

Title 4

Local Option Law

Controlling Alcohol in Alaska's Cities and Villages



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Local Option Law

Title 4 is the state law that deals with the regulation, control and distribution of alcoholic beverages throughout Alaska. The law (Alaska Statute or AS) includes provisions that allow local residents to hold an election to select one of five options (AS 04.11.491) to determine whether or not the sale, importation or possession of alcohol will be allowed in the community. These are referred to as local options, and the elections are referred to as local option elections. Residents of a community may also choose to not have a local option election, in which case all other provisions of Title 4 will apply.

Background of Local Option Law

Before Alaska became a state, liquor laws in most of Alaska's rural communities were enforced by federal marshals, although enforcement was often limited due to lack of funds. After statehood in 1959, the Alaska Legislature adopted Title 4 of Alaska Statutes to regulate the sale and dispensing of alcohol throughout the state. Initially under Title 4, municipalities were empowered to hold local option elections for banning the sale of alcoholic beverages in the community, but not to ban importation or possession of alcoholic beverages. Unincorporated villages were not empowered to hold local option elections.

By the late 1970s, amendments had been added to the alcohol control laws that were sometimes contradictory and unenforceable. At the same time, there was growing concern about the steady increase in alcohol-related problems and deaths in Alaska. In 1980, the legislature adopted major revisions to Title 4 to clarify the law. These revisions expanded local option to unincorporated villages, and gave communities the additional option of prohibiting the sale and importation of alcoholic beverages. In 1986, the legislature added another local option alternative to Title 4 – the option for communities to ban the *possession* of alcoholic beverages. The basic local control options have remained essentially the same since then, with some additional changes to Title 4 that improve the ability to enforce local option laws.

Since 1981, over 100 communities in rural Alaska held at least one local option election. Nearly 70 percent of the elections resulted in restrictions placed on alcohol. The Alcoholic Beverage Control (ABC) Board currently lists 19 communities that have banned the sale of alcohol, 76 that have

banned the sale and importation, and 33 that have banned the possession of alcohol. Five communities have voted to allow the sale of alcohol under a community license only, and three have voted to allow the sale of alcohol through a package store license only (ABC Board, Schedule of Local Option Communities, 11/06/2007).

Available Local Options

Five local options are described in Title 4 (AS 04.11.491). A municipality may select any of these options. An unincorporated community (village) may select any option **except number 3** below. In any selection, the option would take effect in a municipality and within five miles of its boundaries. In an established village, the option has effect within that village.

The five local options are to:

1. Prohibit the sale of alcoholic beverages.

This option can be selected by the residents of a municipality or an established village. This only bans **sale** of alcoholic beverages; importation and possession are still allowed.

2. Prohibit the sale of alcoholic beverages except by one or more of the following selected licenses as listed on the ballot:

- a. a restaurant or eating place license
- b. a beverage dispensary license
- c. a package store license
- d. a licensed caterer with a permit to sell alcoholic beverages at a site within the municipality
- e. a winery license (two different types).

If this option is selected by the residents of a municipality or an established village, the sale of alcoholic beverages will be allowed in the community, but only by the specific type of license(s) listed on the ballot and approved by the voters.

3. Prohibit the sale of alcoholic beverages except on premises operated by the municipality and under a type of licensed premises listed on the ballot, that may include one or more of the following:

- a. a restaurant or eating place license
- b. a beverage dispensary license or
- c. a package store license.

If the residents of a municipality select this option, only the municipality may operate the specified liquor license(s) in the community. No other licensed premises are allowed in the municipality. This option is only available to municipalities, and not to unincorporated communities.

4. Prohibit the sale and importation of alcoholic beverages.

The residents of either a municipality or an established village can vote to ban the sale and importation of alcoholic beverages. If residents select this option, no one can sell or import alcoholic beverages in that community except for sacramental wine used for religious purposes as specified in AS 04.11.499(a). Under this option, sale and importation of alcohol are prohibited, but possession is allowed.

One of the first times this law was challenged, a person imported several cases of beer into a “dry” community for personal use. He was caught, tried, and punished. Often importation is difficult to prove because the defendant must be actually caught transporting liquor into the community.

5. Prohibit the sale, importation and possession of alcoholic beverages.

If the residents of a municipality or established village elect this option, no one in or within five miles of the boundaries of the city, or within the established village can sell, import or possess any alcoholic beverages, except sacramental wine, to be used for religious purposes as specified in Title 4.

Procedure for Holding a Local Option Election

Municipalities and established villages use different local option election processes. In a municipality, a local option election is administered by the municipality in accordance with its election ordinance, state statute (AS 29.26.110 - 160) and the procedure spelled out in Title 4. In an established village, the election is administered by the State of Alaska, Division of Elections in accordance with the state’s election procedures found in Title 15 of the Alaska Statutes.

Local Option Elections in a Municipality

The following process must be followed to hold a local option election in a municipality.

Sample applications, petitions, ballots and ordinances used in this process are included in Appendix B.

1. Application for petition

The person (sponsor) wanting an election must file an application for petition with the municipal clerk. The application must be signed by at least ten resident registered voters. The application should include the specific option to be considered, and the name and address of a contact person. Within two weeks of application submittal, the clerk shall certify the application if it is in proper form and complies with AS 29.26.110(a).

2. Petition

After certifying an application, the clerk has two weeks to prepare a petition asking for a vote on the selected option. The petition must contain the following, in accordance with AS 29.26.120 and AS 04.11.507 (additional requirements may apply based on local ordinance):

- a. the specific option to be considered
- b. the date on which the petition is issued by the clerk
- c. notice that signatures must be secured within 90 days after the date the petition is issued
- d. spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing address of each signer
- e. a statement with a space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
- f. space for indicating the total number of signatures on the petition.

The clerk shall notify the contact person in writing when the petition is available, and shall provide copies of the petition to each sponsor requesting copies.

To require an election, the petition must be signed by a number of registered voters equal to 35 percent of the number of votes cast in the last regular municipal election [AS 04.11.507(b)]. The clerk shall determine the number of signatures required and inform the contact person in writing. After the clerk issues the petition, petitioners have 90 days to get the necessary signatures (in ink or indelible pencil) on the petition and to file it with the municipal clerk.

Within 10 days after the date the petition is filed, the municipal clerk shall certify the petition as sufficient, or if it is insufficient, shall identify the insufficiency and notify the contact person by certified mail (AS 29.26.140). In certifying the petition, the clerk verifies that the required number of registered resident voter signatures was obtained. Any signatures by people not registered to vote in the municipality are not counted towards the required 35 percent.

If the petition is insufficient, the sponsor will then have 10 days to get the necessary signatures. If the required number of signatures are obtained before the time runs out, the petition is certified by the clerk. If time runs out before the required number of valid signatures are obtained, the petition will be rejected. A new petition can be initiated after six months, or any later time, provided a new application for petition is approved by the clerk.

3. Scheduling an election in a municipality

If the clerk certifies the petition, the municipal governing body shall place the requested local option on a separate ballot at the next regular election, or at a special election, [AS 04.11.507(b)]. If no election is scheduled to occur within 75 days after certification of the petition, a special election may be held, but not sooner than 60 days after certification of the petition [AS 29.26.170(a)]. The election shall be conducted under the election ordinance of the municipality. If a special election is held, it must meet the standards of the Federal Voting Rights Act.

4. Election procedures for a municipality

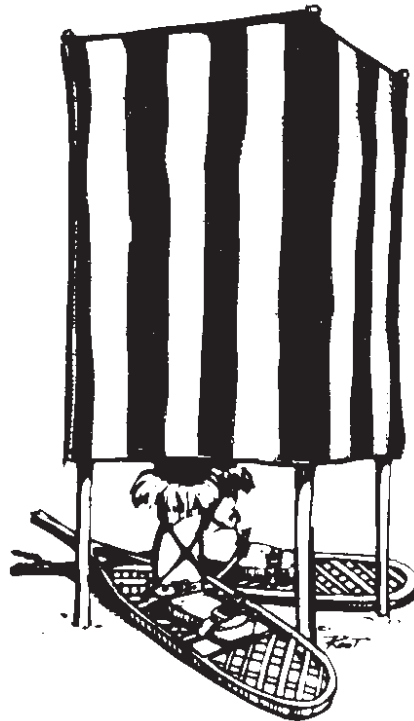
A municipality conducts a local option election according to the procedures outlined in the election ordinance, which should describe the duties of the clerk, council, and election officials. Election procedures should be reviewed well ahead of the time for a regular or special election.

The procedures for conducting a local election should include:

- ☑ Selecting election officials and staff
- ☑ Giving proper election notice
- ☑ Setting up the polling place
- ☑ Opening the polls
- ☑ Having the local option question on a separate ballot
- ☑ Challenging voters / questioned ballots
- ☑ Counting the ballots
- ☑ Certifying the election
- ☑ Establishing an election file

The clerk shall notify the Alcoholic Beverage Control Board of the results of any local option election. The board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election (AS 04.11.509).

Title 4 **requires** an ordinance be adopted by the city council, if a majority of the voters vote “yes” on the question of prohibiting possession [AS 04.11.501(c)]. Cities may adopt local ordinances implementing the other four options, but it isn't required by Title 4.



Sobering Thoughts

The primary cause of violent crime in Alaska is not illegal drugs, but alcohol... In 1997, 100 percent of defendants committing homicides in Western Alaska had consumed alcohol. Alcohol was a factor in 66 percent of felony assaults, 62 percent of misdemeanor assaults, 54 percent of sexual assaults, 48 percent of offenses against minors and 21 percent of sexual abuse cases involving minors.

2002 Annual Drug Report Alaska Bureau of Alcohol and Drug Enforcement

Data reported by the Alaska Division of Alcoholism and Drug Abuse indicates that nine out of 10 Alaska Natives who choose to use alcohol become alcohol abusers. Of those nine, four become dependent/addicted. Although Alaska Natives make up only 17 percent of the population...38 percent of those who die by suicide are Alaska Natives... two-thirds to three-quarters of these Native suicides were drinking at the time of their death. According to the Department of Public Safety, alcohol use has been involved in over 60 percent of violent crime in rural Alaska.

October 4, 2000 statement by Senator Frank Murkowski

In 2003, the total cost of alcohol and other drug dependence to the Alaska economy was estimated to be \$738 million. Alcohol abuse accounted for \$525.5 million (71 percent).

Economic Costs of Alcohol and Other Drug Abuse in Alaska 2005

Alcohol is the primary substance of abuse in Alaska and is the leading cause of violent, suicidal, and accidental deaths, especially in rural areas.... The ill-gotten gains of drug dealers and alcohol smugglers promote an increase in lawlessness of all types. This lawlessness is not isolated to the use of controlled substances. It includes, but is not limited to, burglary, theft, domestic violence assaults and murder.

2007 Annual Drug Report Alaska Bureau of Alcohol and Drug Enforcement

Alcohol has taken a terrible toll in Alaska. Alaska Natives have a high rate of suicide and premature death, and drinking has long been regarded as a major factor... Many familiar with rural Alaska say wherever there is a tragedy, near-tragedy, or serious crime, alcohol is involved nine times out of 10.

Anchorage Daily News, 01/07/2008

Local Option Elections in an Established village

Unlike in a municipality where the local option election is conducted by the local government, the State of Alaska Division of Elections is responsible for conducting a local option election in an established village. The procedure for conducting a local option election in a village is similar to that in a municipality, with some important differences. (Sample petitions and ballots are included in Appendix C.)

- 1. The application for petition is not required. The petition is developed locally asking for a vote on a selected option.** The language on the petition should be substantially similar to the options set out under AS 04.11.491 – AS 04.11.495.
- 2. The petition must be signed by 35 percent of the registered voters residing within the established village.** The village administrator may request the current list of registered voters for a community by contacting the Division of Elections. The community can use the voter registration list to help ensure that petition signers are resident voters. The signed petition must be filed with the Division of Elections within 90 days after first circulated.

The director of elections will review the petition to determine if it meets Title 4 requirements, and will verify the submitted signatures within 30 days after receipt of the petition. If the director determines that the petition is not in compliance, or that it does not contain the required number of signatures of eligible voters, the director will reject the petition and return it to the sponsor. The director will notify the sponsor in writing that the petition was rejected and the reason for the rejection. A rejected petition may not be resubmitted. (6 AAC 27.170)

- 3. The election is the responsibility of the Division of Elections; certifying the election results is done by the Lieutenant Governor's office.**

4. **If a local option is approved, the geographic area where it applies includes only the geographic area within the established village.** (AS.04.11.508: Establishment of perimeter of established village)

5. **Enforcement of a voter approved and certified option is the responsibility of state law enforcement personnel.** Enforcement issues are further discussed on page 16.

Effect of Each Option

The following is a summary of the effects of the passage of each local option.

Option 1: Prohibition of sale of alcoholic beverages
AS 04.11.491(a)(1) municipality
AS 04.11.491(b)(1) established village

The question will read substantially as follows:

“Shall (name of city or village) adopt a local option to prohibit the sale of alcoholic beverages? (Yes or No)”

If a majority of the voters vote “yes,” the sale of alcoholic beverages in the municipality, and within five miles of its boundary, or in the established village is forbidden. Under this option, although the sale of alcoholic beverages in the community is prohibited, importation and possession are still allowed. The prohibition on sales is effective the first day of the month following certification of the election. Existing licenses that allow the sale of alcoholic beverages are void 90 days after certification.

If a majority of the voters vote “no,” there will be no restrictions on the issuance, renewal, or transfer of liquor licenses except those imposed by statute. In either case, selling alcoholic beverages without a license (bootlegging) is illegal under state law.

**Option 2: Prohibition of the sale of alcoholic beverages
except by selected licenses
AS 04.11.491(a)(2) municipality
AS 04.11.491(b)(2) established village**

The question will read substantially as follows:

“Shall (name of city or village) adopt a local option to prohibit the sale of alcoholic beverages except by (list the types of licenses, for example: beverage dispensary (bar), and/or package store (liquor store), and/or restaurant? (Yes or No)”

If the question to be voted on concerns the sale of alcoholic beverages in a restaurant, the ballot **must** explain that this type of license only allows the sale of beer and wine, to be consumed only on the licensed premises. If the question concerns the sale of alcoholic beverages in a beverage dispensary, the ballot **must** include an explanation that this type of license is commonly called a “bar,” and that it allows the sale of beer, wine and liquor to be consumed only on the licensed premises. If the question concerns the sale of alcoholic beverages in a package store, the ballot **must** explain that this type of license is commonly called a “liquor store” and that this type of license allows sale of beer, wine and liquor to be consumed only off-premises. (The selected licenses can also include a caterer’s license or a winery license, although these types of licenses are rare in Alaska’s small communities.)

If the vote is “yes,” there will be no license issued or transferred within the boundaries of the city, or within five miles of the boundaries of the city, or in the established village except those types of licenses listed on the ballot. Existing licenses not listed on the ballot are void 90 days after the election is certified. Under this option, although the sale of alcoholic beverages is limited to the type of license specified on the ballot, the importation and possession of alcohol are still allowed.

If the vote is “no,” there will be no restrictions on the issuance of new licenses, or the renewal, or transfer of existing liquor licenses except those imposed by statute.

**Option 3: License for municipally operated premises
AS 04.11.491(a)(3)
Only a municipality can adopt this option.**

The question will read substantially as follows:

“Shall (name of city) adopt an option to prohibit the sale of alcoholic beverages except on premises operated by the municipality and under (a beverage dispensary and/or a package store, and/or a restaurant license)? (Yes or No)”

If a majority of the voters vote “yes,” the sale of alcoholic beverages within the city or within five miles of the boundary of the city is forbidden. The only exception is a beverage dispensary and/or package store and/or restaurant operated under a license held by the city. Other existing licenses are void 90 days after the election is certified. If the vote is “no,” restrictions on the issuance, renewal, or transfer of liquor licenses will be the same as before the election. **Only a municipality can adopt this option.** Under this option, importation and possession of alcoholic beverages would still be allowed.

**Option 4: Prohibition of sale and importation of
alcoholic beverages
AS 04.11.491(a)(4) municipality
AS 04.11.491(b)(3) established village**

The question will read substantially as follows:

“Shall (name of city or village) adopt a local option to prohibit the sale and importation of alcoholic beverages? (Yes or No)”

If adopted, the sale of alcoholic beverages in the community would be prohibited, and no person may send, transport, or bring an alcoholic beverage into the city or established village (except for sacramental wine used for religious purposes in accordance with Title 4). The prohibition begins on the first day of the month following certification of the election. Existing licenses in the municipality or within five miles of its boundaries, or within the established village expire 90 days after the election is certified. If the vote is “no,” sale of alcoholic beverages in accordance with Title 4 requirements will be allowed and there will be no restrictions on the

issuance, renewal, or transfer of liquor licenses, or on the importation of alcoholic beverages except those imposed by statute. Under this option, the sale and importation of alcoholic beverages are prohibited, but possession is still allowed.

**Option 5: Prohibition of sale, importation, and possession
of alcoholic beverages**

AS 04.11.491(a)(5) municipality

AS 04.11.491(b)(4) established village

The question will read:

**“Shall (name of city or village) adopt a local option to
prohibit sale, importation, and possession of alcoholic
beverages? (Yes or No)”**

If this option is passed, the municipality or established village shall post a public notice of the prohibition in a central location in the municipality or village. The local media (radio, TV, and newspapers) and applicable air carriers should also be notified. A person may not knowingly possess an alcoholic beverage in the municipality or established village unless it is sacramental wine to be used for religious purposes as specified in Title 4.

If there are licensed premises within the community, the prohibition on possession takes effect 90 days after the results of the election are certified. Existing licenses will be void after 90 days. If there are no licensed premises within the community, the prohibition on possession takes effect 60 days after the results of the election are certified (AS 04.11.501).

If this option is adopted by a municipality, the municipality must pass an ordinance containing the provisions of the local option.

Other Provisions of Local Option Law

If a municipality dissolves under AS 29.06.450 (a) or (b), a local option adopted by the municipality shall continue in effect as the local option for an established village having the same perimeter as the previous boundaries of the municipality. Any municipally owned license operated under AS 04.11.505 expires when the municipality dissolves [AS 04.11.491(e)].

Delivery Sites

If a municipality or established village has adopted a local option to ban or restrict the sale of alcoholic beverages under AS 04.11.491, but has not banned the importation of alcoholic beverages, it may designate a site for the delivery of alcoholic beverages to individuals or a site for a person to bring alcoholic beverages if they are imported into the area. This does not apply to:

- a. one liter or less of distilled spirits, two liters or less of wine, or one gallon or less of malt beverages; or
- b. alcoholic beverages to a premises licensed under AS 04.11.491.

For more detailed information regarding operation of delivery sites, see AS 04.11.494.

Limitations on Quantities that can be Imported or Possessed

In an area where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491, it is unlawful to ship more than 10.5 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages in a calendar month to an unlicensed purchaser in that area. Possession of any of these amounts of alcoholic beverages creates a presumption that the person possessed the alcoholic beverages for sale [AS 04.11.010 and AS 04.11.150(g)]. A municipality or established village may vote to establish lower limits on the amounts of alcoholic beverages that may be imported or possessed, as part of the local option question [AS 04.11.491(g)(1-3)].

Reconsideration

After a local option election takes place and an ordinance is passed, some people may still be unhappy with the way alcohol is being regulated in the community. A person may wish to change the local option to one that is more restrictive, less restrictive, or to remove the local option completely. When can a person start working on another petition to choose a different option?

1. If choosing a more restrictive option than the one voted in:

A new petition may be started or filed as soon as the previous election is certified. Only one local option question may be presented in an election at a time [AS 04.11.507(g)].

2. If choosing a less restrictive option:

An election to remove a local option or to change to a less restrictive option may not be conducted during the first 24 months after the current option was adopted, or more than once in a 36 month period [AS 04.11.507(f)].

Enforcement

Enforcement of local option laws is provided by the:

- Village Public Safety Officer (VPSO), Village Police Officer, and City Police Officer
- Alaska State Troopers
- Magistrate
- Judge and Court, and
- Alcoholic Beverage Control Board.

Tribal courts can enforce local option laws in a village, depending on the resources and desires of the tribal government.

Community members can help enforce the law by contacting the enforcement agencies. In some communities, this may be the only local enforcement since there may not be a VPSO, police officer, or trooper present in the community. If the majority of community members do not actively support the local option laws and the law enforcement agencies, enforcement of those laws will always be difficult.

The Federal Aviation Administration (FAA) and Enforcement

FAA investigators do not enforce any state or local alcohol laws. They only investigate situations governed by federal law. As an example: federal law prohibits air carriers from transporting a drunk person. This protects the other passengers and the pilot.

The Alcoholic Beverage Control Board and Enforcement

Application for Liquor Licenses

Except as provided by law, a person may not manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless the ABC Board has issued that person a license or permit (AS 04.11.010). Currently, the ABC Board issues 21 different types of licenses and permits. Beverage dispensary (bar) licenses, package store (liquor store) licenses, and restaurant or eating place licenses are the most common.

The ABC Board reviews and decides all applications for liquor licenses and permits, which are good for two years. Unless a legal action is pending regarding the application, the ABC Board makes its decision within 90 days. However, the decision cannot be made before the time allowed for protest by the local governing body has elapsed, unless the right to protest is waived [AS 04.11.510(a)].

Public Influence on Licenses

The public has the right to object to an application for issuance, renewal or transfer of a license, or for issuance of a permit. A person wishing to object should write a letter to the ABC Board stating why a license should not be issued and send a copy of the letter to the applicant. The person may also testify to the ABC Board at a hearing when it considers the application. The ABC Board considers all comments before deciding whether to grant the license (AS 04.11.470).

Title 4 also gives local governing bodies the right to protest the issuance, renewal, relocation or transfer of a license. The “local governing body” means, as appropriate, a city council, borough assembly or traditional village council, but does not include a corporation established in the Alaska Native Claims Settlement Act [AS 04.21.080(b)(16)].

When the ABC Board receives a license application from within an established village, an incorporated city, an organized borough or a unified

municipality, the board must notify the local governing body within 10 days. If the governing body wishes to protest the license, it must do so within 60 days after this notification is received.

To protest a liquor license, the local governing body must write a letter to the ABC Board stating why it doesn't want the license to be granted. The first sentence or heading of the letter should note the letter is a protest. The reasons for wishing that a liquor license not be issued or renewed must be clearly stated and a copy of the letter must also be sent to the applicant. The ABC Board shall consider the protest and any testimony received at a hearing conducted when it considers the application, which shall be denied unless the ABC Board finds that the objections are arbitrary, capricious, and unreasonable.

In a first or second class city or established village where there are no licensed premises at the time of application, a new license or permit will be denied by the ABC Board unless a local option election has been held and a majority of voters have voted against restricting or prohibiting the sale of alcohol; have voted to approve a local option to allow a specific type of license [AS 04.11.491(a)(2) or (3) or AS 04.11.491(b)(2)]; or have voted to remove a restriction or prohibition on the sale of alcoholic beverages (AS 04.11.320).

Application for New License or Permit

If a person, company, corporation or other entity wants to get a license to sell alcoholic beverages, there is a procedure that must be followed. AS 04.11.260 requires all applications be submitted in writing to the director of the Alcoholic Beverage Control Board. Applications must be signed, and sworn to by the applicant, giving the applicant's name and address, and must include:

1. The type of license or permit desired
2. A description of the premises for which the license or permit is desired
3. The license fee
4. The duration of the license or permit
5. Any other information required by the board.

In addition, the applicant must submit:

1. Proof that notice required by AS 04.11.310 has been given. A copy of the application must be posted for 10 days at the location of the proposed licensed premises and at any additional locations designated by the ABC Board.

2. Any petitions required under AS 04.11.460. An application for license for premises outside, but within 50 miles of the boundaries of a municipality, requires a petition, signed by a majority of the permanent residents within one mile of the proposed premises, requesting the license be issued. If more than 50 miles from the nearest municipality, the petition must be signed by two-thirds of the permanent residents residing within five miles of the U. S. Postal Service office nearest the proposed licensed premises.
3. Evidence of any approval by public authorities required to be obtained under AS 04.11.220(c).

After a Liquor License has been Issued

Generally, after a license is issued, it expires on December 31 of the second year. A licensee must apply to renew the license between November 1 and December 31 of the second year.

After a liquor license has been issued, certain rules must be followed. (Refer to Alaska Statutes, Title 4, Alcoholic Beverages for details.) Examples include:

- ★ Alcoholic beverages **cannot** be sold between 5:00 AM and 8:00 AM each day.
- ★ Alcoholic beverages **cannot** be sold to a drunken person.
- ★ Alcoholic beverages **cannot** be sold or given to a person under the age of 21.

The Alcoholic Beverage Control Board investigates situations when any of the rules are broken. Contact the ABC Board at the address below with complaints.

Alcoholic Beverage Control Board
5848 E. Tudor Road
Anchorage, Alaska 99507

Telephone: 907-269-0350

Penalties

A community considering a local option election must be fully aware of what can happen to someone who breaks the proposed law. Each individual case is looked at differently. The penalty and/or fine a guilty person receives depend on many different things: the person's past criminal record; recent

behavior in the community; and, recommendations made by the traditional, IRA, or city council to the judge or magistrate.

Liquor sold to a minor (someone under 21 years of age), is a Class A misdemeanor in a community that has not adopted a local option, and a Class C felony in a community that has adopted a local option.

Penalty for bootlegging

Sale of alcoholic beverages for profit without a license (bootlegging) is always illegal, whether the community is “wet” or “dry.” An unlicensed person selling hard liquor (gin, whiskey, rum, etc.), or wine, or malt beverages (beer) in a community that **has not** adopted a local option, commits a Class A misdemeanor, and will be sentenced to at least 10 days in jail (AS 04.16.200) and can be sentenced up to one year in jail and/or fined up to \$5,000.

An unlicensed person selling hard liquor or wine or malt beverages in a community that **has** adopted a local option under AS 04.11.491 commits a Class C felony, and can be sentenced up to five years in jail and/or fined up to \$50,000.

Currently, 136 communities have voted in favor of local option statutes prohibiting the sale, importation, and/or possession of all alcohol. Because alcohol remains legal in many areas of Alaska, illegal bootlegging activities continue to be a problem in the local option communities.

The Alaska state troopers applied for and received federal funding for five investigators whose function is focused on alcohol issues. In 2007...(they) dedicated a significant amount of their time to alcohol investigations to include shipments through the U.S. mail. This resulted in alcohol seizures of approximately 881 gallons in 2007.

2007 Annual Drug Report, Alaska Bureau of Alcohol and Drug Enforcement

Penalty for Importation

The penalty for sending, transporting or bringing alcoholic beverages into a municipality or established village that has prohibited the importation of alcoholic beverages under Title 4 depends on the amount of alcohol brought into the community.

A person importing less than 10.5 liters of distilled spirits (hard liquor), 24 liters of wine or less than 12 gallons of malt beverages (beer) into a community that has adopted a local option to prohibit sale and importation commits a Class A misdemeanor [AS 04.16.200(e)(1)], and can be sentenced up to one year in jail and/or fined up to \$5,000.

A person importing 10.5 liters or more of distilled spirits (hard liquor), 24 liters or more of wine or 12 gallons or more of beer into a community that has adopted a local option to prohibit sale and importation commits a Class C felony [AS 04.16.200(e)(2)], and can be sentenced up to five years in jail and/or fined up to \$50,000.

In July 2004, Kotzebue investigators saw a person loading alcohol into a vehicle at the airport. The vehicle operator drove to an 18-foot boat where the suspect loaded and hid the alcohol on the boat. (The alcohol was being delivered to a nearby local option community.) Property seized from the investigation included the boat valued at \$8,500, the vehicle valued at \$12,000, 60 cans of beer, and 14 bottles of alcohol. The alcohol was valued at \$5,100. Three suspects were arrested in this case.

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Penalty for possession

A person convicted of possession in a community that has adopted a local option to prohibit possession may be punished by a fine of no more than \$1,000 or 200 hours of community work and shall forfeit the seized alcoholic beverages. When a peace officer stops or contacts a person suspected of possession, the peace officer may issue a citation to the person. (See a sample citation on page 24.)

1. The maximum bail amount that can be forfeited without a court appearance is \$1,000. The issuing officer must write the amount of bail on the citation.
2. If a person is cited for possession, within 30 days of the date of the citation, the person may either:
 - a. mail or personally deliver to the clerk of the court in which the citation is filed the amount of bail shown on the citation and a copy of the citation showing that the right to an appearance is waived. A plea of no contest is entered and the bail and all alcoholic beverages seized are forfeited; or
 - b. perform community work instead of paying the fine or a portion of the fine as provided in (C) below.
3. Community work is performed at the direction of the governing body of the city or the established village. By state law, the value of community work is \$5.00 per hour. When the community work is completed, the person cited for the violation shall mail or personally deliver to the court clerk in which the citation is filed:
 - a. a form, prescribed by the Alaska Court System, showing completion of the community work; and
 - b. a copy of the citation showing the right to an appearance is waived, a plea of no contest, the bail is forfeited or community work has been performed, and all alcoholic beverages seized are forfeited.
4. When bail has been forfeited or proof of performance of community work has been filed with the court, a judgment is entered. Forfeiture of bail or filing proof of performance of community work and forfeiture of all seized items satisfies the violation. The court clerk accepting the bail, or the form indicating performance of community work, provides the offender with a receipt stating that fact, if requested.
5. If the person doesn't pay the bail amount or fails to provide proof of performance, the citation becomes a summons.
6. If a person cited for possession appears in court and is found guilty, the penalty imposed cannot exceed the bail amount for that offense.
7. Violating AS 04.11.501 (Prohibition of possession after election) or an ordinance adopted under AS 04.11.501, may not be considered a criminal offense and may not

- result in imprisonment, nor is a fine imposed for a violation considered criminal punishment. A person cited for a violation doesn't have a right to a jury trial or court appointed counsel.
8. The commissioner of Public Safety prescribes and provides a suitable standard citation form identifying the offender and the offense.
 9. A municipality shall adopt a citation form equivalent to that prescribed by the commissioner.

If a community has voted to prohibit the possession of alcoholic beverages, a person, upon conviction of possession, shall forfeit the alcoholic beverages. Alcoholic beverages forfeited shall be placed in the custody of a peace officer of the state and destroyed no later than 30 days after forfeiture.

The private manufacture of alcoholic beverages (home brew) is not allowed in an area that has adopted a local option law that bans possession of alcoholic beverages.

Example of a Citation

WARRANT

TO: Any peace officer or authorized person

District Judge

Bail endorsed: \$ _____

SUMMONS

TO: _____
The Defendant named in the attached Criminal Complaint.

You are summoned to appear before the undersigned District Judge at _____, Alaska on the ____ day of _____ 20__ at ____ o' clock __.M. to answer the attached complaint. If you fail to appear a warrant will be issued for your arrest.

Dated this ____ day of _____, 20__ .

District Judge

RETURN OF WARRANT

I certify that I executed the above warrant by arresting _____ and by serving him or her with a copy of this warrant at _____, Alaska on the ____ day of _____, 20__ and now produce him without unnecessary delay before the nearest available Judge.

Dated this ____ day of _____, 20__ at _____, Alaska.

Signature of Officer

RETURN OF SUMMONS

I certify that I served the within summons and complaint on _____ on the ____ day of _____ 20__ at _____, Alaska.

By: _____

Dated this ____ day of _____, 20__ at _____, Alaska.

Signature of Officer

Search and Seizure

Search Warrants

A search warrant is permission for a law officer to search a place for something. An officer may only search where the warrant states and can't look anywhere else.

Example: A trooper gets a search warrant to search Paul's house. The trooper may search only Paul's house and cannot search Wassilie's house or anywhere else.

An officer may look only for items the search warrant lists. This limits the search because the officer may only search for a listed item in a place it could be hidden.

Example: A trooper has a search warrant to search Paul's house for alcoholic beverages. The trooper can look in cupboards, drawers, or anywhere else that alcoholic beverages might be hidden. However, the trooper may not open a sealed flat envelope found in the house because it isn't possible to hide alcoholic beverages in a flat envelope.

Obtaining a Search Warrant

Only an Alaska state trooper, a village public safety officer (VPSO), city police officer, or other state recognized law enforcement officer can get a search warrant. Only a judge or magistrate can issue a search warrant.

A law enforcement officer asks a judge or magistrate in person for one; or, if that isn't possible, speaks to the judge or magistrate on the telephone. The law enforcement officer must swear the facts are true as they know them and/or are based on reliable information. A search warrant received over the telephone is as good as one received in person and allows the search to be made.

Probable Cause

A judge or magistrate will only issue a search warrant when convinced there is probable cause to believe the law enforcement officers will find what they are looking for in the place to be searched. Probable cause means a very good reason exists. There must be strong facts or circumstances to back up the law enforcement officer's belief. Without probable cause, the judge or magistrate will not issue the search warrant.

Example: A village public safety officer knows that a specific person is flying into the village. The last several times that person has come in, he brought liquor. An honest and reliable person has told the VPSO that she saw the liquor and knows for a fact the person intends to bring it to the village. This would be "probable cause" for a search warrant.

Example: A village public safety officer hears a rumor that a plane is coming to the village and there will be alcoholic beverages on board. This is all the VPSO knows. This would not be "probable cause" for a search warrant.

Warrantless searches

There are situations when a law enforcement officer doesn't need a search warrant to look for alcoholic beverages.

Consent

Consent occurs when a law enforcement officer asks a person if the officer can look for alcoholic beverages and the person gives permission. The officer must tell the person what will be searched and the person must understand and give permission for the search.

Example: A village public safety officer believes someone has liquor at home, in a community that banned possession. The VPSO knocks on the person's door, identifies himself as the village public

safety officer, and tells the person that he wants to search for liquor. If the person says it's all right to come in and search, the officer doesn't need a search warrant.

Not everyone can give consent to search a home. For example, a child cannot give permission or consent to search a home. However, the spouse of the person living in the house could give permission to search the household. The adult consenting to the search must have as much right to go in the place being searched as the person suspected.

Example: A village public safety officer believes William Baker brought liquor into the village and stored it in his home. Baker's wife answers the door and the officer asks if he can search for liquor. She gives permission. The officer may enter and search without a warrant. Mrs. Baker has as much right to be in the places being searched as her husband and can give permission for the search.

Example: When the village public safety officer goes to the Baker home, a visiting neighbor answers the door. The officer cannot search the Baker home without a warrant even if the guest gives permission.

Example: When the village public safety officer goes to the Baker home, the Bakers' fifteen-year-old son answers the door. The officer can't search the Baker home without a warrant even if the son gives permission.

Anyone has the right to refuse consent to a warrantless search. No one must consent simply because a trooper or village public safety officer asks to conduct a search. A person has the right, at any time, to ask the law enforcement officer to stop a warrantless search.

Search Incidental to a Valid Arrest (No Consent Needed)

If a law enforcement officer arrests someone for breaking the law, the officer may search the person for weapons or evidence which could be easily destroyed. The officer may also search anywhere the person might reach quickly to get a weapon or destroy evidence.

Example: A trooper arrests someone for shooting a gun in the middle of a village. If the trooper makes the arrest outside, he may search the person (without consent) for weapons or easily destroyed evidence, such as a bottle of liquor. If the trooper makes the arrest in the person's home, he may also search (without consent) anywhere the person could easily reach. This usually means the entire room in which the person is arrested.

Plain View

If alcohol is in plain view, law enforcement officers can take it without a search warrant. However, the officers must have a right to be where they are when the alcohol is seen.

Example: A village public safety officer has a warrant that says the boxes stored in someone's house can be searched for alcoholic beverages. When the officer goes inside the house, he sees a bottle of liquor on the table. The bottle can be seized even though it wasn't listed in the warrant. Because a warrant was obtained, the VPSO has a right to be in the house and can seize any liquor in plain view.

Example: A village public safety officer sees some boxes on a snow machine. The VPSO thinks the boxes have bottles of liquor in them. These boxes are closed. The boxes can't be searched unless the VPSO has a search warrant.

The “plain view” exception to the search warrant requirement is valid only when a law enforcement officer sees the alcohol with his or her own eyes. If someone other than a law enforcement officer sees the alcohol, they should tell an officer so the officer can see the liquor, or get a search warrant.

For any additional questions, consult the village public safety officer, village police officer, or the nearest state trooper.

Alaska State Trooper Contact Information

POST LOCATION	PHONE NUMBER	FAX NUMBER	POST LOCATION	PHONE NUMBERS	FAX NUMBER
Anchorage	907-269-5511	907-248-9834	Kenai	907-283-8590	907-283-2671
Aniak	907-675-4398	907-675-4498	Ketchikan	907-225-5118	907-225-6568
Barrow	907-852-3783	907-852-3784	King Salmon	907-246-3464	907-246-6259
Bethel	907-543-2294	907-543-5102	Klawock	907-755-2918	907-755-2422
Cantwell	907-768-2202	907-768-2203	Kodiak	907-486-4121	907-486-5810
Cold Bay	907-532-2440	907-532-2724	Kotzebue	907-442-3222	907-442-3221
Cold Foot	907-678-5211	907-678-3668	McGrath	907-524-3052	907-524-3053
Cooper Landing	907-595-1233	907-595-1233	Nenana	907-832-5554	907-832-5425
Cordova	907-424-3184	907-424-5454	Ninilchik	907-567-3660	907-235-3151
Craig	907-755-2291	907-755-2422	Nome	907-443-2835	907-443-5840
Delta Junction	907-895-4800	907-895-4026	Northway	907-778-2245	907-778-2269
Dillingham	907-842-5641	907-842-5795	Palmer	907-745-2131	907-269-5465
Dutch Harbor Unalaska	907-581-1432	907-581-1407	Petersburg	907-772-3983	907-772-3906
Emmonak	866-949-1303	907-949-1301	Seward	907-224-3346	907-224-2446
Fairbanks	907-451-5100	907-451-5317	Sitka	907-747-3254	907-747-7912
Galena	907-656-1233	907-656-1530	Soldotna	907-262-4453	907-262-2889
Girdwood	907-783-0972	907-783-2026	St. Marys	800-240-2019	907-438-2018
Glennallen	907-822-3263	907-822-5594	Talkeetna	907-733-2256	907-733-1225
Haines	907-766-2552	907-786-3265	Tok	907-883-5111	907-833-4249
Healy	907-683-2232	907-683-2231	Unalakleet	907-624-3073	907-624-3075
Homer	907-235-8239	907-235-3151	Valdez	907-835-4307	907-835-5607
Hoonah	907-945-3620	907-945-3570	Wrangell	907-874-3215	907-874-3241
Iliamna	907-571-1871	907-571-1807	Yakutat	907-784-3220	907-784-3220
Juneau	907-465-4000	907-465-3333			

Appendix A

Statute and Regulation

Alaska Statute: Title 4

Alaska Administrative Code: 6 AAC 27.170

Title 4: Local Option Law

Below are excerpts from Title 4 of the Alaska Statutes on local option laws.

Sec. 04.11.491. Local options.

(a) If a majority of the persons voting on the question vote to approve the option, a municipality shall adopt a local option to prohibit

- (1) the sale of alcoholic beverages;
- (2) the sale of alcoholic beverages except by one or more of the following listed on the ballot:

- (A) a restaurant or eating place licensee;
- (B) a beverage dispensary licensee;
- (C) a package store licensee; or
- (D) a caterer holding a permit under AS 04.11.230 to sell alcoholic beverages at a site within the municipality who is also licensed under a beverage dispensary license for premises outside of the municipality;
- (E) a winery licensee;
- (F) a winery licensee, except that sales may occur only to a person licensed under this title or in another state or country

(3) the sale of alcoholic beverages except on premises operated by the municipality and under a type of licensed premises listed on the ballot, that may include one or more of the following:

- (A) a restaurant or eating place license;
- (B) a beverage dispensary license; or
- (C) a package store license;
- (4) the sale and importation of alcoholic beverages; or
- (5) the sale, importation, and possession of alcoholic beverages.

(b) If a majority of the persons voting on the question vote to approve the option, an established village shall exercise a local option to prohibit

- (1) the sale of alcoholic beverages;
- (2) the sale of alcoholic beverages except by one or more of the following listed on the ballot:

- (A) a restaurant or eating place licensee;
- (B) a beverage dispensary licensee;
- (C) a package store licensee; or
- (D) a caterer holding a permit under AS 04.11.230 to sell alcoholic beverages at a site within the established village who is also
- (E) licensed under a beverage dispensary license for premises outside of the established village;
- (F) a winery licensee; or
- (G) a winery licensee, except that sales may occur only to a person licensed under this title or in another state or country;

- (3) the sale and importation of alcoholic beverages; or
- (4) the sale, importation, and possession of alcoholic beverages.

(c) A ballot question to adopt a local option under this section must at least contain language substantially similar to: “Shall (name of municipality or village) adopt a local option to prohibit (local option under (a) or (b) of this section)? (Yes or No)”

(d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or (b)(2)(A) of this section must include a summary explanation of the authority to sell alcoholic beverages given to a restaurant or eating place under AS 04.11.100(a). The ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B) or (D) of this section must include a statement that a beverage dispensary license is commonly known as a “bar” and a summary explanation of the authority to sell alcoholic beverages given to a beverage dispensary licensee under AS 04.11.090(a). The ballot for an election on the option set out in (a)(2)(C), (a)(3)(C), or (b)(2)(C) of this section must include a statement that a package store license is commonly known as a “liquor store” and a summary explanation of the authority to sell alcoholic beverages given to a package store licensee under AS 04.11.150(a).

(e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option adopted by the municipality under (a) of this section shall continue in effect as the corresponding local option under (b) of this section for an established village having the same perimeter as the previous boundaries of the municipality. A license for premises operated by the municipality under AS 04.11.505 expires when the municipality dissolves.

(f) A municipality or established village that has adopted a local option under (a)(1), (2), or (3) or (b)(1) or (2) of this section may designate a site for the delivery of alcoholic beverages to individuals in the area or a site for a person to bring alcoholic beverages if the alcoholic beverages are imported into the area. This subsection does not apply to the delivery or importation of

- (1) one liter or less of distilled spirits, two liters or less of wine, or one gallon or less of malt beverages; or
- (2) alcoholic beverages to a premises licensed under (a)(2) - (3) or (b)(2) of this section.

(g) If a municipality or established village has adopted a local option under (a)(1), (2), (3), or (4), or (b)(1), (2), or (3) of this section, the municipality or established village, as part of the local option question or questions placed before the voters, may

- (1) adopt an amount of alcoholic beverages that may be imported that is less than the amounts set out in AS 04.11.150 (g);
- (2) adopt an amount of alcoholic beverages that would give rise to a presumption that the person possessed the alcoholic beverages for sale; the

amounts adopted under this paragraph may be lower than those set out in AS 04.11.010 (c);

(3) opt to not apply a Class C felony to violations of AS 04.16.051 that apply solely by reason of the municipality or established village adopting a local option under this section.

Sec. 04.11.492. Community liquor license; complete prohibition on sales. [Repealed, Sec. 69 ch 101 SLA 1995] Repealed or Renumbered.

Sec. 04.11.493. Change of local option.

(a) If a majority of persons voting on the question vote to approve a different local option, a municipality or established village shall change a local option previously adopted under AS 04.11.491 to the different approved option.

(b) A ballot question to change a local option under this section must at least contain language substantially similar to: “Shall (name of municipality or village) change the local option currently in effect, that prohibits (current local option under AS 04.11.491), and adopt in its place a local option to prohibit (proposed local option under AS 04.11.491)? (Yes or No)”

Sec. 04.11.495. Removal of local option.

(a) If a majority of the persons voting on the question vote to remove the option, a municipality or established village shall remove a local option previously adopted under AS 04.11.491. The option is repealed effective the first day of the month following certification of the results of the election.

(b) A ballot question to remove a local option under this section must at least contain language substantially similar to: “Shall (name of municipality or village) remove the local option currently in effect that prohibits (current local option under AS 04.11.491), so that there is no longer any local option in effect? (Yes or No)”

(c) When issuing a license in the area that has removed a local option, the board shall give priority to an applicant who was formerly licensed and whose license was not renewed because of the results of the previous local option election. However, an applicant described in this subsection does not have a legal right to a license and the board is not required to approve the application.

Sec. 04.11.496. Prohibition of sale and importation of alcoholic beverages. [Repealed, Sec. 69 ch 101 SLA 1995] Repealed or Renumbered.

Sec. 04.11.497. Effect on licenses of prohibition of sale.

If a majority of voters vote to prohibit the sale of alcoholic beverages under AS 04.11.491(a)(1), (a)(4) or (5), (b)(1), or (b)(3) or (4), the board may not issue, renew, or transfer, between persons or locations, a license for premises located

within the boundaries of the municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village. A license that may not be renewed because of a local option election held under this section is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial license fee.

Sec. 04.11.498. Prohibition of possession of alcoholic beverages. [Repealed, Sec. 69 ch 101 SLA 1995] Repealed or Renumbered.

Sec. 04.11.499. Prohibition of importation or purchase after election.

(a) If a majority of the voters vote to prohibit the importation of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring an alcoholic beverage into the municipality or established village, unless the alcoholic beverage is sacramental wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes by a person authorized by the church or religious body to dispense the sacramental wine.

(b) A person who resides in a municipality or established village that has adopted a local option under AS 04.11.491(a) or (b) may not purchase alcohol from another person who has sent, transported, or brought an alcoholic beverage into the municipality or established village in violation of the local option.

(c) In this section,

(1) “bring” means to carry or convey or to attempt or solicit to carry or convey;

(2) “send” means to cause to be taken or distributed or to attempt or solicit to cause to be taken or distributed, and includes use of the United States Postal Service;

(3) “transport” means to ship by any method, and includes delivering or transferring or attempting or soliciting to deliver or transfer an alcoholic beverage to be shipped to, delivered to, or left or held for pickup by any person.

Sec. 04.11.500. Prohibition of the sale of alcoholic beverages except by selected licenses. [Repealed, Sec. 69 ch 101 SLA 1995] Repealed or Renumbered.

Sec. 04.11.501. Prohibition of possession after election.

(a) If a majority of the voters vote to prohibit the possession of alcoholic beverages under AS 04.11.491(a)(5) or (b)(4), a person may not knowingly possess an alcoholic beverage in the municipality or established village, unless the alcoholic beverage is sacramental wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount

necessary for religious purposes, and dispensed only for religious purposes, by a person recognized by the church or religious body as authorized to dispense the wine.

(b) If there are licensed premises within the municipality or established village, the prohibition on possession is effective beginning 90 days after the results of the election are certified. If there are no licensed premises within the municipality or established village, the prohibition on possession is effective beginning 60 days after the results of the election are certified.

(c) Upon the adoption by a municipality of a local option under AS 04.11.491(a)(5), an ordinance is adopted containing the provisions of this section.

(d) In this section, "possession" means having physical possession of or exercising dominion or control over an alcoholic beverage, but does not include having an alcoholic beverage within the digestive system of a person.

Sec. 04.11.502. Procedure for local option elections. [Repealed, Sec. 69 ch 101 SLA 1995] Repealed or Renumbered.

Sec. 04.11.503. Effect on licenses of restriction on sale.

If a majority of the voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of alcoholic beverages except by the type or types of licensees or permit holders listed on the ballot, the board may not issue, renew, or transfer between persons or locations a license for premises located within the boundaries of the municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village, except the type or types of licenses listed on the ballot. A license in effect within the boundaries of the municipality or perimeter of the established village, and in unincorporated areas within five miles of the boundaries of the municipality, except the type of license listed on the ballot, is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial license fee.

Sec. 04.11.504. Reinstatement of licenses. [Repealed, Sec. 69 ch 101 SLA 1995] Repealed or Renumbered.

Sec. 04.11.505. Licensing after prohibition on sale except in premises operated by municipality.

(a) If a majority of the voters vote under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on premises operated by the municipality, the

board may not issue, renew, or transfer between persons or locations a license for premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality, with the exception of the type of license listed on the ballot and operated under a license held by the municipality. A license in effect is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the biennial license fee.

(b) The local governing body of a municipality shall apply for a license to operate the type of licensed premises listed on the ballot under AS 04.11.491(a)(3) and approved by a majority of the voters. The municipality shall operate the premises subject to the conditions and fees applicable to the type of license. Nothing in this section precludes a municipality from applying to be a licensee under other provisions of this title.

Sec. 04.11.506. Notice of the results of a local option election. [Repealed, Sec. 69 ch 101 SLA 1995] Repealed or Renumbered.

Sec. 04.11.507. Procedure for local option elections.

(a) Elections to adopt a local option under AS 04.11.491, change a local option under AS 04.11.493, or remove a local option under AS 04.11.495, shall be conducted as required in this section.

(b) Upon receipt of a petition of a number of registered voters equal to 35 percent or more of the number of votes cast at the last regular municipal election, the local governing body of a municipality shall place upon a separate ballot at the next regular election, or at a special election, whichever local option, change in local option, or removal of local option constitutes the subject of the petition. The local governing body shall conduct the election under the election ordinance of the municipality.

(c) Upon receipt of a petition of 35 percent or more of the registered voters residing within an established village, the lieutenant governor shall place upon a separate ballot at a special election the local option, change in local option, or removal of local option that constitutes the subject of the petition. The lieutenant governor shall conduct the election under AS 15.

(d) A petition filed with the local governing body of a municipality under (b) of this section, that places on the ballot the option set out in AS 04.11.491(a)(5), constitutes a proposed ordinance of the municipality.

(e) AS 29.26.110 - 29.26.160 apply to a petition under (b) of this section in a general law municipality except the

(1) number of required signatures is determined under (b) of this section rather than under AS 29.26.130;

(2) application filed under AS 29.26.110 must at least contain language substantially similar to the questions set out under AS 04.11.491 - 04.11.495 rather than containing an ordinance or resolution;

(3) petition must at least contain language substantially similar to the

questions set out under AS 04.11.491 - 04.11.495 rather than material required under AS 29.26.120(a)(1) and (2).

(f) Notwithstanding any other provisions of law, an election under (b) or (c) of this section to remove a local option or to change to a less restrictive option than the local option previously adopted under AS 04.11.491 may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.

(g) Notwithstanding AS 29.26.140(a), after a petition has been certified as sufficient to meet the requirements of (b) or (c) of this section, another petition may not be filed or certified until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election.

Sec. 04.11.508. Establishment of perimeter of established village.

(a) Except as provided under (b) and (c) of this section, for purposes of AS 04.11.491, 04.11.497, and 04.11.503, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of the post office of the established village. If the established village does not have a post office, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of another site selected by the local governing body or by the board if the established village does not have a local governing body.

(b) If the perimeter of an established village determined under (a) of this section includes any area that is

(1) within a municipality

(A) that has adopted a local option, the local option adopted by the municipality applies in the overlapping area;

(B) the local option adopted by the established village does not apply in the overlapping area;

(2) within the perimeter of another established village and, if the other established village has

(A) also adopted a local option under AS 04.11.491, the local option of the established village that is less restrictive applies in the overlapping area;

(B) not adopted a local option under AS 04.11.491, the local option does not apply in the overlapping area.

(c) If the board determines that the perimeter of an established village as provided under (a) and (b) of this section does not accurately reflect the perimeter of the established village, the board may establish the perimeter of the established village and the areas of overlapping perimeter described under (b) of this section for purposes of applying a local option selected under this chapter.

Sec. 04.11.509. Notice of the results of a local option election.

(a) If a majority of the voters vote to prohibit, change, or remove a local option under AS 04.11.491 - 04.11.495, the clerk of the municipality, or, if the election is in

an established village, the lieutenant governor shall notify the board of the results of the election immediately after the results are certified. The board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election.

(b) If a majority of the voters vote to prohibit the importation or possession of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), the following actions in addition to those prescribed in (a) of this section shall be taken before the date the prohibition becomes effective:

(1) the board shall notify, by certified mail, all package store licensees who sell alcoholic beverages in response to a written solicitation of the local option; and

(2) the municipality or established village shall post public notice of the prohibition in a central location in the municipality or village.

Title 4 contains other sections on local options. Please see the following Alaska Statutes for more information:

AS 04.11.494. Operation of delivery sites

AS 04.16.200. Penalties for violations of AS 04.11.010 and 04.11.499

AS 04.16.205. Penalties for violations of AS 04.11.501 and related ordinances

AS 04.16.220. Forfeitures and seizures

An online link to the Alaska Statutes is [Title 4. Alcoholic Beverages](#).

Alaska Administrative Code (AAC)

6 AAC 27.170

6 AAC 27.170. Liquor Option Elections.

(a) A circulated petition authorized under AS 04.11.507(c) must be signed by the required number of eligible voters within 90 days before the petition is filed with the director of elections in person, or postmarked for mailing to the director. A petition that does not meet this requirement will be rejected by the director.

(b) The director will review the petition to determine whether it complies with the requirements of AS 04.11.491 – 04.11.4952 and 04.11.507, and will verify the submitted signatures within 30 days after receipt of the petition. If the director determines that the petition is not in compliance, or that the petition contains an insufficient number of signatures of eligible registered voters, the director will reject the petition and return it to the sponsor. The sponsor will be notified in writing that the petition was rejected and of the reason for the rejection. A rejected petition may not be resubmitted.

(c) For the purpose of conducting a local liquor option election in an established village, the jurisdiction of the election is that area generally considered to constitute the village, and includes the entire contiguous growth and development area of the village. A qualified voter who is registered to vote, and who has identified the village as his or her place of residence on a current voter registration record, is eligible to sign a local option petition and is eligible to vote in the election. (Eff. 7/17/88, Register 107; am 8/23/2001, Register 159)

Authority: AS 04.11.507
AS 15.15.010

Appendix B

Sample Forms and Ordinances for a Municipality

Option 1: Prohibition of Sale

Option 2: Prohibition of Sale, Except by Selected Licenses

**Option 3: Prohibition of Sale, Except on Premises Operated by
the Municipality**

Option 4: Prohibition of Sale and Importation

Option 5: Prohibition of Sale, Importation, and Possession

Forms in Appendix B are intended for use by a municipality (borough or city).
The term “city” is used throughout these forms for brevity.

City Option 1: Prohibition of Sale

Petition

We, the undersigned registered voters of **(city name)**, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale of alcoholic beverages? (Yes or No)”

I, _____, city clerk of the City of {City Name}, Alaska certify that the date of the first circulation of this petition is the ____ day of _____, 2____. All signatures on this petition must be secured within 90 days of the above date.

City Clerk

Date

Municipal Seal

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {City Name}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

 Date

 City Clerk

Municipal Seal

City Option 1: Prohibition of Sale ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of *(city name)* wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale of alcoholic beverages? (Yes or No)”

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {*City Name*}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

 Date

 City Clerk

Municipal Seal

City Option 1: Prohibition of Sale

City of *(city name)* Election Ballot XX/XX/XXXX *(date)*

Place an “X” in the square at the right of the “YES” or “NO” under the question on this ballot. Use only “X” marks.

The “X” mark must be inside or touching the square so that it shows the intent of the voter. Erasures and corrections invalidate only that part of the ballot on which they appear.

Mark only one square. A “YES” vote means you are in favor of prohibiting the sale of alcoholic beverages as stated on the ballot. A “NO” vote means you do not want the sale of alcoholic beverages to be prohibited in the City of *(name of city)*.

If you spoil your ballot, give it back to one of the election judges and get another ballot.

QUESTION:

Shall *(name of city)* adopt a local option to prohibit the sale of alcoholic beverages?

YES

NO

Prepared by:

City Clerk

City Option 1: Prohibition of Sale

The city MUST notify the Alcoholic Beverage Control Board if this option is passed.
However, this ordinance is not required for Option 1.

City of *(city name)*, Alaska Ordinance No. *(number)*

AN ORDINANCE PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF *(city name)*

I. BE IT ENACTED BY THE COUNCIL OF THE CITY OF *(city name)* THAT Title _____ of the City of *(city name)* Municipal Code is hereby amended to add the following chapter.

Chapter *(number)*: PROHIBITING SALE OF ALCOHOLIC BEVERAGES

Sections:

1. Classification
2. Prohibitions
3. Violations
4. Penalty
5. Definitions

Section 1. Classification

This is a permanent ordinance of the City of *(city name)* to be numbered and included in the Municipal Code.

Section 2. Prohibitions

As a result of the alcohol local option election authorized by Alaska Statute Title 4 and held on _____, 2____, at which _____ voters voted “yes” and _____ voted “no” to prohibit the sale of alcoholic beverages. The sale of alcoholic beverages is prohibited in and within five miles of the limits of the City of *(city name)*.

Section 3. Violations

- A. A person found violating Section 2 of this ordinance shall be issued a citation by a peace officer.
- B. The citation shall bear witness to and identify the specific violation as found in Section 2. Each violation is a separate offense.

Section 4. Penalty

An unlicensed person selling hard liquor or wine or beer commits a Class C felony, and can be sentenced up to five years in jail and/or fined up to \$50,000.

Sale of alcoholic beverages in any amount to a minor is a Class C felony.

Section 5. Definitions

The following definitions apply to this chapter:

“Alcoholic beverages” means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage (**or any beverage containing alcohol that the person possessing intends to consume, whether meant for human consumption or not**) and that contain alcohol, whether produced commercially or privately.

“Sale” means alcoholic beverages sold, offered for sale or possessed for sale, bartered, or exchanged for goods and services in the city. Sale does not mean alcoholic beverages purchased by one person for another or a group when there is no profit involved, but merely a reimbursement of cost, as long as all persons involved are 21 years of age or older.

- I. This act is effective on the ____ day of _____, 2____. The results of the election held _____, 2____, to adopt an option to prohibit the sale of alcoholic beverages were certified on _____, 2____.

Date Introduced: _____

Public Hearing: _____

ADOPTED THIS _____ DAY OF _____, 2____.

Mayor

ATTEST:

City Clerk

City Option 2: Prohibition of Sale Except by Selected Licenses

Application for Petition

We, the undersigned voters of *(city name)*, wish to circulate a petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale of alcoholic beverages except by _____ ? (Yes or No)”

(List the types of licenses which would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes.)

The sponsors of the application are:

Signature	Printed Name	Mailing Address	Resident Address (if different)

An application for petition must have at least 10 sponsors who are registered voters of the city.

All correspondence relating to this petition should be sent to:

(Print Name and Address of Petitioner)

I, _____, city clerk of the City of {City Name}, Alaska certify that the date of filing this application for petition is the _____ day of _____, 2_____.

 Date _____
City Clerk

Municipal Seal

City Option 2: Prohibition of Sale Except by Selected Licenses

Petition

We, the undersigned registered voters of *(city name)*, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall *(name of city)* adopt a local option to prohibit the sale of alcoholic beverages except by _____? (Yes or No)”

(List the types of licenses which would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes.)

I, _____, city clerk of the City of {*City Name*}, Alaska certify that the date of the first circulation of this petition is the ____ day of _____, 2____. All signatures on this petition must be secured within 90 days of the above date.

City Clerk

Date

Municipal Seal

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {*City Name*}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

Date

City Clerk

Municipal Seal

City Option 2: Prohibition of Sale Except by Selected Licenses

ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of *(city name)*, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale of alcoholic beverages except by _____? (Yes or No)”

(List the types of licenses which would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes.)

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {City Name}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

Date

City Clerk

Municipal Seal

City Option 2: Prohibition of Sale Except by Selected Licenses

City of *(city name)* Election Ballot

XX/XX/XXXX *(date)*

Place an "X" in the square at the right of the "YES" or "NO" under the question on this ballot. Use only "X" marks.

The "X" mark must be inside or touching the square so that it shows the intent of the voter. Erasures and corrections invalidate only that part of the ballot on which they appear.

Mark only one square. A "YES" vote means you are in favor of prohibiting the sale of alcoholic beverages as stated on the ballot. A "NO" vote means you do not want the sale of alcoholic beverages to be prohibited in the City of *(city name)*.

If you spoil your ballot, give it back to one of the election judges and get another ballot.

QUESTION:

Shall *(name of city)* adopt a local option to prohibit the sale of alcoholic beverages except by _____?

(List the types of licenses which would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes.)

YES

NO

Prepared by:

City Clerk

City Option 2: Prohibition of Sale Except by Selected Licenses

The city MUST notify the Alcoholic Beverage Control Board if this option is passed. However, this ordinance is not required for Option 2.

City of *(city name)*, **Alaska**
Ordinance No. *(number)*

AN ORDINANCE PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES EXCEPT BY SELECTED LICENSES IN THE CITY OF *(city name)*

I. BE IT ENACTED BY THE COUNCIL OF THE CITY OF *(city name)* THAT Title _____ of the City of *(city name)* Municipal Code is hereby amended to add the following Chapter.

Chapter _____: PROHIBITING SALE OF ALCOHOLIC BEVERAGES EXCEPT BY SELECTED LICENSES IN THE CITY OF *(city name)*.

Sections:

1. Classification
2. Prohibitions
3. Violations
4. Penalty
5. Definitions

Section 1. Classification

This is a permanent ordinance of the City of *(city name)* to be numbered and included in the Municipal Code.

Section 2. Prohibitions

As a result of the alcohol local option election authorized by Alaska Statute Title 4 and held on _____, 2____, at which _____ voters voted “yes” and _____ voted “no” to prohibit the sale of alcoholic beverages. The sale of alcoholic beverages is prohibited in and within five miles of the limits of the City of *(city name)* except by the following selected license(s) as approved by the voters:

Section 3. Violations

- A. A person found violating Section 2 of this ordinance shall be issued a citation by a peace officer.
- B. The citation shall bear witness to and identify the specific violation as found in Section 2. Each violation is a separate offense.

Section 4. Penalty

An unlicensed person selling hard liquor or wine or beer commits a Class C felony, and can be sentenced up to five years in jail and/or fined up to \$50,000.

Sale of alcoholic beverages in any amount to a minor is a Class C felony.

Section 5. Definitions

The following definitions apply to this chapter:

“Alcoholic beverages” means spirituous, vinous, mal or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage (or any beverage containing alcohol that the person possessing intends to consume, whether meant for human consumption or not) and that contain alcohol, whether produced commercially or privately.

“Sale” means alcoholic beverages sold, offered for sale or possessed for sale, bartered, or exchanged for goods and services in the city. Sale does not mean alcoholic beverages purchased by one person for another or a group when there is no profit involved, but merely a reimbursement of cost, as long as all persons involved are 21 years of age or older.

II. This act is effective on the ____ day of _____, 2____. The results of the election held _____, 2____, to adopt an option to prohibit the sale of alcoholic beverages except by selected licenses were certified on _____, 2____.

Date Introduced: _____

Public Hearing: _____

ADOPTED THIS _____ DAY OF _____, 2____.

Mayor

ATTEST:

City Clerk

City Option 3: Prohibition of Sale Except on Premises Operated by Municipality

Petition

We, the undersigned registered voters of *(city name)*, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale of alcoholic beverages except by except on premises operated by the municipality and under a license for (list the licensed premises)? (Yes or No)”

I, _____, city clerk of the City of *(city name)*, Alaska, certify that the date of first circulation of this petition is the _____ day of _____, 2____. All signatures on this petition must be secured within 90 days of the above date.

City Clerk Signature

Date: _____

(Municipal Seal)

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

*Name and signature must be the same as the name used to register to vote.

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of *{City Name}*, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

Date

City Clerk

Municipal Seal

City Option 3: Prohibition of Sale Except on Premises Operated by Municipality

ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of (city name), wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (*name of city*) adopt a local option to prohibit the sale of alcoholic beverages except by except on premises operated by the municipality and under a license for (*list the licensed premises*)? (Yes or No)”

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {*City Name*}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

 Date

 City Clerk

Municipal Seal

City Option 3: Prohibition of Sale Except on Premises Operated by Municipality

City of *(city name)* Election Ballot
XX/XX/XXXX *(date)*

Place an "X" in the square at the right of the "YES" or "NO" under the question on this ballot. Use only "X" marks.

The "X" mark must be inside or touching the square so that it shows the intent of the voter. Erasures and corrections invalidate only that part of the ballot on which they appear.

Mark only one square. A "YES" vote means you are in favor of prohibiting the sale of alcoholic beverages as stated on the ballot. A "NO" vote means you do not want the sale of alcoholic beverages to be prohibited in the City of *(city name)*.

If you spoil your ballot, give it back to one of the election judges and get another ballot.

QUESTION:

Shall *(name of city)* adopt a local option to prohibit the sale of alcoholic beverages except on premises operated by the municipality and under a license for _____?
(List the licensed premises)

YES

NO

Prepared by:

City Clerk

City Option 3: Prohibition of Sale Except on Premises Operated by Municipality

The city MUST notify the Alcoholic Beverage Control Board if this option is passed. However, this ordinance is not required for Option 3.

City of *(city name)*, **Alaska**
Ordinance No. *(number)*

AN ORDINANCE PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES EXCEPT ON PREMISES OPERATED BY THE MUNICIPALITY

I. BE IT ENACTED BY THE COUNCIL OF THE CITY OF *(city name)* THAT Title _____ of the City of *(city name)* Municipal Code is hereby amended to add the following Chapter.

Chapter *(number)*: PROHIBITING SALE OF ALCOHOLIC BEVERAGES EXCEPT ON PREMISES OPERATED BY THE MUNICIPALITY.

Sections:

1. Classification
2. Prohibitions
3. Violations
4. Penalty
5. Definitions

Section 1. Classification

This is a permanent ordinance of the City of *(city name)* to be numbered and included in the City Code.

Section 2. Prohibitions

As a result of the alcohol local option election authorized by Alaska Statute Title 4 and held on _____, 2____, at which _____ voters voted “yes” and _____ voted “no” to prohibit the sale of alcoholic beverages, the sale of alcoholic beverages is prohibited in and within five miles of the limits of the City of _____ except on premises operated by the City of _____.

Section 3. Violations

- A. A person found violating Section 2 of this ordinance shall be issued a citation by a peace officer
- B. The citation shall bear witness to and identify the specific violation as found in Section 2. Each violation is a separate offense.

Section 4. Penalty

An unlicensed person selling hard liquor or wine or beer commits a Class C felony, and can be sentenced up to five years in jail and/or fined up to \$50,000.

Sale of alcoholic beverages in any amount to a minor is a Class C felony.

Section 5. Definitions

The following definitions apply to this chapter:

“Alcoholic beverages” means spirituous, vinous, mal or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage (or any beverage containing alcohol that the person possessing intends to consume, whether meant for human consumption or not) and that contain alcohol, whether produced commercially or privately.

“Sale” means alcoholic beverages sold, offered for sale or possessed for sale, bartered, or exchanged for goods and services in the city. Sale does not mean alcoholic beverages purchased by one person for another or a group when there is no profit involved, but merely a reimbursement of cost, as long as all persons involved are 21 years of age or older.

II. This act is effective on the ____ day of _____, 2____. The results of the election held _____, 2____, to adopt an option to prohibit the sale of alcoholic beverages except on premises operated by the municipality and under a *(type of license approved by the voters)* were certified on _____, 2____.

Date Introduced: _____

Public Hearing: _____

ADOPTED THIS ____ DAY OF _____, 2____.

Mayor

ATTEST:

City Clerk

City Option 4: Prohibition of Sale and Importation

Petition

We, the undersigned registered voters of *(city name)*, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall *(name of city)* adopt a local option to prohibit the sale and importation of alcoholic beverages? (Yes or No)”

I, _____, city clerk of the City of {*City Name*}, Alaska certify that the date of the first circulation of this petition is the ____ day of _____, 2____. All signatures on this petition must be secured within 90 days of the above date.

City Clerk

Date

Municipal Seal

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {*City Name*}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

Date

City Clerk

Municipal Seal

City Option 4: Prohibition of Sale and Importation

ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of *(city name)*, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale and importation of alcoholic beverages? (Yes or No)”

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {*City Name*}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

Date

City Clerk

Municipal Seal

City Option 4: Prohibition of Sale and Importation

City of *(city name)* Election Ballot
XX/XX/XXXX *(date)*

Place an "X" in the square at the right of the "YES" or "NO" under the question on this ballot. Use only "X" marks.

The "X" mark must be inside or touching the square so that it shows the intent of the voter. Erasures and corrections invalidate only that part of the ballot on which they appear.

Mark only one square. A "YES" vote means you are in favor of prohibiting the sale of alcoholic beverages as stated on the ballot. A "NO" vote means you do not want the sale of alcoholic beverages to be prohibited in the City of *(city name)*.

If you spoil your ballot, give it back to one of the election judges and get another ballot.

QUESTION:

Shall *(name of city)* adopt a local option to prohibit the sale and importation of alcoholic beverages?

YES

NO

Prepared by:

City Clerk

City Option 4: Prohibition of Sale and Importation

If this option is passed, the city ***MUST*** notify the Alcoholic Beverage Control Board, and post public notice of the prohibition on sales and importation. The media (radio, TV, and newspapers) and applicable air carriers should also be notified. However, this ordinance is not required for Option 4.

City of *(city name)*, **Alaska**
Ordinance No. *(number)*

AN ORDINANCE PROHIBITING THE SALE AND IMPORTATION OF ALCOHOLIC BEVERAGES

I. BE IT ENACTED BY THE COUNCIL OF THE CITY OF *(city name)* THAT Title _____ of the City of *(city name)* Municipal Code is hereby amended to add the following Chapter.

Chapter _____: PROHIBITING SALE AND IMPORTATION OF ALCOHOLIC BEVERAGES.

Sections:

1. Classification
2. Prohibitions
3. Violations
4. Penalty
5. Forfeitures
6. Definitions

Section 1. Classification

This is a permanent ordinance of the City of *(city name)* to be numbered and included in the City Code.

Section 2. Prohibitions

As a result of the alcohol local option election authorized by Alaska Statute Title 4 and held on _____, 2____, at which _____ voters voted “yes” and _____ voted “no” to prohibit the sale and importation of alcoholic beverages, the sale and importation of alcoholic beverages is prohibited in and within five miles of the limits of the City of *(city name)*.

Section 3. Violations

- A. A person found violating Section 2 of this ordinance shall be issued a citation by a peace officer.
- B. The citation shall bear witness to and identify the specific violation as found in Section 2. Each violation is a separate offense.

Section 4. Penalty

A person who sends, transports, or brings into the City less than 10.5 liters of hard liquor, or less than 24 liters of wine, or less than 12 gallons of beer, is, upon conviction, guilty of a Class A misdemeanor, and may be sentenced to a maximum of one year in jail and/or a \$5,000 fine. A

person who sends, transports, or brings into the City 10.5 liters or more of hard liquor, or 24 liters or more of wine, or 12 gallons for more of beer, is, upon conviction, guilty of a Class C felony and can be sentenced up to five years in jail and/or fined up to \$50,000.

An unlicensed person selling hard liquor or wine or beer commits a Class C felony.

Sale of alcoholic beverages in any amount to a minor is a Class C felony.

Section 5. Forfeitures

Under Alaska State law, all alcoholic beverages; materials and equipment used in the sale or offering for sale of alcoholic beverages; aircraft, vehicles, or vessels used to transport or facilitate the transportation of alcoholic beverages into the City of *(city name)* are submit to forfeiture.

Section .6 Definitions

The following definitions apply to this chapter:

“Alcoholic beverages” means spirituous, vinous, mal or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage (or any beverage containing alcohol that the person possessing intends to consume, whether meant for human consumption or not) and that contain alcohol, whether produced commercially or privately.

“Importation” means bringing, sending, or having delivered by whatever means alcoholic beverages from place to another place which has forbidden the sale and importation of alcoholic beverages (or any beverage containing alcohol that the person consumes or intends to consume, whether meant for human consumption or not).

“Sale” means alcoholic beverages sold, offered for sale or possessed for sale, bartered, or exchanged for goods and services in the city. Sale does not mean alcoholic beverages purchased by one person for another or a group when there is no profit involved, but merely a reimbursement of cost, as long as all persons involved are 21 years of age or older.

II. This act is effective on the ___ day of _____, 2____. The results of the election held _____, 2____, to adopt an option to prohibit the sale and importation of alcoholic beverages were certified on _____, 2____.

Date Introduced: _____

Public Hearing: _____

ADOPTED THIS _____ DAY OF _____, 2____.

Mayor

ATTEST:

City Clerk

City Option 5: Prohibition of Sale, Importation, and Possession

Petition

We, the undersigned registered voters of *(city name)*, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale, importation, and possession of alcoholic beverages? (Yes or No)”

I, _____, city clerk of the City of {*City Name*}, Alaska certify that the date of the first circulation of this petition is the ____ day of _____, 2____. All signatures on this petition must be secured within 90 days of the above date.

City Clerk

Date

Municipal Seal

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {*City Name*}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

Date

City Clerk

Municipal Seal

City Option 5: Prohibition of Sale, Importation, and Possession

ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of *(city name)*, wish to circulate this petition as authorized under Alaska Statute, with the following question for consideration:

“Shall (name of city) adopt a local option to prohibit the sale, importation, and possession of alcoholic beverages? (Yes or No)”

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I, _____, personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition.

Sponsor Sworn Signature

Date

I, _____, city clerk of the City of {City Name}, Alaska certify to the best of my knowledge this petition was completed in accordance with the provisions of state and local law.

 Date

 City Clerk

Municipal Seal

City Option 5: Prohibition of Sale, Importation, and Possession

City of *(city name)* Election Ballot

XX/XX/XXXX (*date*)

Place an “X” in the square at the right of the “YES” or “NO” under the question on this ballot. Use only “X” marks.

The “X” mark must be inside or touching the square so that it shows the intent of the voter. Erasures and corrections invalidate only that part of the ballot on which they appear.

Mark only one square. A “YES” vote means you are in favor of prohibiting the sale of alcoholic beverages as stated on the ballot. A “NO” vote means you do not want the sale of alcoholic beverages to be prohibited in the City of *(city name)*.

If you spoil your ballot, give it back to one of the election judges and get another ballot.

QUESTION:

Shall *(name of city)* adopt a local option to prohibit the sale, importation, and possession of alcoholic beverages?

YES

NO

Prepared by:

City Clerk

City Option 5: Prohibition of Sale, Importation, and Possession

If this option is passed, the city **MUST** notify the Alcoholic Beverage Control Board, and post public notice of the prohibition on sale, importation and possession. The media (radio, TV, and newspapers) and applicable air carriers should also be notified. If Option 5 passes, the city **MUST** adopt an implementing ordinance. Here is a sample ordinance.

City of *(city name)*, **Alaska**
Ordinance No. *(number)*

AN ORDINANCE PROHIBITING THE SALE, IMPORTATION, AND POSSESSION OF ALCOHOLIC BEVERAGES

- I. BE IT ENACTED BY THE COUNCIL OF THE CITY OF *(city name)* THAT Title _____ of the City of *(city name)* Municipal Code is hereby amended to add the following Chapter.

Chapter _____: PROHIBITING SALE, IMPORTATION, AND POSSESSION OF ALCOHOLIC BEVERAGES.

Sections:

1. Classification
2. Prohibitions
3. Violations
4. Penalty
5. Forfeitures
6. Definitions

Section 1. Classification

This is a permanent ordinance of the City of *(city name)* to be numbered and included in the Municipal Code.

Section 2. Prohibitions

As a result of the alcohol local option election authorized by Alaska Statute Title 4 and held on _____, 2____, at which _____ voters voted “yes” and _____ voted “no” to prohibit the sale, importation, and possession of alcoholic beverages (except for sacramental wine). The sale, importation, and possession of alcoholic beverages (except for sacramental wine) is prohibited within the municipal boundaries of the City of *(city name)* and within five miles of those boundaries.

Section 3. Violations

- A. A person found violating Section 2 of this ordinance shall be issued a citation by a peace officer.
- B. The citation shall bear witness to and identify the specific violation as found in Section 2. Each violation is a separate offense.

Section 4. Penalty

A person who sends, transports, or brings into the City less than 10.5 liters of hard liquor, or less than 24 liters of wine, or less than 12 gallons of beer, is, upon conviction, guilty of a Class A misdemeanor, and may be sentenced to a maximum of one year in jail and/or a \$5,000 fine. A person who sends, transports, or brings into the City 10.5 liters or more of hard liquor, or 24 liters or more of wine, or 12 gallons for more of beer, is, upon conviction, guilty of a Class C felony and can be sentenced up to five years in jail and/or fined up to \$50,000.

An unlicensed person selling hard liquor or wine or beer commits a Class C felony.

Sale of alcoholic beverages in any amount to a minor is a Class C felony.

According to Alaska State law, a person found in possession of alcoholic beverages is subject to a fine not to exceed \$1,000. The person may pay bail in an amount equal to the fine, waive appearance and forfeit bail within 30 days of the offense. If bail is forfeited, the person cited shall deliver to the clerk of the court a copy of the citation indicating that the person cited shall deliver to the clerk of the court a copy of the citation indicating that the right to an appearance is waived, a plea of not contest is entered, and that the bail has been forfeited. A person who is found guilty of violating the provisions of this ordinance against possession of alcoholic beverages shall be fined \$500. For a third and all subsequent violations, a person shall be fined \$1,000.

The person may elect to perform community service in lieu of a fine, at the rate of \$5.00 per hour (as established by AS04.16.205). Upon completion of community service, the person cited shall deliver to the clerk of the court a form indicating completion of the community service, and a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and that the community service has been performed.

Section 5. Forfeitures

Under Alaska State law, all alcoholic beverages; materials and equipment used in the sale or offering for sale of alcoholic beverages; aircraft, vehicles, or vessels used to transport or facilitate the transportation of alcoholic beverages into the City of (*city name*) are subject to forfeiture.

Section .6 Definitions

The following definitions apply to this chapter:

“Alcoholic beverages” means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage (or any beverage containing alcohol that the person possessing intends to consume, whether meant for human consumption or not) and that contain alcohol, whether produced commercially or privately.

“Importation” means bringing, sending, or having delivered by whatever means alcoholic beverages from place to another place which has forbidden the sale and importation of alcoholic beverages (or any beverage containing alcohol that the person consumes or intends to consume, whether meant for human consumption or not).

“Possession” means having physical possession of or control over alcoholic beverages, but does not include having alcoholic beverages in the digestive system of a person.

“Sale” means alcoholic beverages sold, offered for sale or possessed for sale, bartered, or exchanged for goods and services in the city. Sale does not mean alcoholic beverages purchased by one person for another or a group when there is no profit involved, but merely a reimbursement of cost, as long as all persons involved are 21 years of age or older.

II. This act is effective on the ____ day of _____, 2____. The results of the election held _____, 2____, to adopt an option to prohibit the sale, importation, and possession of alcoholic beverages were certified on _____, 2____.

Date Introduced: _____

Public Hearing: _____

ADOPTED THIS _____ DAY OF _____, 2____.

Mayor

ATTEST:

City Clerk

Appendix C

Sample Forms for an Established Village

Option 1: Prohibition of Sale

Option 2: Prohibition of Sale, Except by Selected Licenses

Option 3: Prohibition of Sale, Except on Premises Operated by the Municipality
Option 3 is not available to an established village.

Option 4: Prohibition of Sale and Importation

Option 5: Prohibition of Sale, Importation, and Possession



Village Option 1: Prohibition of Sale

ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of (*village name*), hereby petition the Director of the Division of Elections to conduct an election in accordance with Alaska Statutes with the following question on the ballot:

“Shall the Village of (name of village) adopt a local option to prohibit the sale of alcoholic beverages? (Yes or No)”

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition. The total number of signatures on this petition page is _____.

Date

Printed Name of Petitioner

Signature

Village Option 2: Prohibition of Sale, Except by Selected Licenses

Petition

We, the undersigned registered voters of (*village name*), hereby petition the Director of the Division of Elections to conduct an election in accordance with Alaska Statutes with the following question on the ballot:

“Shall the Village of (name of village) adopt a local option to prohibit the sale of alcoholic beverages except by _____? (Yes or No)”

(List the types of licenses which would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes)

The date of first circulation of this petition is the _____ day of _____, 2____.

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition. The total number of signatures on this petition page is _____.

Date

Printed Name of Petitioner

Signature

Village Option 2: Prohibition of Sale, Except by Selected Licenses

ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of *(village name)*, hereby petition the Director of the Division of Elections to conduct an election in accordance with Alaska Statutes with the following question on the ballot:

“Shall the Village of (name of village) adopt a local option to prohibit the sale of alcoholic beverages except by _____? (Yes or No)”

(List the types of licenses which would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes)

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition. The total number of signatures on this petition page is _____.

Date

Printed Name of Petitioner

Signature

Village Option 5: Prohibition of Sale, Importation, and Possession

ADDITIONAL PETITION PAGES

Petition

We, the undersigned registered voters of (*village name*), hereby petition the Director of the Division of Elections to conduct an election in accordance with Alaska Statutes with the following question on the ballot:

“Shall the Village of (name of village) adopt a local option to prohibit the sale, importation, and possession of alcoholic beverages? (Yes or No)”

Signature*	Printed Name*	Date of Signature	Mailing Address	Resident Address (if different)

***Name and signature must be the same as the name used to register to vote.**

I personally circulated this petition. All signatures were gathered in my presence, and I believe them to be those of persons whose names are on the petition. The total number of signatures on this petition page is _____.

Date

Printed Name of Petitioner

Signature

Local Option Process: A Comparison

The following chart compares the process for holding a local option election in a municipality with the process for doing so in an established village.

<u>Municipality</u>	<u>Established Village</u>
Application for petition Sponsor must file an application for petition with the municipal clerk. If application meets requirements, clerk certifies it within two weeks of filing.	Application for petition No application for petition required.
Petition Within two weeks of certification, clerk prepares petition asking for a vote on the selected option, notifies the contact person, and provides copy to sponsors. Petition must be signed by a number of registered voters at least equal to 35 percent of the number of votes cast in the last regular election. Petition must be filed with the municipal clerk within 90 days of issuance. Within 10 days after petition is filed, clerk shall certify if it is sufficient. If the petition is insufficient, the clerk notifies the contact person by certified mail. If required signatures are not acquired within 10 more days, petition is rejected.	Petition Petition sponsor drafts petition in compliance with AS 04.11.491 – 04.11.095. Petition must be signed by at least 35 percent of registered voters in the village. Petition must be filed with the director of the Division of Elections within 90 days after first circulation. Within 30 days after petition is filed, the Division of Elections will determine if it meets the statutory requirements. If petition is insufficient, it will be rejected and returned to the sponsor. A rejected petition cannot be resubmitted.
Election If petition is certified as sufficient, the local governing body shall place the requested question on a separate ballot at a regular or special election no less than 60 days after certification. Municipality is responsible for conducting the election.	Election If petition meets statutory requirements, the Division of Elections will be responsible for conducting the election.

