CLERK'S OFFICE AMENDED AND APPROVED Date: // 8 / 0

Submitted by: Chairman of the Assembly at

the Request of the Mayor

Prepared by: Department of Law For reading: \ \text{May 23, 2000}

ANCHORAGE, ALASKA AO NO. 2000-95

AN ORDINANCE AMENDING THE MUNICIPAL PENAL CODE, TITLE 8, TO REDEFINE CHILD ABUSE, CHILD NEGLECT, FAMILY VIOLENCE, AND CONTRIBUTING TO THE DELINQUENCY OF A MINOR; TO MAKE THE ACT OF DISABLING A TELEPHONE A SEPARATE DOMESTIC VIOLENCE OFFENSE; TO ADD HARASSMENT BY ELECTRONIC COMMUNICATION, FAILURE TO REMAND, AND ABUSE OF A THIRD PARTY APPOINTMENT AS OFFENSES; REDEFINING RESISTING OR INTERFERRING WITH AN OFFICER; AND DEFINING AND CRIMINALIZING THE SALE OR POSSESSION OF DRUG PARAPHERNALIA; AND MODIFIYING THE APPLICABLE PENALTIES

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 8.10.030 is hereby repealed and reenacted to read as follows:

8.10.030 Child Abuse.

- A. It is unlawful for any person to commit child abuse.
- B. A person commits child abuse if he intentionally, knowingly, recklessly, or negligently causes or permits a child to be:
 - In any place under circumstances creating a substantial risk of injury to the child; or
 - 2. Tortured; cruelly confined; cruelly punished or physically injured.
- C. In this section, the word "child" means a person under the age of 16 years.
- D. Physical injury is defined as to punch, kick, wound, bruise, or otherwise observably harm.
- E. It is an affirmative defense to subsection B that the action was taken as "reasonable parental discipline".
- F. "Reasonable parental discipline" is action taken for the purpose of safeguarding the child or promoting its moral, social, or cultural welfare. Factors to be considered in determining whether the action constituted reasonable parental discipline are:
 - 1 Age of the child;
 - 2. Condition of the child;
 - 3. Type of misconduct;

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1		4. Kind of punishment inflicted;			
2 3		5 Degree of harm or pain to the child;			
4 5		6. Options that existed;			
6		7. Apparent motive of the parent;			
8		••			
9		8 Cultural perspectives of the parties			
11	G .	ctions which are prima facie unreasonable are:			
12 13		Scalding, branding, burning of a child;			
1 4 15		2. Injuries that require or reasonably should have required medical treatment;			
16					
17 18		Withholding of food for more than one meal;			
19		4. Injuries located on multiple body sites;			
20 21		5 Conduct likely to cause serious or permanent harm;			
22 23		6. Conduct that is significantly disproportionate			
24 25		7. Conduct designed to torture or cruelly punish;			
26 27		8. Injuries to face or head;			
28 29		9 Shaking a child under five years of age.			
30 31 32	Н	Violation of this section shall, upon conviction, be punished by a fine of not more than \$5000.00 or imprisonment for not more than one year, or both such fine and imprisonment.			
33 34	[A	IS UNLAWFUL FOR ANY PERSON TO COMMIT CHILD ABUSE			
35 36	В.	A PERSON COMMITS CHILD ABUSE IF HE INTENTIONALLY, KNOWINGLY, RECKLESSLY, OR NEGLIGENTLY CAUSES OR PERMITS A CHILD TO BE:			
37 38 39		IN ANY PLACE UNDER CIRCUMSTANCES CREATING A SUBSTANTIAL RISK OF INJURY TO THE CHILD; OR			
40 41 42		2 ABANDONED, TORTURED, CRUELLY CONFINED OR CRUELLY PUNISHED; OR			
43		3. DEPRIVED OF REASONABLE FOOD, CLOTHING OR SHELTER.			
44 45 46	C.	IN THIS SECTION, THE WORD "CHILD" MEANS A PERSON UNDER THE AGE OF 16 YEARS.			

D. VIOLATION OF THIS SECTION SHALL, UPON CONVICTION, BE PUNISHED BY A FINE OF NOT MORE THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH SUCH FINE AND IMPRISONMENT.]

(CAC 8.47.010; AO No. 98-59(S), § 1, 5-19-98)

Section 2. Anchorage Municipal Code sections 8.10.040 and 8.10.050 are renumbered as follows (the remainder of the sections are not affected and therefore are not set out):

8.10.070 [8.10.040] Enticement.

(GAAB 18.05.010.M; AO No. 98-59(S), § 1, 5-19-98)

8.10.080 [8.10.050] Indecent exposure or exhibition.

(AO No. 98-59(S), § 1, 5-19-98)

Section 3. Anchorage Municipal Code section 8.10.060 is renumbered and amended to read as follows:

8.10.090 [8.10.060] Illegal use of telephone.

- A. It is unlawful for any person to telephone or electronically communicate with another person with the intent to harass that person or that person's family.
- B It is prima facie evidence of intent to harass that the caller

Made repeated telephone calls or electronic communications, having been told such calls were unwelcome; or

- 2. Called or communicated anonymously; or
- 3. Used profane or patently abusive language; or
- 4. Threatened the receiver or the receiver's family.
- C. Violation of this section shall, upon conviction be punished by a fine of not more than \$1,000.00 or imprisonment for not more than six months or both such fine and imprisonment.

(AO No. 82-134; AO No. 89-52; AO No. 98-59(S), § 1, 5-19-98)

Section 4. Anchorage Municipal Code chapter 8.10 is hereby amended by adding a new section 8.10.040 to read as follows:

8.10.040 Child Neglect.

A. It is unlawful for any person to commit child neglect.

B. A person commits the crime of child neglect if the person intentionally, knowingly, recklessly causes or permits the child;

To live in an unsanitary environment;

- 2. To be without reasonable food, shelter or clothing;
- 3 To be in a place under circumstances creating a substantial risk of injury to the child;
- 4. To be exposed to a controlled substance as defined by AS 11.71.140-190;
- 5. To be left with someone who lacks the maturity, responsibility, or judgment to provide adequate care;
- 6. To be abandoned, i.e. parent is absent and no provision for care of the child has been made;
- 7. To be inadequately supervised due to the demonstrated inability or unwillingness of the parent to care for the child at the time of the incident due to intoxication, addiction, or other circumstance.
- C. In this section, "child" means a person under the age of 16 years.
- D. Violation of this section shall upon conviction be punished by a fine of not more than \$5000.00 or imprisonment for not more than one year, or both such fine and imprisonment.

Section 5. Anchorage Municipal Code chapter 8.10 is hereby amended by adding a new section 8.10.050 to read as follows:

8.10.050 Family Violence.

- A. It is unlawful for any person to commit the crime of family violence.
- B. A person commits the crime of family violence when the person commits the crime of assault as defined in AMC 8.10.010 with knowledge or reckless disregard of the presence of a child or children in the home.
- C. In this section, the word "child" means a person under the age of 16 years.
- D. Violation of this section shall, upon conviction be punished by a fine of not more than \$5000.00 or imprisonment for not more than 1 year, or both such fine and imprisonment.

Section 6. Anchorage Municipal Code chapter 8.10 is hereby amended by adding a new section 8.10.060 to read as follows:

8.10.060 Contributing to the Delinquency of a Minor

A. It is unlawful for an person to contribute to the delinquency of a minor. A person commits that

1 crime under the following circumstance 2 or older 3 1 For any person being over the age of 21 years/to intentionally or knowingly participate in a crime with a minor who is four or more years younger than the person. 4 5 For any person being over the age of 18 to intentionally or knowingly solicit a minor 6 2. 7 to commit a crime. 8 years or older 9 3. For any person being ever-the age of 18 to intentionally or knowingly employ or utilize a minor in furtherance of a criminal act. 10 11 years or older 4. For any person being over the age of 18/to intentionally or knowingly aid or assist a 12 13 minor under the age of 16 from attending school. 14 For any person being over-the age of 18 to intentionally or knowingly aid or assist a 15 5. 16 minor from returning to the home of the minor's parents or legal guardian without the 17 express permission from the parent, legal guardian or pursuant to court order, for more than 48 hours unless an official report of harm to the minor or request for assistance 18 is made to DFYS. Division of Family and Youth Services. 19 20 years or older For any person being over the age of 18 to intentionally or knowingly furnish alcoholic 21 6. 22 beverages or controlled substances as defined in state statute to a minor. 23 24 B. For purposes of this ordinance a minor means a person under 18 years of age unless otherwise stated. 25 26 C. 27 Violation of this section shall, upon conviction be punished by a fine of not more than \$5000.00 or imprisonment for not more than 1 year, or both such fine and imprisonment. 28 29 Section 7. 30 Anchorage Municipal Code section 8.20.010 is hereby amended to read as follows: 31 8.20.010 32 Malicious destruction of property. It is unlawful for any person to recklessly or intentionally injure or destroy any real or personal 33 A. property not his own. 34 35 36 IB. IT IS UNLAWFUL FOR ANY PERSON TO DISCONNECT, INJURE, OR DESTROY ANY 37 COMMUNICATION EQUIPMENT, REGARDLESS OF WHETHER OWNED BY SUCH PERSON, WITH THE INTENT TO PREVENT A FAMILY MEMBER, AS DEFINED BY 38 SUBSECTION 8.10.020.C.2, FROM COMMUNICATING WITH EMERGENCY SERVICE 39 40 **AGENCIES OR OTHERS.1** 41 B. [C.] In addition to all other fines and penalties provided for in this section, persons violating this 42 section shall: 43 44 45 1 Perform community service of not less than 20 nor more than 100 hours; and 46 2. 47 Restore or replace the property at their sole expense and at the direction and under the

supervision of the property owner.

- <u>C.</u>[D.] If the person violating this section fails to restore or replace the property, the owner thereof may cause the same to be accomplished and charge the person responsible for doing so for the reasonable expense incurred and recover such expenses by civil action.
- **D.**[E.] Any act in violation of this section committed by a minor under the age of 18 years who is not a runaway, as that term is defined by AS 47.10.390, when the violation occurred, shall be imputed to that minor's parent or legal guardian who shall be liable for payment of the fine and expense of restoration.
- **E.[F.]** Violation of this section shall, upon conviction, be punished by a fine of not more than \$1,000.00 or imprisonment for not more than six months, or both such fine and imprisonment.

(GAAB 18.05.010.L; AO No. 94-221(S), § 2, 3-23-95; AO No. 98-59(S), § 1, 5-19-98)

Section 8. Anchorage Municipal Code chapter 8.20 is hereby amended by adding a new section 8.20.040 to read as follows:

<u>8.20.040</u> Destruction or disconnect of communication equipment

- A. It is unlawful for any person to disconnect, injure, or destroy any communication equipment, regardless of whether owned by such person, with the intent to prevent a family member, as defined by subsection 8.10.020.C.2, from communicating with emergency service agencies or others.
- B. Violation of this section shall, upon conviction, be punished by a fine of not more than \$1,000.00 or imprisonment for not more than six months, or both such fine and imprisonment.

Section 9. Anchorage Municipal Code section 8.30.010 is hereby repealed and reenacted to read as follows:

8.30.010 Resisting or interfering with peace officer.

- A. A person commits the crime of resisting or interfering with a peace officer when
 - The person intentionally, recklessly, or knowingly delays or obstructs the person's own arrest by the use of force;
 - 2. The person intentionally, recklessly, or knowingly delays or obstructs the arrest of another by the use of force;
 - 3. The person intentionally, recklessly, or knowingly delays or obstructs the person's arrest by fleeing, hiding, engaging in a stand-off, or barricading himself;
 - 4. The person intentionally, recklessly, or knowingly delays or obstructs a police officer's active investigation of a crime by fleeing after having been told to stop;

- 5. The person intentionally, recklessly or knowingly resists, obstructs or interferes with the lawful efforts of any firefighter or paramedic in the discharge or attempted discharge of an official duty;
- 6. The person intentionally, recklessly or knowingly disobeys the lawful orders of any public officer; or
- 7. The person intentionally or recklessly engages in conduct which delays or prevents a fire from being timely extinguished or emergency services from being provided.
- 8. It is unlawful for any person to intentionally injure, destroy, take or attempt to take personal property from the custody of any public officer or person which is possessed by process of law.
- B. For the purposes of this section, the term "public officer" means any police officer, firefighter or fire department official, paramedic, animal control officer, or any other public official engaged in law enforcement duties at the time of the offense.
- C. Violation of this section shall, upon conviction, be punished by a fine of not more than \$1,000.00 or imprisonment for not more than six months, or both such fine and imprisonment.
- [A. IT IS UNLAWFUL FOR ANY PERSON TO INTENTIONALLY RESIST, DELAY OR OBSTRUCT ANY PUBLIC OFFICER IN THE DISCHARGE OR ATTEMPT TO DISCHARGE ANY DUTY OF HIS OFFICE.
- B. IT IS UNLAWFUL FOR ANY PERSON TO INTENTIONALLY COMMIT ANY OF THE FOLLOWING ACTS AT THE BURNING OF A BUILDING OR OTHER EMERGENCY OR AT ANY OTHER TIME AND PLACE WHERE ANY FIREFIGHTER OR PARAMEDIC IS DISCHARGING OR ATTEMPTING TO DISCHARGE AN OFFICIAL DUTY:
 - 1 RESIST, OBSTRUCT OR INTERFERE WITH THE LAWFUL EFFORTS OF ANY FIREFIGHTER OR PARAMEDIC IN THE DISCHARGE OR ATTEMPTED DISCHARGE OF AN OFFICIAL DUTY.
 - 2. DISOBEY THE LAWFUL ORDERS OF ANY PUBLIC OFFICER
 - 3. INTENTIONALLY ENGAGE IN ANY CONDUCT WHICH DELAYS OR PREVENTS A FIRE FROM BEING TIMELY EXTINGUISHED.
 - 4. FORBID OR PREVENT OTHERS FROM ASSISTING IN EXTINGUISHING A FIRE, OR EXHORT ANOTHER PERSON WHOM THE ACTOR HAS NO LEGAL RIGHT OR OBLIGATION TO PROTECT OR CONTROL FROM ASSISTING IN EXTINGUISHING A FIRE.
- C. IT IS UNLAWFUL FOR ANY PERSON TO INTENTIONALLY INJURE, DESTROY, OR TAKE OR ATTEMPT TO TAKE PERSONAL PROPERTY FROM THE CUSTODY OF ANY PUBLIC OFFICER OR PERSON WHICH IS POSSESSED BY PROCESS OF LAW.

- D. FOR THE PURPOSES OF THIS SECTION, THE TERM "PUBLIC OFFICER" MEANS ANY POLICE OFFICER, FIREFIGHTER OR FIRE DEPARTMENT OFFICIAL OR ANIMAL CONTROL OFFICER, OR ANY PUBLIC OFFICIAL ENGAGED AT THE TIME OF THE OFFENSE IN LAW ENFORCEMENT DUTIES.
- E. VIOLATION OF THIS SECTION SHALL, UPON CONVICTION, BE PUNISHED BY A FINE OF NOT MORE THAN \$1,000.00 OR IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BOTH SUCH FINE AND IMPRISONMENT.]

(AO No. 82-126; AO No. 89-52; AO No. 98-59(S), § 1, 5-19-98)

Section 10. Anchorage Municipal Code chapter 8.30 is hereby amended by adding new sections 8.30.130 and 8.30.140 to read as follows:

8.30.130 Failure to remand.

- A. It is unlawful for any person to intentionally, knowing, or recklessly fail to report to serve a jail sentence as ordered by the court.
- B. Violation of this section shall, upon conviction, be punished by a fine of not more than \$1,000.00 or imprisonment for not more than six months, or both such fine and imprisonment.

8.30.140 Abuse of third party appointment.

- A. It is unlawful for any person to:
 - Intentionally, knowingly, or recklessly make a false statement to the court while being examined regarding the duties of a third-party custodian;
 - 2. Intentionally, knowingly, or recklessly fail to comply with the conditions set by the court on the third-party appointment; or
 - 3. Intentionally, knowingly, or recklessly fail to immediately report that the defendant has violated any condition of the defendant's release.
- B Violation of this section shall, upon conviction, be punishable by a fine of not more than \$1000.00 or imprisonment of not more than six months, or both such fine and imprisonment.

Section 11. Anchorage Municipal Code section 8.35.010 is hereby amended to read as follows (the remainder of the section is not affected and therefore is not set out):

8.35.010 Definitions.

A. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substance means a substance identified as a controlled substance by AS 11.71 and listed on Schedule IA, IIA, IIIA, IVA, VA, or VI6 in AS 11.71.140 - AS 11.71.190. [NARCOTIC DRUG

AS DEFINED IN AS 17.10.230(13) AND AS SUPPLEMENTED BY ANY REGULATIONS ADOPTED UNDER AS 17.10; AND A DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG AS DEFINED IN AS 17.12.150(3) AND AS SUPPLEMENTED BY ANY REGULATIONS ADOPTED UNDER AS 17.12; AND SHALL ALSO INCLUDE MARIJUANA, HASHISH AND COCAINE.]

Drug paraphernalia means any items whose objective characteristics or objective manufacturer's design indicate that it is intended for use in the consumption, ingestion, inhalation, injection or other method of introduction of a controlled substance into the human body or to facilitate a violation of AS 11.71. [ALL ITEMS, EQUIPMENT, DEVICES, PRODUCTS AND MATERIALS OF ANY KIND WHICH ARE USED, OR INTENDED FOR USE, IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, CONTAINING, CONCEALING, INJECTING, INGESTING, INHALING OR OTHERWISE INTRODUCING INTO THE HUMAN BODY A CONTROLLED SUBSTANCE.] Drug paraphernalia includes but is not limited to:

12. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- n. Crack (cocaine) bongs, stems, or pipes.
- o. Crank (methamphetamine) bongs or pipes.

[B.] Drug paraphernalia also means any item where circumstances reasonably indicate that the subjective intent of it's possessor is to use it or sell it for the consumption, ingestion, inhalation, injection or other method of introduction of a controlled substance into the human body or to facilitate a violation of AS 11.71. Circumstances to be considered in assessing the subjective intent include but are not limited to: [IN DETERMINING WHETHER AN OBJECT IS DRUG PARAPHERNALIA, A COURT OR OTHER AUTHORITY SHOULD CONSIDER, IN ADDITION TO ALL OTHER LOGICALLY RELEVANT FACTORS, THE FOLLOWING:]

**

The proximity of the object, in time and space, to a direct violation of AS <u>11.71.010-</u>060 [17.10] or AS 17.30.020-080 [17.12].

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of AS 11.71.010-060 [17.10] or AS 17.30.020-080 [17.12]. The innocence of an owner, or of anyone in control of the object, as to a direct violation of AS 11.71.010-060 [17.10] or AS 17.30.020-080 [17.12] shall not prevent a finding that the object is intended for use as drug paraphernalia.

 (AO No. 81-219; AO No. 98-59(S), § 1, 5-19-98)

Section 12. Anchorage Municipal Code section 8.35.020 is hereby amended to read as follows:

8.35.020 Sale of Drug Paraphernalia.

A. It is unlawful for a person to:

- 1. Knowingly sell, give, barter or trade drug paraphernalia except as specifically authorized and permitted under the provisions of AS 17 and by such rules and regulations as are adopted thereto.
- 2. Knowingly possess with intent to sell drug paraphernalia except as specifically authorized and permitted under the provisions of AS 17 and by such rules and regulations as are adopted thereto.
- 3. Violation of this section shall, upon conviction, be punished by a fine of not more than \$5,000 or imprisonment for not more than one year, or both such fine and imprisonment, plus forfeiture of confiscated items.

[IT IS UNLAWFUL FOR ANY PERSON TO SELL, OR POSSESS WITH INTENT TO SELL, DRUG PARAPHERNALIA, KNOWING THAT IT WILL BE USED TO PLANT, PROPAGATE, CULTIVATE, GROW, HARVEST, MANUFACTURE, COMPOUND, CONVERT, PRODUCE, PROCESS, PREPARE, TEST, ANALYZE, PACK, REPACK, STORE, CONTAIN, CONCEAL, INJECT, INGEST, INHALE OR OTHERWISE INTRODUCE INTO THE HUMAN BODY A CONTROLLED SUBSTANCE, EXCEPT AS SPECIFICALLY AUTHORIZED AND PERMITTED UNDER THE PROVISIONS OF AS 17 AND BY SUCH RULES AND REGULATIONS AS ARE ADOPTED PURSUANT THERETO.]

(AO NO. 81-219; AO NO. 98-59(S), § 1, 5-19-98)

Section 13. Anchorage Municipal Code chapter 8.35 is hereby amended by adding new section 8.35.025 to read as follows:

<u>8.35.025</u> Possession of Drug Paraphernalia.

- A. It is unlawful for a person to intentionally or knowingly possess drug paraphernalia in public regardless of whether the item of paraphernalia is publicly displayed.
- B. It is a defense to violation of this ordinance that the item of drug paraphernalia is necessary for medical use of a validly prescribed prescription drug or controlled substance.
- C Violation of this ordinance carries a maximum \$300.00 fine plus forfeiture of the seized paraphernalia.
- Section 14. Anchorage Municipal Code section 8.35.030 is hereby amended to read as follows:

8.35.030 Civil Remedies. [PENALTY; ADDITIONAL REMEDIES.]

In addition to the criminal penalties contained in sections 8.35.020 and 8.35.025, violators are <u>A.</u> subject to civil remedies as follows:

> Civil fine [PENALTY]; injunctive relief. Any person who violates any provision of this chapter shall be subject to a civil fine [penalty] of not less than \$50.00 and not more than \$1,000.00 for each offense or injunctive relief to restrain the person from continuing the violation or threat of violation or both injunctive relief and a civil fine [PENALTY]. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter, the superior court shall grant injunctive relief to restrain the violation.

- 2. Continuing violations. Each day of violation of any provision of this chapter shall constitute a separate offense.
- 3. Forfeiture of paraphernalia. Any item sold or possessed [WITH THE INTENT TO SELLI by any person after a court has adjudicated such an item to constitute drug paraphernalia as defined by section shall be subject to forfeiture of the paraphernalia to the municipality upon order of the court entered in any injunction proceedings instituted under the authority of this section or in a separate forfeiture action instituted by the municipality.

(AO No. 81-219; AO No. 98-59(S), § 1, 5-19-98)

This ordinance shall become effective on the 90th day after its passage and approval by the Section 15. Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 18th day of

ATTEST:

Municipal Clerk

g:\mat\dennis\ao\title 8 ordinance.doc

MUNICIPALITY OF ANCHORAGE MUNICIPAL CLERK'S OFFICE

AGENDA DOCUMENT CONTROL SHEET

A1 2 600-95

SEE A	SEE REVERSE SIDE FOR FURTHER INFORMATION)						
1	SUBJECT OF AGENDA DOCUMENT Ordinance amending the Municipal Pena	1 Code,	DATE PREPARED				
-	Title 8	5/26/00					
			Inc	dicate Documents Attached			
			X AO				
			TAO LAN LAW				
2	DEPARTMENT NAME	DIRECTOR'S NAME					
	Department of Law		Mary K. Hughes				
	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER				
3							
	Dennis Wheeler		343-4349				
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	Merrill Field Airport						
	Municipal Light & Power						
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	Port of Anchorage						
	Public Works						
	Solid Waste Services			3 1 3			
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	Water & Wastewater Utility			7 20			
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	Community Planning & Development			H :			
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