

Substantive Change [Section 3.02(b)], FYI, 2/19/05

FROM 7/23/04 Attorney(s) Memorandum

SBE: Charter section 3.02(b) creates an awkward situation. Nothing defines how significant an amendment may be before it is considered substantive. If this distinction is to be retained, some clarification would be helpful.

SS: Scott suggests that the provisions of Sec 3.02(b) should be changed to define what is a substantive change in an ordinance. Because this is a question that will be answered by the facts in each case, it is difficult to provide a definition that will apply in all cases. The Supreme Court has already set the standard in *Liberati v Bristol Bay Borough* 584 P2d 1115 (Alaska, 1978) and we felt that no further definitions were required. The Court said that only those changes which were so substantial as to "change the basic character" of the ordinance would require additional assembly action in that case.

As the Charter now reads:

SECTION 3.02 ORDINANCES - GENERAL.

(b) **Readings.** A proposed non-emergency ordinance shall be read in full or by title only, and an affirmative vote of a majority of the Assembly shall be required for advancing to public hearing and second reading. A non-emergency ordinance in which substantive amendments are made in first reading shall require an additional reading before passing to second reading. Notice of the public hearing containing a summary of the ordinance and the time and place for the hearing shall be published not less than five (5) days prior to the date of the public hearing. Before a vote on final passage, a proposed non-emergency ordinance shall be read by title or in full and an affirmative vote of a majority of the Assembly shall be required for its final passage;