescription drugs or over-the-counter drugs, that could impair work performance. Employees must report the use of prescription drugs which could impair job performance to their supervisor and provide proper written medical authorization to work and perform duties from a licensed practitioner, physician or dentist. Failure to report the use of prescription drugs and other over-the-counter drugs that could impair job performance, or failure to provide proper evidence of medical authorization, can result in disciplinary action, including possible termination. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.020.]

3.35.050 Fitness for duty.

If a department head or supervisor has reasonable cause to believe that an employee may be under any influence of or impaired by a substance, the employee shall not be allowed to remain on duty or to continue to perform job functions. Except in an emergency, the decision not to allow the employee to remain on duty must be made in consultation with the department head and the

borough manager to ensure a fair determination that there are adequate grounds and reasonable cause for the decision. Such employee shall not be allowed to return to work until the employee has been determined fit for duty through a licensed practitioner, physician or dentist or through an appropriate rehabilitation program counselor. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.021.]

3.35.060 Possession and confiscation.

The borough respects reasonable employee privacy in the workplace. However, all employees must respect the potential serious dangers in the workplace caused by substance abuse and the need to safeguard the workplace from substance abuse and its effects. Therefore, the possession of alcohol or unauthorized drugs in the workplace is prohibited. Any substance found on borough premises in violation of this chapter shall be confiscated. If necessary, the borough shall coordinate such confiscation with appropriate law enforcement officials. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.022.]

3.35.070 Enforcement and discipline.

Any violation of this chapter shall be grounds for appropriate disciplinary action, up to and including termination or completion of a borough approved rehabilitation program. In addition, when appropriate, the proper law enforcement authorities shall be notified of the violation. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.023.]

3.35.080 Reporting violations.

(a) Any employee who observes or has knowledge of substance abuse on borough property or in borough vehicles, or observes or has knowledge of another employee who violates this chapter or observes an employee in a condition which might impair that employee's ability to perform job duties or which could pose a hazard to the safety of others, shall promptly report the incident or knowledge to the reporting employee's supervisor. The supervisor shall then promptly report the incident or knowledge to the department head. The department head shall immediately investigate the report and make a determination of the facts of the matter. A determination shall be immediately made on the employee's fitness for duty. Any action taken shall comply with KGBC [3.15.200](#).

(b) To the degree possible, the reporting individual's identity shall be kept confidential. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.025.]

3.35.090 Rehabilitation.

The borough offers employees the use of rehabilitative services in accordance

with the terms of the borough's benefit programs and subject to coverage limitations. Individual employees are personally responsible for seeking appropriate treatment for dependency caused by substance abuse. Employees who voluntarily seek treatment shall be allowed to use personal leave and benefits as for any other illness or disability. Job security or promotions shall not be jeopardized by seeking treatment. However, employees undergoing or having undergone rehabilitation are subject to the same prohibitions and penalties as other employees regarding any violation of this chapter. In addition, all employees, including those undergoing or having undergone treatment, are subject to appropriate disciplinary action, including possible termination, if they do not meet general borough performance standards, appropriate conduct requirements, and other conditions of employment. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.027.]

3.35.100 Privacy.

Records involving treatment or violations of this chapter shall be maintained and used by the borough with the maximum respect for individual confidentiality and privacy. As the law allows, confidentiality of such records shall be in accordance with requirements of the KGB Code. Additionally, the borough shall maintain records and reports as required by appropriate government authorities. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.028.]

3.35.110 Policy commitment, notice and training.

The borough is committed to assisting its employees in complying with this chapter and in avoiding the problems and penalties resulting from substance abuse. As a result, all employees shall receive a copy of this chapter upon its adoption. In addition, the borough shall coordinate with employee union representatives in amending this chapter, when necessary. Within allocated resources, the borough shall also make training available for department heads, other supervisors, and other employees to help prevent substance abuse and to deal effectively with substance abuse problems or violations of this chapter when they occur. [Ord. No. 956B, §1, 5-1-95. Code 1974 §30.70.030.]

Chapter 3.40 RESTRICTIONS ON EMPLOYEES

Sections:

[3.40.010 Prohibited acts.](#)

[3.40.020 Business dealings with borough.](#)

[3.40.030 Surplus property.](#)

[3.40.040 Aiding and abetting.](#)

[3.40.050 Declaration of potential violations by public employees.](#)

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[3.40.080 Action on complaints and conduct of investigations.](#)

[3.40.090 Sanctions for violation.](#)

[3.40.100 Violations - Penalties for misconduct.](#)

Cross Reference - KGBC 2.20.170 through 2.20.200.

3.40.010 Prohibited acts.

(a) Official Action. An employee shall not participate in any official action in which he has a financial interest. No employee may testify before the borough assembly, board, commission or other agency without first disclosing any financial interest which the employee has in the subject of the testimony.

(b) Business Prohibition. No employee may engage in business with the borough when that person has had substantial involvement in planning, recommending or otherwise supporting the project or transaction at issue. No employee shall attempt to influence the borough's selection of any bid or proposal, or the borough's conduct of business, in which the employee has a financial interest. Newly hired employees who have preexisting contracts with the borough may fulfill the terms and conditions of such contracts without penalty. Employees may engage in business with the borough so long as that activity complies with both this subsection and KGBC [3.40.020](#).

(c) Use of Office for Personal Gain. No employee shall seek or hold a position of employment for the purpose of obtaining anything of value for himself, his immediate family or a business that he owns or in which he holds an interest or

for any matter in which he has a financial interest. This prohibition shall not apply to the receipt of authorized remuneration for that office or position.

(d) Representing Private Interests. No employee shall represent, for compensation, or assist those representing private business or personal interests before the borough assembly, administration, or any borough board, commission or agency.

(e) Confidential Information. No employee may disclose information he knows to be confidential concerning the property, government, or affairs of the borough unless authorized or required by law to do so.

(f) Outside Activities. In addition to the limitations in KGBC [3.15.050](#), an employee may not engage in business or accept employment with, or render services for, a person other than the borough or hold an office or position where that activity or position is incompatible with the proper discharge of his borough duties or would tend to impair his independence of judgment in performing his borough duties. This prohibition shall include but not be limited to the following activities:

(1) If, during the term of employment, a borough employee runs and is elected to the office of borough mayor or borough assembly, the employee must resign their employment in order to take office.

(2) A borough employee shall not be eligible for appointment to a borough board that has oversight over the department of employment of that employee.

(g) Gratuities. No employee shall accept a gratuity from any person engaging in business with the borough or having a financial interest in a decision pending with the borough. No employee shall give a gratuity to another employee for the purpose of influencing that person's opinion, judgment, action, decision or exercise of discretion as a borough employee. Any employee who accepts a gift having a value in excess of fifty dollars (\$50.00) shall report such gift to the employee's supervisor if the employee may take or withhold action that affects the giver. The supervisor shall forward a copy of the report to the borough manager who shall maintain the report in a public file. As used in this section, "gift" includes any series of gifts from the same donor within any twelve (12) month period, other than meals reciprocated by the employee.

This subsection does not prohibit accepting:

(1) A meal;

- (2) Discounts or prizes that are generally available to the public or large sections thereof;
- (3) Gifts presented by employers in recognition of meritorious service or other civic or public awards;
- (4) A candidate for public office accepting campaign contributions;
- (5) An occasional nonpecuniary gift of insignificant value;
- (6) Any gift which would have been offered or given to the person if the person were not an employee.

(h) Use of Borough Property. No employee may request or permit the use of borough vehicles, equipment, materials or property for a non-borough purpose, including but not limited to private financial gain, unless that use is available to the general public on the same terms or unless specifically authorized by the borough manager.

(i) Political Activities, Limitations of Individuals. Employees may not take an active part in a political campaign or other matter to be brought before the voters when on duty. Nothing herein shall be construed as preventing employees from exercising their voting franchise, contributing to a campaign or candidate of their choice or expressing their political views when not on duty or otherwise conspicuously representing the borough. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.210.]

3.40.020 Business dealings with borough.

Subject to all other applicable ordinances, an employee may sell to, barter with, or buy from the borough only as provided below:

(a) Sales to the borough:

- (1) A sale to the borough for five hundred dollars (\$500.00) or less is permitted if it is at a price prevailing in the community.
- (2) A sale to the borough at any price is permitted if:
 - a. At least three (3) written quotes are obtained by the borough manager and the borough manager selects the quote which is the most advantageous to the borough; or
 - b. An invitation to bid is published requesting sealed bids and the borough selects the bid which is the most advantageous to the borough;

or

c. The procurement is by a request for proposals (RFP) process under which the borough awards the contract to the respondent which is most advantageous to the borough; or

d. The procurement is a noncompetitive, sole source, or emergency procurement; and

1. The borough manager makes a written finding that such procurement method is justified, setting out the facts which support that finding and make procurement by the method the most advantageous to the borough; and

2. The borough approves the award.

(b) Purchase from the borough:

(1) Purchase from, or barter exchange with, the borough for five hundred dollars (\$500.00) or less or equivalent value is permitted if it is at a price or rate prevailing in the community and such purchase or exchange is offered to the public; or

(2) Purchase from or barter exchange with the borough for any amount or equivalent value is permitted if an invitation to bid is published requesting sealed bids and the borough selects the bid which is the most advantageous to the borough. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.220.]

3.40.030 Surplus property.

An employee is prohibited from bidding upon, or otherwise obtaining, any property which is unneeded or surplus by the borough unless that employee can satisfactorily demonstrate to the borough manager that no reasonable conclusion could be made that the employee possessed knowledge about the property which would not be readily obtainable or observable to a member of the general public. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.230.]

3.40.040 Aiding and abetting.

It is a violation of this chapter for an employee to knowingly aid another official or employee in violation of this chapter. Such aiding a violation will be considered misconduct on the part of such employee. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.240.]

3.40.050 Declaration of potential violations by public employees.

(a) An employee who is involved in a matter that may result in violation of KGBC 2.20.010 through 2.20.160, Chapter 2.55 KGBC, or this chapter shall:

- (1) Refrain from taking any official action relating to the matter until a determination is made under this section;
- (2) Immediately disclose the matter in writing to the designated supervisor.

(b) The employee's supervisor shall make a written determination whether an employee's involvement violates KGBC 2.20.010 through 2.20.160, Chapter 2.55 KGBC, or this chapter. If the supervisor determines that a violation could exist or will occur, the supervisor shall:

- (1) Reassign duties to cure the employee's potential violation to the extent practicable; or
- (2) Direct the divestiture or removal by the employee of the personal or financial interests that give rise to the potential violation.

(c) The supervisor may request guidance from the borough attorney when determining whether a public employee is involved in a matter that may result in a violation of KGBC 2.20.010 through 2.20.160, Chapter 2.55 KGBC, or this chapter. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.250.]

3.40.060 Post-employment restrictions.

(a) No former employee shall, for a period of six (6) months after the termination of the term of office or employment, represent, advise, or assist a person for compensation regarding a matter that was under consideration by the borough or School District and in which the employee participated personally and substantially through the exercise of official action.

(b) This section does not prohibit the borough or School District from contracting with a former employee to act on a matter on behalf of the borough or School District.

(c) In this section, "matters" includes a case, proceeding, application, contract or determination. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.260.]

3.40.070 Persons who may file complaints.

(a) Any person may file a complaint against any employee alleging a violation of the provisions of this chapter. All complaints under this chapter shall be made in writing signed by the complainant affirming that to the best of that person's

knowledge, information, and belief formed after reasonable inquiry, the facts stated in the complaint are true. The complainant shall identify the KGB Code section that was allegedly violated or how the complainant believes the KGB Code was violated, a description of the evidence, and the name of the complainant and contact information.

(b) A complaint must be filed within one year of the alleged violation.

(c) A complaint shall be submitted to the borough manager or designee. Upon receipt, the borough manager or designee shall date and number the complaint and shall act on the complaint in accordance with this chapter. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.270.]

3.40.080 Action on complaints and conduct of investigations.

(a) The borough manager or designee shall review the complaint in order to determine if further action on the complaint is warranted. If the borough manager or designee determines the facts alleged in the complaint, even if proven, would not constitute a violation of this chapter, the borough manager shall without further action return the complaint to the complaining party. If the borough manager determines the facts alleged, if proven, would constitute a violation of this chapter, however, the respondent shall be given notice with a copy of the complaint and an opportunity to present written or oral information regarding the matter, including the names of any witnesses the person wishes to have interviewed by the borough manager.

(b) At the conclusion of an investigation, the borough manager or designee shall prepare a written report including:

(1) A summary of the investigation; and

(2) A report of such administrative or legal action deemed appropriate.

(c) Upon completion of the report, the borough manager or designee shall furnish a copy to the complainant and the person under investigation. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.280.]

3.40.090 Sanctions for violation.

(a) Any employee found by the borough manager or designee to have violated any of the provisions of this chapter, or to have furnished false or misleading information, shall be subject to employment sanctions, up to and including discharge, as determined by the borough manager or designee under KGBC [3.40.100](#).

(b) Any municipal contractor who fails to provide documents or information requested by the borough manager or designee shall be subject to cancellation of contract rights as determined by the borough manager.

(c) No person may knowingly disclose to another person or otherwise make public the content of a complaint filed with the borough manager under this chapter until the borough manager has first reviewed that complaint, determined that the facts alleged under that complaint, if proven, would constitute a violation of this chapter, and given a copy of the complaint to the respondent. After notice and hearing, the borough manager may refer a person found in violation of this subsection to the borough attorney for prosecution under the KGB Code. [Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.290.]

3.40.100 Violations - Penalties for misconduct.

(a) If an employee has been found to have violated this chapter, the borough manager:

- (1) Shall order the employee in writing to stop engaging in any official action related to the violation;
- (2) May order divestiture, restitution, or forfeiture;
- (3) May take disciplinary action, including reprimand, demotion, suspension, or dismissal. This does not prohibit the review of a disciplinary action in the manner prescribed by an applicable collective bargaining agreement.

(b) If a former employee has been determined to have violated this chapter, the borough manager may:

- (1) Issue a public statement of findings, conclusions, and recommendations; and
- (2) Request the borough attorney to exercise all legal and equitable remedies available to the borough to seek whatever relief is appropriate.

(c) The above penalties shall not affect the right of the borough to seek civil or contractual remedies against any such employee and shall not limit prosecution or action under any other law or policy. [Ord. No. 1736, §7, 9-2-14; Ord. No. 1538A, §4, 11-23-09; Ord. No. 1366S, §1, 11-21-05. Code 1974 §5.37.300.]

