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By: Nadine Winters  
Luke Hopkins  
Diane Hutchison  
John Davies  
Karl Kassel  
Mike Musick  
Introduced: 09/13/12  
Advanced: 09/13/12  
Substituted: 10/11/12  
Amended: 10/11/12  
Adopted: 10/11/12  
Immediate Reconsideration  
Failed: 10/11/12  
Adopted: 10/11/12

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2012-52

AN ORDINANCE ACQUIRING AN AREAWIDE NATURAL GAS UTILITY POWER BY  
TRANSFER FROM THE CITIES OF FAIRBANKS AND NORTH POLE,  
ESTABLISHING THE INTERIOR ALASKA NATURAL GAS UTILITY AND PROVIDING  
FOR ITS MANAGEMENT

WHEREAS, Article X § 13 of Alaska’s Constitution authorizes a city located in a borough to transfer to the borough any of its powers or functions unless prohibited by law or charter; and

WHEREAS, both the City of North Pole and the City of Fairbanks are home rule cities authorized to acquire, own and operate public utilities and to exercise all powers and functions necessarily or fairly implied in or incident to that purpose; and

WHEREAS, Alaska statutes (AS 29.35.210(d), AS 29.35.300, and AS 29.35.310) expressly authorize a second class borough, like the Fairbanks North Star Borough, to exercise on an areawide basis a power acquired by transfer from a city; and

WHEREAS, it is in the best interest of the citizens of the Fairbanks North Star Borough to create an areawide natural gas utility empowered to ensure its citizens affordable access to natural gas and/or propane; and

WHEREAS, an areawide natural gas utility will allow for tax exempt financing, access to governmental funding, and provide transparency of operations; and

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT  
Text to be added is underlined  
Text to be deleted is [BRACKETED AND CAPITALIZED]

44 WHEREAS, the areawide natural gas utility, once established, can explore  
45 available public-private partnership options in order to operate in a businesslike, cost-  
46 effective manner.

47  
48 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks  
49 North Star Borough:

50  
51 Section 1. This ordinance is of a general and permanent nature and shall,  
52 except for sections 2 and 3, be codified.

53  
54 Section 2. Approval of Transfer by Cities. The Fairbanks North Star  
55 Borough hereby accepts the transfer to the Borough by the City of Fairbanks and the  
56 City of North Pole of the power to acquire, own, and operate a natural gas utility. The  
57 Fairbanks North Star Borough recognizes that the cities have the right to revoke the  
58 unexercised portion of this transfer and that the City of Fairbanks has passed an  
59 ordinance revoking any unexercised portion of this transfer on November 15, 2015. For  
60 purposes of this ordinance, the power to acquire, own, and operate a natural gas utility  
61 includes, without limitation, the power to acquire, own and operate distribution,  
62 transmission, and transportation-related facilities and pipelines and conditioning  
63 facilities as well as all powers necessarily or fairly implied in or incident to that purpose.  
64 Such powers are intended to be broadly construed.

65  
66 Section 3. Orderly Transition. The Fairbanks North Star Borough, in  
67 consultation with the Cities of Fairbanks and North Pole, shall arrange for an orderly  
68 and equitable transfer of rights and other matters related to acquisition of the areawide  
69 powers.

70  
71 Section 4. FNSB 1.02.050, acquired areawide powers, shall be amended  
72 to add the following (the Clerk shall provide the appropriate date):

73 9. Natural Gas Utility by transfer November 15, 2012.

74  
75 Section 5. FNSB Code of Ordinances is hereby amended to add a new  
76 Title as follows:

77 Title 11. Natural Gas Utility

78  
79 Chapter 11.01 Establishment of Utility and Management

80 11.01.010 Establishment. There is established the Interior Alaska Natural Gas  
81 Utility, the purpose of which is to facilitate if possible or provide, if necessary, affordable  
82 natural and/or manufactured gas to the largest number of people in the Fairbanks North  
83 Star Borough in the shortest amount of time except that direct competition in an area  
84 covered by a Certificate of Public Convenience and Necessity by the Regulatory  
85 Commission of Alaska will not be initiated without approval of the City of Fairbanks by  
86 resolution. The Interior Alaska Natural Gas Utility shall be a public corporation and an

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87 instrumentality of the Fairbanks North Star Borough. It shall be wholly owned by the  
88 Fairbanks North Star Borough but shall have a legal existence independent of and  
89 separate from the Borough. Interior Alaska Natural Gas Utility (IANGU) will function first  
90 as a facilitator, second as an implementing corporation that contracts, partners or joint  
91 ventures with private companies, and third as a provider/competitor if services are not  
92 currently being provided or if the private entity is unwilling to provide them or will not do  
93 so in a timely manner.

94  
95 11.01.020 **Application of Laws.** The Utility shall, as a public corporation,  
96 comply with the Open Meetings Act and other applicable state laws. Borough  
97 ordinances not of general public application shall apply only as specified herein or as  
98 specifically made applicable in any adopted ordinance. Ordinances not of general  
99 public application include the procurement code, the personnel ordinance and the  
100 ordinance requiring a vote for revenue bonds.

101  
102 11.01.030 **Management.**

103 A. There is hereby created a seven member independent and non-partisan  
104 Interior Alaska Natural Gas Utility Board of Directors who shall oversee the work  
105 necessary to achieve the purpose of the Utility which specifically may include  
106 management and operation of a natural gas utility. Board member compensation shall  
107 not exceed the compensation paid to Assembly Members. The Board shall annually  
108 elect a chair and may elect other officers from among its members. The Board shall  
109 have the authority to adopt and amend bylaws subject to assembly approval. The  
110 Board shall report to the Assembly at least quarterly and shall provide an annual report  
111 which must include financial statements audited by independent outside auditors.  
112 These reports shall be available to the public.

113 B. The initial appointments to the Board shall be made as follows: three by  
114 the Borough Mayor, one by the assembly presiding officer, one by the City of North Pole  
115 and two by the City of Fairbanks, each confirmed by the respective governing body.  
116 Appointments shall be made for staggered terms (in a manner that ensures each city  
117 has an appointment on the board) with two members serving for two years, two serving  
118 for three years and three serving for four years with their terms ending when their  
119 successors are elected or appointed. Upon the expiration of the first four initial  
120 appointed terms of office, their successors shall be elected at large by the voters of the  
121 Fairbanks North Star Borough. Upon expiration of the last three initial appointed terms,  
122 their successors shall be appointed, one by the Borough Mayor, one by the City of  
123 North Pole Mayor and one by the City of Fairbanks Mayor, each subject to confirmation  
124 by the respective governing body. After the expiration of their initial terms all shall  
125 thereafter serve a term of three years.

126 C. The Utility shall be independently managed and operated by the Board of  
127 Directors in accordance with prevailing industry practices and general standards  
128 common to utilities providing the same utility service. The Board, not the Fairbanks  
129 North Star Borough, shall oversee the management of the Utility and shall have the

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130 powers necessary or convenient to the management and operation of the Utility. The  
131 Borough intends that the Board shall have full authority respecting the Utility unless that  
132 authority is specifically withheld by law or ordinance. During its first year of operation  
133 the Board may request and use, at the discretion of the Mayor, available Borough  
134 resources such as staff and equipment. Thereafter, the Board may not utilize the  
135 resources of the Borough except as authorized by the Assembly. The fee for  
136 administering grant funds awarded to the Utility or awarded to the Borough for gas utility  
137 projects may not exceed 0.25% The Board may contract or act only on behalf of the  
138 Utility and not on behalf of the Fairbanks North Star Borough. The Fairbanks North Star  
139 Borough shall not be liable for the debts or liabilities of the Utility without specific  
140 authorization by the Fairbanks North Star Borough Assembly. No general obligation  
141 bonds may be issued without voter approval. The Board shall maintain a separate  
142 account for the Utility which shall be kept and classified in accordance with uniform  
143 accounting standards generally prescribed for public utilities providing the same utility  
144 service. The Board may acquire and dispose of capital assets.

145 D. Manager. The Board of Directors may enter into contracts or other  
146 agreements to provide for the management and operation or any aspect thereof of the  
147 natural gas utility and shall have the authority to appoint a Manager which may be an  
148 individual or a private entity.

149 E. The Board shall have a separate capital and operating budget. Provided  
150 that total Utility annual budgeted revenues at least equal total annual budgeted  
151 expenses, no further Borough Assembly approval is required. If required, the Borough  
152 Assembly shall have approval only over the total budget amount and may not raise or  
153 lower any other line item. Earnings shall be retained by the Utility to enable the Utility to  
154 meet its purpose of providing affordable natural and/or manufactured gas to the largest  
155 number of people in the borough in the shortest amount of time.

156 F During the term for which elected and for one year thereafter, no local  
157 elected municipal official may be directly or indirectly employed by the Utility in any paid  
158 position or nominated, elected or appointed to the Board if the Board was created or the  
159 salary, compensation or emoluments of the Board were increased during the elected  
160 official's term of office. "Indirectly employed" for purposes of this section means  
161 subcontracts with the utility, other payments from a third party arising from or related to  
162 a third party's contract with the Utility, or any other contractual or consulting  
163 arrangement between the Utility and a business entity partially or wholly owned by the  
164 elected municipal official or in which the elected municipal official has a substantial  
165 financial interest.

166  
167 Section 6. Effective Date. This ordinance shall be effective at 5:00 p.m.  
168 on November 15, 2012.  
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170

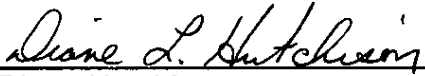
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PASSED AND APPROVED THIS 11<sup>th</sup> DAY OF OCTOBER, 2012.

  
Diane Hutchison  
Presiding Officer

ATTEST:

  
Mona Lisa Drexler, MMC  
Municipal Borough Clerk

172  
173 Ayes: Davies, Sattley, Winters, Musick, Kassel, Hutchison  
174 Noes: Dukes, Howard  
175 Excused: Want

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