

## **TITLE 31 ANCHORAGE WATER AND WASTEWATER UTILITY**

### **Chapter 31.10 GENERAL PROVISIONS\***

#### **31.10.010 Establishment.**

The Anchorage Water and Wastewater Utility, or AWWU, is a department of the municipality.

(AO No. 2005-107, § 1, 9-13-05; AO No. 2009-44, § 1, 5-12-09)

#### **31.10.020 Governing body.**

A. The Anchorage Water and Wastewater Utility shall be governed by a Board of Directors consisting of seven members. All Directors shall be citizens of the United States, and residents of and registered voters in the Municipality of Anchorage. At least four of the Directors shall be customers of the Anchorage Water and Wastewater Utility, and one Director shall be an employee of the municipality. Board members shall be qualified as follows:

1. One member shall be a member in good standing of the Alaska Bar with experience in utility matters;
2. One member shall be a registered professional engineer in Alaska with experience in utility matters;
3. One member shall have experience in finance, accounting, or business administration with experience in utility matters;
4. One member shall be a public health professional;
5. One member shall be a municipal employee;
6. Two members shall be at large.

B. Directors shall serve staggered terms, and shall be appointed to office by the mayor and confirmed by the assembly. The first term lengths shall be as follows:

- Seat 1: 1 year
- Seat 2: 2 years
- Seat 3: 2 years
- Seat 4: 3 years
- Seat 5: 4 years
- Seat 6: 4 years
- Seat 7: 5 years

After the first term, terms for each seat shall be five years.

C. When transmitting to the assembly for confirmation the name of appointees to the board, the mayor shall cause a notice of a ten-day comment period inviting public comment on the qualifications of such appointees to be published in a newspaper of general circulation in the municipality. The notice shall state that comments must be in writing, and must be filed with the municipal clerk. Upon receipt of such comments, the municipal clerk shall forward the comments to the mayor and the assembly. The

assembly shall take no action on confirmation of the appointees until after the close of the public comment period.

D. Any director may be removed upon a vote of at least eight members of the assembly, or a vote of at least six members of the assembly and concurrence of the mayor given within seven days after the assembly's action. The board shall adopt ethical standards for directors substantially similar to [Chapter 1.15](#) in its By-laws.

E. The general manager of the utility shall not be a director, but shall serve as executive secretary and staff to the board.

F. The compensation for the Anchorage Water and Wastewater Utility Board of Directors shall be determined by the commission on salaries and emoluments in the same manner as provided for elected officials in Charter [Section 5.08](#).

G. Except as may be inconsistent with the provisions of this title, [Chapter 4.05](#) shall apply to the board.

(AO No. 2005-107, § 1, 9-13-05; AO No. 2009-44, § 1, 5-12-09)

### **31.10.030 Powers of the board of directors.**

A. In connection with the operation and management of the Anchorage Water and Wastewater Utility, the board of directors shall operate and manage the utility and in general may exercise any power unless otherwise provided in the Charter, the Code, or prohibited by state law.

B. The board may also:

1. Adopt a seal;
2. Sue and be sued;
3. Annually review the compensation of utility employees, and set compensation levels of general manager and utility division directors in accordance with [Chapter 31.30](#); provided that the compensation of the general manager shall be approved by the mayor.
4. Formulate and adopt policies, and forward proposed rules and policies to the assembly for approval where required;
5. Adopt, amend and repeal bylaws for the board's internal organization and activities; by-laws regarding notice of meetings shall be consistent with the Charter and [Section 1.25.015](#);
6. Operate, manage, and control, utility land, plant, facilities, and personal property in accordance with general standards common to utilities, whether public or private, providing the same utility service subject to [Title 25](#);
7. Provide for and manage all of the utility's human resource, payroll, treasury, accounts receivable, accounts payable, purchasing, contracting, and other operational or business functions;
8. Obtain rights-of-way necessary or desirable to the utility's services, subject to [Title 25](#);

9. Municipal attorney shall advise and assist the utility on legal matters; the Board may obtain other appropriate professional services as required;
10. Investigate, study and plan utility facility requirements and service conditions;
11. Plan and implement the utility's capital improvement and maintenance strategy and operations;
12. Coordinate with risk management division to obtain appropriate insurance coverage for utility property and operations;
13. Set tariff rates and fees for products and services provided by the utility, subject to approval by the assembly;
14. Establish appropriate and reasonable tariff rules for the utility. The existing tariff rules, approved by the Regulatory Commission of Alaska as of the effective date of this section, shall continue in force until changed by the board;
15. Adjudicate formal complaints not resolved by the utility itself;
16. Purchase or otherwise acquire other water or wastewater utilities, subject to [Title 25](#) and assembly approval;
17. Recommend to the assembly revisions to the code the board deems necessary or desirable for the efficient operation of the utility or for the benefit of its customers; and
18. Take all other actions under law it deems necessary to ensure the independent operation and management of the utility, subject to applicable charter and code provisions.

C. The board may exercise the power of eminent domain on behalf of the utility subject to prior approval by the Assembly, or if required for an emergency declaration by the Mayor, in accordance with [Title 25](#).

D. The board may sell or dispose of utility real property, subject to prior approval of the assembly. [Title 25](#) shall apply to any sale or disposition of utility real property.

E. The board may acquire real property on behalf of the utility, subject to prior approval of the assembly. [Title 25](#) shall apply to any acquisition of real property for the utility by the board.

F. Changes to the utility's tariff shall become effective only after notice, consistent with [Chapter 1.25](#), subject to [Section 31.20.030](#), Rates, Fees, and Charges, unless necessary to protect public health or safety.

(AO No. 2005-107, § 1, 9-13-05; AO No. 2009-44, § 1, 5-12-09)

### **31.10.040 Meetings of the board of directors.**

A. At its first meeting and annually thereafter, the board shall elect a chairman and a vice chairman. The chairman and vice chairman shall serve until their successors are duly elected or appointed.

B. The board shall meet at least once per month. Additional meetings shall be at the call of the chairman or the general manager.

C. Procedures for calling special meetings of the board shall be set in the board's bylaws, and all board meeting notice procedures shall be consistent with the charter and [Section 1.25.015](#).

D. Four directors shall constitute a quorum for doing business at any meeting of the board, unless there be less than seven directors in office, in which case a quorum shall be a majority of the directors then in office.

(AO No. 2005-107, § 1, 9-13-05)

### **31.10.050 Definitions.**

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section:

*ASU* means Anchorage Wastewater Utility.

*AWU* means Anchorage Water Utility.

*Board* or *Board of Directors* means Board of Directors of the Anchorage Water and Wastewater Utility.

*Director* means a member of the Board of Directors of the Anchorage Water and Wastewater Utility.

*General Manager* means the General Manager of the Anchorage Water and Wastewater Utility.

*Utility* means Anchorage Water and Wastewater Utility, which includes both AWU and ASU.

*Utility Division Director* means AWWU Division Manager.

(AO No. 2005-107, § 1, 9-13-05; AO No. 2009-44, § 1, 5-12-09)

## **Chapter 31.20 OPERATION AND MANAGEMENT OF THE UTILITY\***

### **31.20.010 Fiscal management.**

The chief fiscal officer shall be advisor regarding the utility's financial affairs, including but not limited to establishing and maintaining the utility's funds. The chief fiscal officer, auditors appointed by the chief fiscal officer, and the internal auditor may examine and audit the books and records of the utility regarding its financial affairs, and the chief fiscal officer and the internal auditor may make recommendations to the utility, the mayor and the assembly regarding the utility's financial affairs. The chief fiscal officer shall be custodian of the utility's funds.

(AO No. 2005-107, § 1, 1-1-07; AO No. 2009-44, § 1, 5-12-09)

### **31.20.020 Dividend to the municipality.**

A. ASU and AWU shall be operated in accordance with prevailing industry practices and in a manner which shall provide dividends to the municipality.

B. The board shall make recommendations to the assembly regarding dividend payments by ASU and/or AWU to the municipality from the previous year, after the audited financial statements of ASU and AWU for that previous year are issued. Dividends may be paid by ASU and/or AWU when dividends do not degrade the financial health, system integrity, and stability of ASU or AWU.

1. When making a recommendation to the assembly the board shall give consideration to indicators of financial health and integrity, including the utility's bond coverage ratio, its debt to equity ratio, the amount of cash reserves on hand before and after the dividend payment, the utility's historical financial trend and expected future financial operations, and any other criteria the board determines is relevant to indicating the financial health and integrity of the utility.
2. When the board recommends payment of a dividend, it shall include with its recommendation a report stating its conclusions following consideration of the indicators of financial health and integrity set out above.

(AO No. 2005-107, § 1, 1-1-06; AO No. 2008-85, § 1, 8-12-08)

### **31.20.030 Rates, fees, and charges.**

A. The board shall recommend tariff rates, fees, and charges imposed by the utility for its products and services to the assembly for approval, and prior to seeking regulatory approvals required under municipal, state and federal law.

B. The board shall establish in its by-laws the procedures for setting the rates, fees, and charges of the utility. The procedures shall include a public hearing for each new or changed rate, fee, charge, rule, regulation, or other tariff provision, and the opportunity for one or more consumer advocates representing ratepayer interests to participate. These procedures shall follow generally water and sewer utility industry standard practices for municipally-owned utilities.

C. Tariff rate, fee, or charge adjustments recommended by the board shall be submitted to the assembly either:

1. As part of the utility's annual budget, after public notice and public hearing for any associated tariff rate, fee, or charge adjustment prior to scheduled assembly budget hearings; or
2. Outside the annual budget process, after public notice and public hearing for associated tariff rate, fee, or charge adjustment.

D. The board may implement a recommended adjustment to tariff rates, fees, or charges following assembly approval of the utility's budget, or assembly approval of the recommended adjustment, if the adjustment is being made outside the budget process.

(AO No. 2005-107, § 1, 1-1-06)

#### **31.20.040 Utility budget.**

A. The utility's annual budget, capital improvement budget, capital improvement program and long range financial plan shall be prepared, submitted to the mayor for approval by the assembly, in accordance with [Chapter 6.10](#).

B. The utility shall have the power to expend funds within the budget approved by the assembly subject to appropriation.

(AO No. 2005-107, § 1, 9-13-05)

#### **31.20.050 Municipal utility service assessment. (Repealed)**

(AO No. 2005-107, § 1, 9-13-05)

#### **31.20.060 Utility borrowing.**

The board of directors may incur debt for the utility subject to Article 15 of the charter, after approval of the assembly of the amount of the debt and the terms and conditions of the borrowing.

(AO No. 2005-107, § 1, 1-1-06)

#### **31.20.070 Grants to the utility.**

The board shall have the power to accept grants to the municipality or the utility for water and wastewater projects or improvements, subject to appropriation by the assembly and/or the mayor.

(AO No. 2005-107, § 1, 1-1-06)

#### **31.20.080 Utility audit.**

A. The utility shall participate in the annual independent financial audit of the municipality under [Chapter 6.40](#).

B. The board may also commission an independent performance or management audit from time to time.

(AO No. 2005-107, § 1, 1-1-06)

#### **31.20.090 Annual report.**

The utility shall make available an annual report to the mayor, the assembly, and its customers covering the operational and financial results from the previous year. The annual report shall be issued not later than 30 days following the publication of the

municipality's comprehensive annual financial report. The utility shall annually make a strategic plan available to the mayor, the assembly and its customers.  
(AO No. 2005-107, § 1, 1-1-07)

### **31.20.100 Purchasing and contracts.**

A. The Board shall use the same purchasing and contracting rules and policies for the Utility contained in [Title 7](#), except that the Board shall designate utility positions to assume the functions of the municipal purchasing office under [Title 7](#), purchasing officer under [Title 7](#), and the Director of Public Works under [Section 7.15.060](#).

B. The Board shall have the powers of the Mayor and the Assembly under [Title 7](#), except for the power of the Assembly under [Section 7.15.100](#). The Board will report quarterly all contract awards in an informational memorandum to the Assembly.

C. The Utility may, at its discretion, negotiate and implement agreements for goods and services with the municipality, subject to the terms of any transition plan adopted by the Board and the Assembly.

(AO No. 2005-107, § 1, 1-1-07; AO No. 2009-44, § 1, 5-12-09)

### **31.20.110 Assessment for improvements.**

Assessments of property for the cost of utility improvements shall be governed by [Title 19](#).

(AO No. 2005-107, § 1, 1-1-06)

### **31.20.120 Complaints and appeals.**

The board shall establish procedures for reviews of formal and informal complaints from customers, and for appeals of decisions on such complaints. A decision on a formal complaint, which decision was not made by the board, may be appealed to the board within 30 days after notice of the decision has been mailed to the parties. Decisions of the board on a formal complaint may be appealed to the ombudsman within 30 days after notice of the board's decision has been mailed to the parties. appeals of utility decisions not received by the board or the ombudsman, as appropriate, within the time set forth herein shall be dismissed.

(AO No. 2005-107, § 1, 1-1-06; AO No. 2009-44, § 1, 5-12-09)

## **Chapter 31.30 PERSONNEL\***

### **31.30.010 Board powers on employment matters.**

A. The board shall adopt and recommend to the assembly for approval personnel rules applicable to executive, utility division directors and non-represented employees of the utility. Represented employees shall only be subject to these rules to the extent allowed by their respective collective bargaining agreements or by law. The personnel rules in effect in [Title 3](#) shall remain applicable to utility employees until such time new personnel rules are approved by the assembly.

B. Subject to the approval of any agreements by the assembly, the board shall have the power to negotiate agreements with collective bargaining groups representing some or all of the utility's employees but not employees in other areas of municipal government or municipal enterprise activities. Collective bargaining agreements covering employees of the utility in effect as of the effective date of this section shall remain in full force and effect in accordance with their respective terms.

(AO No. 2005-107, § 1, 1-1-06/1-1-07)

### **31.30.020 Appointment of the general manager.**

A. The mayor shall appoint the general manager of the utility, subject to confirmation by the assembly. The general manager shall serve at the pleasure of the mayor. Prior to effective date of dismissal, the mayor shall inform the board of reason for dismissal of the general manager. A majority of the board may recommend dismissal of the general manager to the mayor.

B. When a vacancy in the position of general manager occurs, the board shall recommend to the mayor not less than three qualified candidates for the position. The mayor shall appoint the general manager from those candidates recommended by the board.

(AO No. 2005-107, § 1, 1-1-06)

### **31.30.030 Utility division directors.**

The executive utility division managers referenced in [Chapter 3.30](#) shall become utility division directors.

A. The general manager shall appoint utility division directors subject to confirmation by the board.

B. Utility division directors shall serve at the pleasure of the general manager and the board. The general manager and a majority of the board shall concur to dismiss a utility division director, except the general manager may dismiss a utility division director for cause without concurrence of the board.

C. For compensation, a Utility Division Director I is classified as a range 22E and a Utility Division Director II is classified as a range 23E as defined in [Section 3.30.174](#).  
(AO No. 2005-107, § 1, 1-1-06)

## **Chapter 31.40 MISCELLANEOUS PROVISIONS**

### **31.40.010 Transition plan.**

Within 180 days of the effective date of this section, the board shall develop a transition plan and forward it to the assembly for approval. The transition plan may provide for the orderly separation of the utility's functions from those of the municipality generally. The transition plan shall cover the first three years of utility operations and shall be updated on an annual basis during the term of the transition.

(AO No. 2005-107, § 1, 9-13-05)

### **31.40.020 Limitation on liability.**

A. Any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, the general manager, an employee, or an agent of the utility, shall be indemnified by the utility to the fullest extent permitted under Alaska state law, the Charter, or this Code. Any determination required or permitted to be made as to any indemnification shall, whenever appropriate and permitted by applicable law, be made by a vote of a quorum consisting of disinterested directors. Any indemnification under this section shall not be deemed exclusive of any other rights to which the person indemnified may be entitled under any provision of law or otherwise, and shall continue as to a person who has ceased to be a director, general manager, employee or agent of the utility and shall inure to the benefit of the heirs, executors and administrators of such person.

B. The utility shall have power, except to the extent prohibited by state law, the charter or the code, to purchase and maintain insurance covering official acts of any person who is or was a director, general manager, or employee of the utility arising out of such official position.

(AO No. 2005-107, § 1, 9-13-05)

### **31.40.030 Exemption from taxes.**

The real and personal property of the utility and its assets, income and receipts are declared to be the property of a political subdivision of the state devoted to an essential

public and governmental function and purpose, and the property, assets, income, receipts shall be exempt from all municipal taxes.  
(AO No. 2005-107, § 1, 9-13-05)