City of Adak, Alaska

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ORDINANCE NO. 16-2016-100

AN ORDINANCE AMENDING THE ADAK CODE OF ORDINANCES TO ESTABLISH A PERMANENT FUND

BE IT ORDAINED AND ENACTED BY THE CITY OF ADAK:

Section 1. Title IV of the Adak Code of Ordinances is amended to add a new Chapter 4.14 to read as follows:

CHAPTER 4.14
CITY OF ADAK PERMANENT FUND

Sections:

4.14.010 Establishment and Intent.
4.14.020 Purpose and goal.
4.14.030 Sources of fund principal.
4.14.040 Income.
4.14.050 Investment of the permanent fund.
4.14.060 Annual review and action by City Council.
4.14.070 Inflation protection.
4.14.080 Investment expenses.
4.14.090 Disposition of net income.
4.14.095 Disposition of fund principal.
4.14.100 Custody and safekeeping of investments.
4.14.110 Investment manager.
4.14.120 Reporting and audit.

4.14.010 - Establishment and Intent.
The City of Adak permanent fund is hereby established as a separate fund. The intent of this chapter is to provide for the governance and management of the City permanent fund.

4.14.020 - Purpose and goal.
Money placed or otherwise deposited in the permanent fund is fund principal, which the City shall hold in trust and invest in perpetuity for the benefit of present and future residents. Principal may be invested only in the income-producing investments set out in section 4.14.050. The goal of the fund is to maintain safety of principal while maximizing total return.

4.14.030 - Sources of fund principal.

A. Income from Land Sales.

1. The net proceeds from the sale of municipal land may be appropriated to the principal of the permanent fund by ordinance of the City Council. Net proceeds are defined as cash remaining from the sale after all applicable expenses relating to the sale have been deducted. Expenses include engineering and surveying fees, title research fees, legal fees, administrative charges and expenses.

FIRST READING

2. Interest income on contracts of sale shall accrue to the general fund.

B. Income appropriated to the fund to protect the principal from the effects of inflation.

C. State of Alaska Shared Fisheries Taxes. Funds received from the State of Alaska for the shared fisheries resource landing tax or shared fisheries business tax may be appropriated to the principal of the permanent fund by ordinance of the City Council.

D. Other. Funds from any source including unexpended funds in the earnings account may be appropriated to the principal of the permanent fund by ordinance.

4.14.040 - Income.

Income is the total return on all investments. Net income is income less investment expenses. Income and net income are computed at fiscal year-end in accordance with Generally Accepted Accounting Principles (GAAP). All net income shall be accounted for in a separate earnings account within the fund.

4.14.050 - Investment of the permanent fund.

A. The City Council, the administration, the investment managers and the bank custodians shall manage, hold and govern the permanent fund with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent investor acting in a like capacity would use in the management of a similar public fund.

B. Risk shall be reduced by diversification of asset classes and broad diversification of investment securities within each asset class, unless otherwise not prudent to do so.

C. Funds of the permanent fund may be invested in:

1. U.S. government obligations, U.S. government agency obligations, and U.S. government instrumentality obligations that have a liquid market with a readily determinable market value;

2. Obligations of the state of Alaska or municipalities of the state of Alaska, grade A or better;

3. Bank certificates of deposit that are secured as to the payment of principal and interest in accordance with Alaska law;

4. Corporate obligations of investment grade or equivalent quality as determined by a nationally recognized rating organization;

5. Domestic and foreign common stocks and preferred stocks of publicly traded companies including public real estate investment trusts; provided, that the total exposure to stocks shall be diversified among issuers and sectors and will not exceed 50 percent of the market value of the permanent fund;

6. Fixed income (bond) money market funds, mutual funds and index funds with a minimum four-year track record;

7. Equity mutual funds and index funds with a minimum four-year track record and subject to the percentage limitation in subsection (C)(5) of this section.

FIRST READING

D. Investment in mutual funds and index funds shall be limited to funds that invest primarily in investments otherwise permitted under subsection (C) of this section.

4.14.060 - Annual review and action by City Council.

A. The City Council, with the assistance of the manager, the chief fiscal officer or finance director, fund managers, or any other advisor the City Council deems appropriate, annually shall review the performance and investment strategy of the fund. The City Council shall:

1. Review the fund's performance over the past year, with respect to the stated goals and established benchmarks;

2. Review and establish a risk profile by considering investment objectives, risk tolerance, liquidity requirements and the current risk/reward characteristics of the market;

3. Establish, by formal resolution, a plan for the allocation of investment assets, determining a percentage range of the fund to be committed to the various asset classes and establishing performance benchmarks.

B. The City Council, with the assistance and recommendations of the manager and chief fiscal officer or finance director, annually shall review the disposition of income from the fund. The City Council shall:

1. Review the inflation-proofing calculation made under section 4.14.070 and identify the appropriate amount to be returned to the fund;

2. Establish the appropriate level of spending of income from the fund for the year under section 4.14.090, taking into account the goal of protecting the principal of the account and the needs of the City.

4.14.070 - Inflation protection.

The City Council shall appropriate to the fund, in the annual budget, sufficient net income to offset the effect of inflation on principal. The manager shall calculate the amount to be appropriated by:

A. Computing the average of the three most recently published annual calendar year rates of change in the U.S. Consumer Price Index for all Urban Consumers (CPI); and

B. Applying that average rate to the value of principal on the last day of the preceding fiscal year.

4.14.080 - Investment expenses.

Expenditures directly related to the investment of the permanent fund shall be included in the budget to be paid from the income of the fund. Investment expenditures include only the following fees: custodian, investment manager, brokerage, account maintenance and reporting, wire transfer and safety deposit box.

4.14.090 - Disposition of net income.

A. Net income available for disposition is limited by the balance available in the earnings account. Net income available for disposition the next fiscal year is calculated during the budget cycle as of the close of the preceding fiscal year. Income disposition must be authorized in a budget approved by the City Council.

B. Each year, before any other disposition, the inflation-proofing amount calculated in section 4.14.070 must be transferred from the earnings account to principal.

FIRST READING

C. After the transfer in subsection (B) of this section, net income available for City expenses may not exceed 3.5 percent of the average total market value of the fund for three of the four fiscal years immediately preceding the budget year.

4.14.095 - Disposition of fund principal.
In order to achieve the maximum benefit to the City, in line with the stated purpose and goal of the permanent fund, specifically not to utilize the principal of the fund, any withdrawal of principal requires an affirmative vote of at least six (6) council members.

4.14.100 - Custody and safekeeping of investments.
The City manager shall retain one or more bank custodians to hold all investment cash, fixed income and equity securities of the permanent fund; the custodians shall provide monthly reports regarding the assets held at both book and market values, and individual transactions that have taken place, that the banks shall have adequate fidelity insurance, and that written contracts be entered into between the city and the custodian banks.

4.14.110 - Investment manager.
The City Council shall retain one or more professional investment managers to design portfolios or invest funds in accordance with the written investment policies adopted by the City Council. An investment manager must be a registered financial advisor with both the United States Securities and Exchange Commission and the state of Alaska, unless otherwise exempt from registration. Each investment manager shall agree to serve as a fiduciary to the City. Each investment manager shall carry professional liability insurance in an amount satisfactory to the City, and the terms of the investment relationship shall be memorialized in a written contract entered into between the City and the respective investment advisors.

4.14.120 - Reporting and audit.
The City manager shall provide for a periodic financial audit by independent outside auditors. The City manager shall make available to the City Council quarterly and fiscal year investment performance reports.

Section 2. This ordinance is of a permanent and general character and shall be codified in the Code of Ordinances.

Section 3. This ordinance is effective upon adoption.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE ADAK CITY COUNCIL THIS _____ DAY OF _____ 2016.

ATTEST:

_____ _____

Mayor Thomas Spitler Debra Sharrah, City Clerk

Date of Introduction:	June 15, 2016	Introduced By:	City Manager
Date of First Reading:	June 15, 2016	Attorney Review:	June 14, 2016
Date of Second Reading:		Date of Public Hearing:	

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