

Mayor

David Allison

Council Members

Tom Bailer

Cathy Sherman

Kasey Kinsman

Wendy Ranney

Anne Schaefer

Kristin Carpenter

Ken Jones

City Manager

Helen Howarth

City Clerk

Susan Bourgeois

Deputy Clerk

Tina Hammer

**City Council Work Session
October 25, 2023 @ 5:00 pm
Cordova Center Community Rooms
Agenda**

A. Call to order

B. Roll call

Mayor David Allison, Council members Tom Bailer, Cathy Sherman, Kasey Kinsman, Wendy Ranney, Anne Schaefer, Kristin Carpenter, and Ken Jones

C. Work Session topics

1. Sales Tax and Property Tax Code Rewrite Continued Discussion with City Attorneys **Holly Wells and **Jessica Spuhler****

a. Draft Ordinance..... (page 1)

An Ordinance of the Council of the City of Cordova, Alaska, repealing and reenacting Title 5 “Revenue and Finance” and adopting Title 7 “City Property” to update and clarify the City’s taxation regime and separate the City’s laws regarding City-owned property and its taxation – draft for discussion

D. Adjournment

If you have a disability that makes it difficult to attend city-sponsored functions, you may contact 907-424-6200 for assistance.

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**CITY OF CORDOVA, ALASKA
ORDINANCE _____**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA,
REPEALING AND REENACTING TITLE 5 “REVENUE AND FINANCE” AND
ADOPTING TITLE 7 “CITY PROPERTY” TO UPDATE AND CLARIFY THE CITY’S
TAXATION REGIME AND SEPARATE THE CITY’S LAWS REGARDING CITY-OWNED
PROPERTY AND ITS TAXATION**

WHEREAS, the City of Cordova has not substantively revised its taxation provisions in over 30 years; and

WHEREAS, the City has experienced numerous requests regarding interpretation and scope of the Code in the last few years and determined it was in the City’s best interest to revise the Code to ensure clear provisions governing the City’s tax regime,

NOW, THEREFORE, it is ordained as follows:

Section 1. Cordova Municipal Code Title 7 “Property Management” is hereby enacted to include Chapter 5.12 “Purchases”, Chapter 5.14 “Sale of City Personal Property”, Chapter 5.16 “Tidelands”, Chapter 5.22 “Disposal of Real Property”, Chapter 5.23 “Acquisition of Real Property”, Chapter 5.24 “Abandoned Property”, Chapter 5.28 “Use of City Equipment”, and Chapter 5.29 “Local Hire for Public Improvements” renumbered as follows:

TITLE 7 “CITY PROPERTY”

Chapters

- 7.10 Purchases
- 7.20 Sale of City Personal Property
- 7.30 Tidelands
- 7.40 Disposal of Real Property
- 7.50 Acquisition of Real Property
- 7.60 Abandoned Property
- 7.70 Use of City Equipment
- 7.80 Local Hire for Public Improvements

Section 2. Cordova Municipal Code Title 5 “Revenue and Finance” is repealed and re-enacted to read as follows:

TITLE 5 “REVENUE AND FINANCE”

Chapters

- 5.10 Special Assessment Districts for Local Improvements
- 5.15 Property Tax
- 5.16 Exemptions and Deferrals

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- 5.17 Exemption and Deferral Criteria
 - 5.20 Biennial Motor Vehicle Registration Tax
 - 5.25 Sales Tax
 - 5.30 Raw Fish Tax
 - 5.35 Signature Requirements
 - 5.40 Business with Persons Indebted to the City
 - 5.45 Cordova General Reserve Fund

Chapter 5.10 SPECIAL ASSESSMENT DISTRICTS FOR LOCAL IMPROVEMENTS

Sections

- 5.10.010 Special assessments—Authority.
- 5.10.020 Record owner.
- 5.10.030 Initiation of improvement proposal.
- 5.10.040 Petition-Sufficiency and preliminary consideration.
- 5.10.050 Proposed Improvement Plan.
- 5.10.060 Notice of public hearing.
- 5.10.070 Protest.
- 5.10.080 Adoption of an Improvement plan.
- 5.10.090 Extension of special assessment districts.
- 5.10.100 Recording.
- 5.10.110 Assessment roll.
- 5.10.120 Public hearing on assessment roll and settlement.
- 5.10.130 Appeal.
- 5.10.140 Payment of assessments.
- 5.10.150 Enforcement of delinquent assessments.
- 5.10.160 Special assessment bonds.

5.10.010 Special assessments—Authority.

- A. The City may assess all or a portion of the cost of acquiring, installing or constructing improvements against property to be benefitted by those improvements to the greatest extent permitted by State law.
- B. Property owned by the federal government, the state or a municipality, as well as privately owned real property, may be assessed under this chapter, except as otherwise provided by law.

5.10.020 Record owner.

The person in whose name property is listed on the current real property tax assessment records maintained by the City assessor as of the time when the determination of ownership is to be made is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment roll may designate “unknown owner”.

5.10.030 Initiation of improvement proposal.

A proposal for a public improvement may be initiated by the filing of a sufficient petition with the office of the City Clerk or by City Council via resolution.

5.10.040 Petition—Sufficiency and preliminary consideration.

- A. The City Clerk shall determine if a petition proposing a public improvement is sufficient.
- B. A petition for an improvement is sufficient if the petition contains the following:
 - 1. Signatures of the record owner(s) of not less than 50% of the total assessed value of the property to be benefited dated no more than 90 days before the date the petition is filed;
 - 2. The printed name and mailing address of each record owner who signed the petition and the legal description or City tax parcel identification number of the property owned by them that will benefit by the proposed improvement;
 - 3. The name, mailing address and daytime telephone number of the person circulating the petition;
 - 4. A description of the proposed improvement; and
 - 5. A map showing the location of the proposed improvement and all real property benefited by the proposed improvement.
- C. If the City Clerk determines that the petition is sufficient, the petition shall be submitted to City Council for consideration. Upon determining that a petition is not sufficient, the Clerk shall return the petition to the person who circulated it with a written statement of the reasons that the petition was found not sufficient.
- D. If Council finds that an improvement proposal submitted in a petition found sufficient by the Clerk is necessary and is in the City's best interest, Council shall, via resolution, direct the City Manager to prepare a proposed improvement plan and resolution adopting that plan.

5.10.050 Proposed Improvement Plan.

- A. The City Manager shall prepare a proposed improvement plan and submit the plan and an ordinance adopting the plan to Council no more than 90 days after Council directly initiates a proposal or adopts a resolution directing preparation of a plan.
- B. The proposed improvement plan shall contain the following information:
 - 1. An evaluation of the need for and the benefit of the improvement;
 - 2. Designation of the property benefited by the improvement, both by a map and by legal description;
 - 3. The estimated cost of the improvement, the percentage of the cost that should be assessed against benefited property, and the amount and source of funds to pay any remainder of the cost of the improvement; and
 - 4. A method for allocating among the benefited properties the portion of the cost of the improvement that is to be assessed.
- C. The proposed ordinance shall:
 - 1. Describe the improvement;
 - 2. Describe the real property benefited by the improvement;
 - 3. Find that the improvement is necessary and should be made;
 - 4. Create the special assessment district, and direct the City Manager to proceed with the improvement;
 - 5. Determine the percentage of the cost of the improvement that will be assessed against benefited real property, and the amount and source of funds to pay any remainder of the cost of the improvement;

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6. Determine the method for allocating among the benefited properties the portion of the cost of the improvement that is to be assessed;
 7. Include the scheduled date notices will be mailed to record owners of property within the proposed special assessment district; and
 8. Include a proposed date and time for public hearing on the ordinance that is at least 60 days after the date scheduled for mailing notices.

5.10.060 Notice of public hearing.

- A. After introduction of an ordinance adopting the proposed improvement plan, the City Clerk shall:
1. Publish at least once a week for two consecutive weeks a notice of the public hearing including the following:
 - a. The time and place of the public hearing;
 - b. A description of the proposed improvement;
 - c. A map of the proposed special assessment district; and
 - d. Notification of the right to protest the creation of a special assessment district and the deadline for filing such a protest;
 2. Mail, certified return receipt requested, to each record owner of real property within the proposed special assessment district a notice of the public hearing, including the information in the published notice and the following:
 - a. The legal description and City tax parcel number of the record owner's property located within the special assessment district; and
 - b. The estimated amount of the assessment against the property.

5.10.070 Protest.

The record owner of real property in a proposed special assessment district may protest the proposed improvement plan by filing a written protest with the office of the City Clerk no more than 60 days after publication of notice under Section 5.10.060 of this chapter or no later than 5:00 p.m. on the last day on which city offices are open before the date of the scheduled public hearing, whichever date is later.

5.10.080 Adoption of an Improvement plan.

- A. If record owners of property bearing one-half or more of the estimated assessed cost of the improvement protest adoption of the improvement plan within the time allowed by Section 5.10.070 of this code, Council may not proceed with the improvement unless:
1. Council adopts a revised improvement plan that is not protested by record owners bearing more than one-half the estimated assessed cost of the improvement and the revised plan is approved and adopted in the same manner as an original plan in accordance with this Chapter; or
 2. The ordinance approving the original plan is approved by a vote of at least five Council Members.

5.10.090 Extension of special assessment districts.

City Council, by amending the ordinance adopting an improvement plan before its adoption, may extend a special assessment district to include a contiguous area containing one or more additional properties, provided that:

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- A. The record owner of each property that will be included in the special assessment district as a result of the extension consents in writing to the inclusion of the property in the special assessment district; and
 - B. Council finds that the extension will not cause the assessment on any property within the original boundaries of the special assessment district to increase.

5.10.100 Recording.

- A. The City Clerk shall record each ordinance adopting or modifying an improvement plan.
- B. The failure to record an ordinance as required by Subsection A of this section does not affect the validity of an improvement plan or its terms nor does it remove or reduce the City's authority to place a lien on property for special assessments levied by authority and under terms granted in the improperly recorded or unrecorded ordinance.

5.10.110 Assessment roll.

- A. Council shall assess the percentage of the approved improvement costs in proportion to the benefit received by the assessed property using the allocation method approved under this chapter.
- B. The special assessment roll shall contain property descriptions, names of record owners, and assessment amounts. The special assessment roll shall be prepared by the City Manager and approved by Council via ordinance.
- C. Notice of the hearing on the ordinance adopting the special assessment roll shall be mailed to each record owner of an assessed property included in the roll not less than 15 calendar days before the scheduled public hearing on that ordinance. The notice shall include:
 - 1. A description of the special assessment district;
 - 2. The date and time of the public hearing;
 - 3. A statement that the public hearing is for the purpose of objecting to any error in the assessment roll;
 - 4. The legal description and City tax parcel number of the record owner's property that is to be assessed;
 - 5. The amount of the assessment against the property; and
 - 6. Notice of the right to file a written objection to the special assessment roll and the deadline for filing such an objection.
- D. Objections to an assessment roll must be filed with the office of the City Clerk at least one business day before the scheduled hearing. Objections to the assessment roll shall be limited to assertions of error. Terms of assessment specified and approved in the improvement plan adopted by Council and previously subject to protest shall be presumed valid.
- E. Council shall make findings on each properly and timely filed objection to the assessment roll before taking action on the assessment roll.

5.10.120 Public hearing on assessment roll and settlement.

- A. An ordinance adopting the assessment roll shall authorize and specify the levy of the special assessments.
- B. After the public hearing, Council shall correct errors in the assessment roll. Any revisions to the assessment roll shall be approved by ordinance subject to the notice requirements of Section 5.32.110 of this chapter.

5.10.130 Appeal.

- A. Council's findings regarding properly and timely filed objections to the assessment roll may be appealed to the superior court within 30 days from the date of mailing of assessment statements under Section 5.10.140(C) of this chapter.
- B. If no objection is filed or an appeal taken within the time provided in this Section, the assessment procedure shall be considered valid in all respects.

5.10.140 Payment of assessments.

- A. The ordinance adopting the assessment roll shall fix the date on which the special assessments are due. A special assessment may not be due before 30 days after the date of mailing of the assessment statements under Subsection C of this section.
- B. The ordinance adopting the assessment roll may require assessments to be paid in annual or semiannual installments over the term provided in the ordinance. The term of assessment may not exceed 15 years. The ordinance adopting the assessment roll shall fix the dates on which special assessment installments are due, and the annual rate of interest to accrue on the unpaid principal balance of a special assessment.
- C. Within 10 days after Council adopts the assessment roll, the City Clerk shall mail to each record owner of real property in the special assessment district an assessment statement including the following information:
 - 1. The legal description and city tax parcel number of the property;
 - 2. The amount and due date of the assessment, and if the assessment is payable in installments, the amount of each installment, the dates on which installments are due, and the annual rate of interest accruing on the unpaid balance of the special assessment;
 - 3. The penalty that will apply to delinquent assessments or assessment installments;
 - 4. Notice that the entire assessment may be paid without interest within 30 days after the date of mailing of the assessment statement; and
 - 5. Notice that the ordinance adopting the assessment roll is final and any person objecting to an assessment has 30 days from the date of the assessment statement to appeal the assessment to the superior court.
- D. Within five days after assessment statements are mailed, the City Clerk shall publish notice that the statements have been mailed.

5.10.150 Enforcement of delinquent assessments.

- A. Special assessments are liens upon the property assessed and prior and paramount to all liens except municipal tax liens. A special assessment lien may be enforced as provided by law for City tax liens.
- B. Upon the delinquency of an assessment or assessment installment there shall be due and payable in addition to the delinquent assessment or installment a penalty equal to eight percent of the delinquent assessment or installment. If any assessment or installment has been delinquent for more than 30 days as of January 1st of each year the assessed property will be placed on the City's real property foreclosure list. At that time, the entire principal balance of the assessment, plus accrued interest and penalty on the principal balance, and applicable foreclosure costs, shall be due and payable.

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- C. The City shall mail notice of a delinquency in payment of an assessment or assessment installment to the record owner of the assessed property. The notice shall describe the delinquency, and in the case of a delinquent assessment installment, state that the balance of the assessment, plus penalty and accrued interest, will be due and payable if the delinquent installment, plus penalty and accrued interest, is not paid.

5.10.160 Special assessment bonds.

- A. Council by ordinance may authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of special assessment bonds shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall constitute a sinking fund for the payment of principal and interest on the bonds.
- B. Upon default in a payment due on a special assessment bond, a bondholder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period of redemption shall be the same as in the case of a mortgage foreclosure on real property.
- C. In the ordinance authorizing special assessment bonds, Council may establish a reserve fund to cover any deficiency in meeting payments of principal and interest on the bonds by reason of nonpayment of assessments when due. The reserve fund may be funded from special assessment bond proceeds or from amounts appropriated by Council. Money received from actions taken against property for nonpayment of assessments shall be credited to the reserve fund. Interest on amounts deposited in the reserve fund shall be a cost of the special assessment district.

Chapter 5.15 PROPERTY TAX

Sections

- 5.15.010 Established.
- 5.15.020 Mobile homes subject to provisions.
- 5.15.030 Applicability of provisions.
- 5.15.040 Determination of true value.
- 5.15.050 Determination of true value of contaminated property.
- 5.15.060 Assessment roll.
- 5.15.070 Assessment roll—Determination of property owner.
- 5.15.080 Assessment roll—Property description.
- 5.15.090 Assessment roll—Basis of computation.
- 5.15.100 Assessment notice—Information required.
- 5.15.110 Assessment roll—Corrections.
- 5.15.120 Equalization hearings—Notice required.
- 5.15.130 Appeal—Grounds.
- 5.15.140 Appeal—Filing of notice.
- 5.15.150 Appeal—Recordation.
- 5.15.160 Appeal—Hearing—Notice.
- 5.15.170 Appeal—Hearing—Conduct.
- 5.15.180 Appeal—Hearing—Record of proceedings.

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- 5.15.190 Appeal—Notice of decision.
 - 5.15.200 Appeal—Entry of changes by assessor.
 - 5.15.210 Appeal—To court.
 - 5.15.220 Supplementary assessment rolls.
 - 5.15.230 Assessment roll—Validity.
 - 5.15.240 Delivery of statement to council.
 - 5.15.250 Amount set by resolution.
 - 5.15.260 Rural zone and mill rate differential.
 - 5.15.270 Mailing of tax statements.
 - 5.15.280 Lien.
 - 5.15.290 Payment by installment—Delinquency.
 - 5.15.300 Nonpayment—Penalties and interest.
 - 5.15.310 Treasurer’s duties.
 - 5.15.320 Right of entry for inspection—Examination under oath.

5.15.010 Established.

There shall be assessed, levied and collected a general tax for school and municipal purposes upon all real properties within the City.

5.15.020 Mobile homes subject to provisions.

- A. Mobile homes, trailers, house trailers, trailer coaches and similar property used or intended to be used for residential, office or commercial purposes and attached to the land or connected to water, gas, electric or sewage facilities are classed as real property for tax purposes. This subsection does not apply to house trailers and mobile homes which are unoccupied and held for sale by persons engaged in the business of selling mobile homes.
- B. The City shall enforce taxes levied on mobile homes by a personal action against the owner, instead of by annual foreclosure. Such action may be commenced as of November 1st, the date the property taxes become delinquent.

5.15.030 Applicability of provisions.

All real property in the City is subject to taxation, except real property exempt under the constitution of the State, the applicable laws of the State, including all properties listed in AS 29.45.030, the City Charter or the ordinances of the City.

5.15.040 Determination of true value.

The assessor shall assess property at its full and true value as of January 1st of the assessment year, except as otherwise provided by law. The full and true value is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels. The City Council by resolution shall adopt a systematic reevaluation of the property for assessment purposes.

5.15.050 Determination of true value of contaminated property.

Unless otherwise required by law, the assessor shall determine the full and true value of contaminated real property in accordance with the following:

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- A. In this section:
1. “Contaminated real property” means real property that on the assessment date is: (1) on the National Priority List of the Environmental Protection Agency; or (2) included by the Department of Environmental Conservation on its Contaminated Site List; or (3) is shown, through the submission of reliable, objective information such as engineering studies, environmental audits, laboratory reports, or historical records, to have had a release of a hazardous substance or oil which release is shown to have been reported to the Department of Environmental Conservation; but shall not include any real property on which hazardous substances or oil may be legally stored, disposed or released or which has been contaminated as a result of a release from or in connection with the use of a residential fuel tank.
 2. “Cost to cure” means the estimated after-tax cost of the remaining remedial work specific to the subject property to remove, contain or treat the hazardous substance or oil. Cost to cure may include the cost of environmental audits, surety bonds, insurance, monitoring costs and engineering and legal fees. The costs must be directly related to the clean up or containment of a hazardous substance or oil.
 3. “Hazardous substance” and “oil” have the meanings ascribed in AS 46.08.900(6) and (7), respectively.
- B. In determining the full and true value of contaminated real property, the assessor shall apply any reasonable appraisal approach. Where appropriate, the assessor may limit the assessment to the value of improvements, and may make adjustments in valuation for the cost to cure to the extent that such cost will be borne by the owner of record.

5.15.060 Assessment roll.

The assessor shall complete reevaluations of all real property within the limits of the City at least sixty days before the Board of Equalization (or the “Board”) meets each year. Separate field cards shall be kept on each piece of property. From these field cards an assessment roll shall be prepared and completed at least forty-five days prior to the board of equalization meeting. The assessment roll shall be open for inspection by the public. The roll must contain:

- A. The names and last known addresses of all persons with real property liable to assessment and taxation;
- B. A description of all taxable real property;
- C. The assessed value of said property.

5.15.070 Assessment roll—Determination of property owner.

Real property is assessed to the owner of record as shown in the records of the recorder for the Cordova Recording District; provided, however, that any other person having an interest in the property may be listed on the records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal record owner. If the property is unknown the property may be assessed to “unknown owner” or “unknown owners.” No assessment shall be invalidated by a mistake, omission or error in the name of the owner, if the property is correctly described.

5.15.080 Assessment roll—Property description.

The assessor may list real property located in the City and any addition thereto by lot and block number, and similarly for any subdivided property. Unsubdivided property may be listed according to survey description, or by giving the boundaries thereof, or by reference to the book and page of the records of the Cordova Recording District where recorded, or by designation of a tax parcel number referring to a public record of descriptions of real property kept by the assessor, or by such other manner as to cause the description to be made certain. Initial letters, abbreviations, fractions and exponents to designate any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

5.15.090 Assessment roll—Basis of computation.

All taxes to be levied or collected, except as otherwise provided, shall be calculated, levied and collected upon the assessed values entered in the assessment roll and certified by the assessor as correct, subject to the taxpayer's rights to appeal and to the correction made in the rolls pursuant to this chapter.

5.15.100 Assessment notice—Information required.

The assessor shall give to every owner, or his authorized agent named in the assessment roll, a notice of assessment showing the assessed value of his property. On the back of each assessment notice shall be printed a summary for the information of the taxpayer of the date when the taxes are payable, delinquent and subject to penalty and interest, dates when the City Council will sit as a Board of Equalization for equalization purposes, and any other particulars specified by the Council. The assessment notice shall be directed to the person to whom it is to be given, and shall be sufficiently given if it is mailed by first class mail addressed to, or is delivered at, his address as last known to the assessor, or, if the address is not known to the assessor, the notice may be addressed to the person at the post office nearest to the place where the property is situated. The assessor shall, on or prior to thirty days before the meeting of the Board of Equalization each year, mail or deliver the assessment notices and the date when mailed or delivered shall be deemed to be the date on which the notice was given for purposes of this chapter.

5.15.110 Assessment roll—Corrections.

A person receiving an assessment notice shall advise the assessor in writing of errors or omissions in the assessment of the person's property. The assessor may correct errors or omissions in the roll before the Board of Equalization hearing. If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing thirty days for appeal to the Board of Equalization.

5.15.120 Equalization hearings—Notice required.

When all assessment notices have been mailed, the assessor shall cause to be published at least once each week for two successive weeks a notice that the assessment rolls have been completed, which notice shall state when and where the equalization hearings shall be held by the City Council sitting as a Board of Equalization. The Board shall meet on the third Monday each April and continue each day thereafter as it may deem necessary.

5.15.130 Appeal—Grounds.

Any person who receives notice or whose name appears on the assessment roll may appeal, as hereinafter provided, to the Board with respect to any alleged error in the valuation, overcharge or omission of the assessor, not adjusted to the taxpayer's satisfaction.

5.15.140 Appeal—Filing of notice.

Notice of appeal, in writing, specifying the grounds for appeal, shall be filed with the assessor not later than thirty days after the date of mailing of notice of assessment. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the Board, unless it is shown to the satisfaction of the Board that the taxpayer was unable to appeal within the time so limited.

5.15.150 Appeal—Recordation.

Upon receipt of the notice of appeal, the assessor shall make a record of the same in such form as the Board may direct, which record shall contain all the information shown on the assessment roll in respect of the subject matter of the appeal, and the assessor shall place the same before the Board from time to time as may be required by the Board.

5.15.160 Appeal—Hearing—Notice.

The assessor shall cause a notice of the time and place of the appeal hearing to be mailed to the person by whom the notice of appeal was given, and to every other person in respect of whom the appeal is taken, to their respective addresses as last known to the assessor.

5.15.170 Appeal—Hearing—Conduct.

- A. At the time appointed for the hearing of the appeal or as soon thereafter as the appeal may be heard, the Board shall hear the appellant, the assessor, other parties to the appeal and their witnesses, and consider the testimony and evidence adduced, and shall determine the matters in question on the merits and render its decision accordingly.
- B. If any party to whom notice was mailed as set forth in Section 5.15.150 fails to appear, the Board may proceed with the hearing in their absence.
- C. The burden of proof in all cases shall be upon the party appealing.

5.15.180 Appeal—Hearing—Record of proceedings.

The City Clerk shall be Ex Officio Clerk of the Board of Equalization on appeals and shall record the minutes all proceedings before the Board, the name of all persons appealing assessments, and all changes, revisions, corrections and orders relating to claims or adjustment.

5.15.190 Appeal—Notice of decision.

The City Clerk shall mail a copy of the decision of the Board on an appeal to the appellant, and shall certify the decision to the assessor within seven days. The decision shall state whether the appeal is granted or denied in whole or in part, and the reasons therefor. The decision shall state that it is the final decision by the Board, and that the appellant and the assessor have thirty days to appeal the decision to the Superior Court.

5.15.200 Appeal—Entry of changes by assessor.

Except as to supplementary assessments, the assessor shall enter the changes so certified upon his records, and certify the final assessment roll by June 1st.

5.15.210 Appeal—To court.

An appellant to the Board of Equalization or the assessor may appeal a determination of the Board of Equalization to the Superior Court as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established before the Board of Equalization.

5.15.220 Supplementary assessment rolls.

The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll.

5.15.230 Assessment roll—Validity.

Every assessment roll as completed and certified by the assessor in conformity with this chapter shall be valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment roll or proceedings pertaining thereto.

5.15.240 Delivery of statement to council.

When the final assessment records have been completed by the assessor as provided in this chapter, the assessor shall deliver to the City Council on or before June 1st of each year a statement of the total assessed valuation of all real property within the City.

5.15.250 Amount set by resolution.

The City Council shall thereupon by resolution annually before June 15th fix a rate of tax levy and designate the number of mills upon each dollar of value of assessed taxable real property that shall be levied.

5.15.260 Rural zone and mill rate differential.

There shall be a differential tax zone, known as the rural zone. The rural zone shall encompass the 68.23 square miles of land annexed to the city in March 1993. All property taxes on property in the rural zone shall be levied at mill rate 1.00 mills less than all other property in the city. This mill rate differential is based upon the lower levels of service in the rural zone for the following services: police protection (.30 mills), fire and emergency medical services (.23 mills), parks and recreation (.26 mills), library and museum services (.16 mills) and public works (.05 mills).

5.15.270 Mailing of tax statements.

By July 1st, the City Clerk shall prepare and mail tax statements to the person listed as the owner on the tax rolls. A tax statement shall set out the levy, dates when taxes are payable and delinquent, and penalties and interest.

5.15.280 Lien.

All taxes levied by the City Council pursuant to this chapter shall be a lien upon all real property assessed, and such lien shall be prior and paramount to all other liens or encumbrances against the property assessed.

5.15.290 Payment by installment—Delinquency.

Property tax, except as otherwise provided, may be paid in two equal installments. The first installment shall be delinquent on September 1st of the tax year and the second installment shall be delinquent on November 1st of the tax year.

5.15.300 Nonpayment—Penalties and interest.

When the property tax provided for in this chapter is not paid on or before the due date, penalties and interest will accrue as follows:

- A. If the first one-half installment is not paid when due, a penalty of ten percent together with interest at the rate of eight percent per year on the installment, not including penalty, from due date until paid in full, shall be added thereto.
- B. After the due date for the payment of the second one-half installment a total penalty of not to exceed ten percent shall be added to all delinquent taxes, and interest at the rate of eight percent per year shall accrue, as provided in this chapter, upon all unpaid taxes, not including the penalty, from due date until paid in full.

5.15.310 Treasurer’s duties.

- A. The City Treasurer shall collect all taxes levied hereunder and shall receive all tax payments during regular business hours and issue receipts therefor.
- B. In the event the City Treasurer notes the existence of error, omission or double assessment of any property at any time after certification of the assessment roll, application shall be made by the City Treasurer for the adjustment and correction of such error to the City Council.

5.15.320 Right of entry for inspection—Examination under oath.

- A. For the purposes of making investigations the assessor, or his designated deputy, shall have the right of access to the premises and may examine all property records involved, and any person shall, upon request, furnish to the assessor, or his designated deputy, every facility and assistance for the purpose of the investigation.
- B. The assessor may examine a person on oath or otherwise, and upon request of the assessor, the person shall present himself for examination by the assessor.

Chapter 5.16 EXEMPTIONS AND DEFERRALS

5.16.010 Purpose and authority.

The granting of property tax exemptions and deferrals is one of the primary tools available to the City to achieve its objectives, including those regarding economic development, housing, and community resources. The City’s authority and discretion to grant exemptions and deferrals is subject to the limitations of this chapter, Chapter 5.17, and any applicable state or federal laws.

The assessor and City Council may:

- A. Require the applicants for any exemption and/or deferral to provide information in support of their application;
- B. Require applicants to pay property taxes on a percentage of assessed valuation, a fixed property tax payment of any amount, or any other fraction of property taxes that would otherwise be due to the City; and

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- C. Require the payment of initial application and annual review fees reasonably necessary to cover the costs of administration.

The grant or denial of a tax exemption or deferral under this chapter, or Chapter 5.17 is a discretionary act by the City. The completion of an application for a tax exemption or deferral shall not give rise to any right or claim against the City for its failure to grant the application.

5.16.020 Applications – Initial review.

- A. The City will not consider the granting of any tax exemption or deferral under Chapter 5.17 until the applicant submits a full and complete application, and provides such additional information as may be requested by the assessor and City Council. The assessor may make an independent investigation of the application or property in making a determination under this section. The assessor shall notify the applicant, in writing, of the assessor's completeness determination on the application for exemption.
- B. The assessor may prepare a standard application form that upon completion will provide adequate and sufficient information to determine whether any tax exemption or deferral should be granted. The accuracy of the information provided in the application must be verified by oath of the applicant or an authorized officer of the applicant.
- C. If the applicant fails or refuses to provide information required or requested by the assessor, within the time period set by the assessor, the exemption shall be denied.
- D. An applicant delinquent in the registration for, filing of a return, or payment of, any city property or sales tax, city special assessment, or city utility bill may not be granted an exemption and/or deferral under this section.
- E. Any person requesting a tax exemption or deferral pursuant to this chapter and Chapter 5.17 shall pay to the City an initial application fee of \$300.00, which must be submitted at the same time the application form is submitted. In addition, any entity that has been granted a tax exemption or deferral under this chapter and Chapter 5.17 shall pay an annual review fee in the amount of \$150.00 at a date specified by the assessor.
- F. If any person knowingly makes any false representations in any submission to the City related to an initial application for or review of a tax exemption or deferral under this chapter or Chapter 5.17, that person shall be punishable by a fine as set forth at Chapter 1.28. Any misstatement of or error in fact may render an application null and void and may be cause for the revocation of any tax exemption or deferral adopted in reliance on such information.
- G. Exemptions claimed under Section 5.17.010 are governed by the process and timeline mandated by the State as set forth in that section.

5.16.030 Notice and Hearing.

After the assessor determines that the application is complete and the applicant is eligible for a tax exemption and/or deferral, the assessor shall submit a copy of the application to the City Clerk with a written recommendation to be submitted to the City Council. No tax exemption or deferral under this section shall be granted by the City Council prior to a public hearing thereon. The City Clerk shall notify the applicant of the public hearing.

5.16.040 Annual assessments.

All property receiving a tax exemption or deferral under this chapter or Chapter 5.17 shall be annually assessed by the assessor in the same manner as if it were not exempt.

5.16.050 Review of exemptions.

- A. Any tax exemption or deferral granted under this chapter or Chapter 5.17 shall be subject to annual review by the assessor to ensure that the ownership and use of the property and any other qualifying criteria for the tax exemption or deferral continue to exist. Information justifying the continued exemption or deferral shall be submitted annually to the assessor at the same time the review fee required under CMC 5.16.020(E) is due. If the assessor determines that the property no longer qualifies for an existing exemption or deferral, the assessor's determination may be reversed by a majority vote of the Council.
- B. Upon the failure of any person to fully and timely pay the taxes due as may be required by any City ordinance or to provide reports or other information requested by the assessor, the assessor shall immediately revoke and not renew any exemptions or deferrals under this chapter or Chapter 5.17 to which such person would otherwise be entitled and shall require immediate payment of the pro-rata share of taxes thereby due for any portion of the year remaining and any previously deferred taxes.

5.16.060 Emergency waiver.

The City reserves the right to grant or not to grant a tax exemption or deferral under circumstances beyond the scope of this chapter or Chapter 5.17, or to waive any other requirement not mandated by state law. However, no such action or waiver shall be taken or made except upon a finding by the City that an extraordinary circumstance or emergency exists, and that such action or waiver is found and declared to be in the vital public interest.

5.16.070 Transfer of ownership or change of use – Penalty.

As of the date of any change in majority ownership, sale, or substantive change in use of any property subject to a tax exemption or deferral under this chapter or Chapter 5.17, the City shall revoke such tax exemption or deferral and require immediate payment of the property taxes thereby due. Any property owner who fails to notify the assessor of any such change in ownership, use, or sale by the date of such change in ownership, use, or sale shall be subject to a fine as set forth at Chapter 1.28.

5.16.080 Criteria.

Criteria for specific tax exemption and deferrals are set forth in Chapter 5.17, Exemption and Deferral Criteria.

Chapter 5.17 EXEMPTION AND DEFERRAL CRITERIA

Sections

- 5.17.010 Senior Citizen and Disabled Veteran Exemptions.
- 5.17.020 Non-Profit Exemption.
- 5.17.030 Low-Income Housing Exemption.
- 5.17.040 Temporary Subdivision Exemption.
- 5.17.050 Temporary Landscape Exemption.
- 5.17.060 Economic Development Property Exemption.
- 5.17.070 Leased exempt property – Taxes due.
- 5.17.080 Definitions.

5.17.010 Senior Citizen and Disabled Veteran Exemptions.

- A. The real property owned and occupied as the primary residence and permanent place of abode by a: (1) resident sixty-five years of age or older; (2) disabled veteran; or (3) resident at least sixty years old who is the widow or widower of a person who qualified for an exemption under subsection (A)(1) or (2) of this section, is exempt from taxation on the first one hundred fifty thousand dollars of the assessed value of the real property. Only one exemption may be granted for the same property and, if two or more persons are eligible for an exemption for the same property, the parties shall decide between or among themselves who is to receive the benefit of the exemption. Real property may not be exempted under this subsection if the assessor determines, after notice and hearing to the parties, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor may be appealed under AS 44.62.560—44.62.570.
- B. To be eligible for an exemption under subsection (A) of this section for a year, the individual applying for an exemption must also meet requirements under one of the following:
1. The individual shall be eligible for a permanent fund dividend under AS 43.23.005 for that same year or for the immediately preceding year; or
 2. If the individual has not applied or does not apply for one or both of the permanent fund dividends, the individual would have been eligible for one of the permanent fund dividends identified in subsection (B)(1) of this section had the individual applied.
- C. An exemption may not be granted under subsection (A) of this section, except upon written application for the exemption on a form approved by the State Assessor. An applicant who qualifies for the exemption under this section need not file an application for successive tax years if there is no change in ownership, in residency or permanent place of abode, or other factor affecting qualification for the exemption. Applications must be filed no later than January 15 of the first year for which the exemption is sought. The City Council, for good cause shown, may authorize the assessor to accept as timely filed an application filed after January 15 and before May 1 of the assessment year for which the exemption is sought. An application received after May 1 will be accepted as an application for the following assessment year. If the application is filed within the required time and is approved by the assessor, the assessor shall allow an exemption in accordance with the provisions of this section. The assessor shall require proof in the form they consider necessary of the right to and amount of an exemption claimed under subsection (B) of this section and shall require a disabled veteran claiming an exemption under subsection (B) of this section to provide evidence of the disability rating. The assessor may require proof under this subsection at any time:
1. If property is occupied by a person other than the eligible applicant and his/her spouse and minor children, an exemption applies only to the portion of the property permanently occupied by the eligible applicant and his/her spouse and minor children as a permanent place of abode;

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2. It shall be the responsibility of every person who obtains an exemption under this section to notify the assessor of any change in ownership, residency, permanent place of abode or status of disability. A disabled veteran who has less than a permanent disability must submit an official disability percentage letter each year prior to January 15 showing a fifty percent or greater disability.

5.17.020 Non-Profit Exemption.

- A. Property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes is exempt from taxation under this chapter.
- B. Property or a part of the property exempt under this section but from which rentals or income are derived is not exempt from taxation unless the income derived from the rentals does not exceed the actual cost to the owner of the use by the renter.
- C. If the application is filed within the required time and is approved by the assessor, the assessor shall allow an exemption in accordance with the provisions of this section.
- D. An application for an exemption claimed under this section must include:
 1. Evidence of the applicant's nonprofit status;
 2. A detailed description of the applicant's planned or current use of the property;
 3. Records showing any rental or other income derived from the property and the comparative cost to the owner for such rental or use.
- E. A non-profit exemption claimed under this section may only be granted if the property for which the exemption is sought is in use for the purposes set forth in subsection (A) of this section as of January 1 of the year for which the exemption is claimed.
- F. The city assessor shall require proof in the form they consider necessary of the right to and amount of an exemption claimed under subsections (A) and (B) of this section. The city assessor may require such proof under this subsection at any time to ensure ongoing compliance with the eligibility requirements of subsection (A) and (B). It shall be the responsibility of every person who obtains an exemption under this section to notify the city assessor of any change in use, ownership, or rental income.

5.17.030 Low-Income Housing Exemption.

Interests other than record ownership in real property that has been developed, improved, or acquired with federal funds for low-income housing and is owned or managed as low-income housing by the Alaska Housing Finance Corporation under AS 18.55.100 - 18.55.960 or by a regional housing authority formed under AS 18.55.996 are exempt from city taxes as to the individual residing on the property. However, the corporation may make payments to the City for improvements, services, and facilities furnished by it for the benefit of a housing project, and this subsection does not prohibit the City from receiving those payments or any payments in lieu of taxes authorized under federal law.

5.17.040 Temporary Subdivision Exemption.

The portion of the increase in assessed value directly attributable to the subdivision of a single parcel of property into three or more parcels and any improvements made to the property necessitated by its subdivision is exempt from city taxes. This exemption shall not exceed five years in duration. The exemption is terminated when:

- A. A lot in the subdivision is sold; or

B. A residential or commercial use is established on a lot in the subdivision; or
The exemption continues for the unsold lots in the subdivision after:

- A. A lot in the subdivision is sold; or
- B. A residential or commercial use is established on a lot in the subdivision.

5.17.050 Temporary Landscape Exemption.

- A. There is an exemption from taxation for the increase of assessed value that is directly attributable to landscaping, or new exterior maintenance or repair of an existing structure, and if the landscaping, exterior maintenance or repair, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. An exemption may not be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use in the structure or for landscaping as a consequence of construction activities. An exemption under this subsection continues for three years commencing with the year in which the exemption is approved by the assessor.
- B. An application for exemption under this subsection shall be filed with the assessor no later than March 1 of the year immediately following the year in which the landscaping, or exterior maintenance or repair of an existing structure, that is the subject of the application in whole or in part, may be appealed to the Board of Equalization, as provided in Section 5.15.130 of this chapter.
- C. An exemption granted under this subsection expires at the end of three years and cannot be renewed. The granting of an exemption under this subsection does not affect changes in the assessed value of property that are attributable to causes other than the landscaping or exterior maintenance or repair of an existing structure that is the basis for the exemption. A reappraisal will be required prior to granting of a subsequent exemption.

5.17.060 Economic Development Property Exemption.

- A. The assessed value of property used for economic development, as defined in this chapter, may be exempt from city property taxes or receive a deferral from city property taxes under the conditions listed in this section.
- B. “Property used for economic development” as used in this section, means that part of real or personal property, as determined by the assessor, that is being developed or redeveloped in a manner intended to result in an outcome that causes an increase in, or avoids a decrease of, economic activity, gross domestic product, or the city tax base.
- C. The exemption shall be for up to one hundred percent of the assessed value of the property, for up to five consecutive years at the discretion of the City Council. The City may also defer payment of taxes for up to five years on property used for economic development. Tax payments shall become due as specified by the City at the time the deferral is granted.
- E. An applicant may request a construction deferral under this section if the applicant is in the process of developing or building property used for economic development but has not yet completed construction on such property. In addition to the application required under Chapter 5.16, an applicant seeking a construction deferral must also submit a development plan to be approved by the city assessor. Upon construction of the economic development property satisfactory to the City, the City may change deferral under this subsection into an exemption which shall not exceed the remainder of the five-year period from the date the deferral was approved. If the property to be used for economic development is not

developed or created within the time specified in the application, the City may immediately terminate the deferral and take any other action permitted by law including, but not limited to, collecting all property taxes accrued on the property during the construction deferral, collecting penalties and interest on the taxes owed from the date such taxes would have been due if no deferral had been granted, and attaching a tax lien to the property.

5.17.070 Leased exempt property – Taxes due.

When any real property exempt from taxation is leased, loaned or otherwise made available to or used by a person, such person's interest shall be taxable. Taxes shall be assessed to such person and collected in the same manner as taxes assessed to owners of real property, except that taxes assessed shall be a lien only on the interest of such person in the property. When due, taxes so assessed shall constitute a debt due from such person to the City, and shall be recoverable by an action against such person. This remedy is available as an alternative to or as addition to the remedy of foreclosure of the interest of the person in the property.

5.17.080 Definitions.

In this chapter:

- A. "Disabled veteran" means a disabled person:
 - 1. Separated from the military service of the United States under a condition that is not dishonorable, who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as fifty percent or more by the branch of service in which that person served or by the veterans' administration; or
 - 2. Who served in the Alaska territorial guard, is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska territorial guard, and whose disability has been rated as fifty percent or more;
- B. "Own and occupy" means:
 - 1. Possession of an interest in real property, which interest is recorded in the office of the district recorder, or if unrecorded, is attested by a contract, bill of sale, deed of trust, or other proof in a form satisfactory to the assessor; and
 - 2. Living on that property as one's primary residence;
- C. "Permanent place of abode" means a dwelling in which the person resides at least one hundred eighty-five days in the year prior to the exemption year and when absent, the dwelling is not leased or rented to another. This includes, but is not limited to, a mobile home or condominium and includes lots or outbuildings, or an appropriate portion thereof, which is necessary to convenient use of the dwelling unit;
- D. "Property used for economic development" as used in this section, means that part of real or personal property, as determined by the assessor, that is being developed or redeveloped in a manner intended to result in an outcome that causes an increase in, or avoids a decrease of, economic activity, gross domestic product, or the city tax base.

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- E. “Resident” means an applicant who has a fixed habitation in the state of Alaska for at least one hundred eighty-five days per calendar year, and, when absent, intends to return to the state of Alaska;
 - F. “Senior citizen” means one who is sixty-five years of age or older before January 1 of the exemption year.

Chapter 5.20 BIENNIAL MOTOR VEHICLE REGISTRATION TAX

- A. The City hereby elects the levy of a motor vehicle registration tax under AS 28.10.431, as amended. This election shall become effective as of January 1, 2001.
- B. Motor vehicles subject to registration tax under AS 28.10.431 are exempt from use and ad valorem taxes.

Chapter 5.25 SALES TAX

Sections

- 5.25.010 Purpose and intent.
- 5.25.020 Interpretation and general presumptions of taxability.
- 5.25.030 Definitions.
- 5.25.040 Supplemental definitions.
- 5.25.050 Imposition—Rate.
- 5.25.060 Alaska Uniform Remote Seller Sales Tax Code—adopted.
- 5.25.070 Title to collected sales tax.
- 5.25.080 Maximum tax per transaction.
- 5.25.090 Person-based exemptions.
- 5.25.100 Product-based exemptions.
- 5.25.110. Wholesale/Manufacturer/Resale Exemptions and limitations of exemptions.
- 5.25.120 Rules applicable to particular businesses or occupations.
- 5.25.130 Payment and collection.
- 5.25.140 Sales tax collection-registration requirement.
- 5.25.150 Certificate to be displayed.
- 5.25.160 Certificate nontransferable/nonassignable.
- 5.25.170 Injunction prohibiting operation of business for failure to register/failure to remit returns.
- 5.25.180 Revocation hearing.
- 5.25.190 Limit of liability.
- 5.25.200 Tax receipts.
- 5.25.210 Exemption application and exemption authorization card.
- 5.25.220 Revocation of exemption status.
- 5.25.230 Refunds.
- 5.25.240 Protest of tax by buyer.
- 5.25.250 Refund for construction materials and services.
- 5.25.260 Refund for taxes paid by benevolent or civic organizations.
- 5.25.270 Disposition of proceeds.
- 5.25.280 Tax return—Payment to City.
- 5.25.290 Record keeping and investigation.
- 5.25.300 Estimated tax.
- 5.25.310 Recovery of taxes—Delinquency date.

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- 5.25.320 Lien.
 - 5.25.330 Penalty for violations.
 - 5.25.340 Repayment plans.
 - 5.25.350 Additional regulations enacted when.
 - 5.25.360 Delinquent sales tax roll confidentiality.

5.25.010 Purpose and intent.

It is the purpose of the tax levied under this chapter to raise revenues. To that end, the scope of the tax levied shall be broadly interpreted, and exemptions shall be allowed only when falling clearly within an exemption as defined or incorporated in this chapter.

5.25.020 Interpretation and general presumptions of taxability.

- A. In order to prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person engaging in business are subject to the sales tax and there is levied by the City a sales tax on all retail sales, services, and rentals which commence within the City, or which are in any party rendered, supplied or provided within the City, except as expressly provided otherwise in this chapter.
- B. A sales tax applies to all real property within the City that is either rented or sold. The tax applies to commission rates and fees on the sale or rental of real property, on the rental of real property, and as otherwise limited in this chapter, on the sale of real property. The tax applies regardless of whether the seller, buyer, renter, lessee or tenant resides within or outside the City.
- C. For purposes of this chapter, the sales price or purchase price of property must be determined as of the time of acquisition.
- D. For purposes of this chapter, a sale of services occurs at the time the services are provided.
- E. Remote sales, marketplace facilitators and remote sellers must comply with the provisions of the Remote Sellers Tax Code and all other applicable provisions in this code.
- F. The application of the tax to be collected under this code shall be broadly construed and shall favor inclusion rather than exclusion.
- G. Exemptions from the tax to be collected under this code shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this code.

5.25.030 Definitions.

When used in this chapter, unless expressly defined otherwise for purposes of a specific section, the following words and phrases shall have the meanings set forth in this section:

"Alcoholic beverage" shall have the meaning given in section 6.12.010 of this code.

"Business" means and includes all activities or acts, personal, professional or corporate, engaged in or caused to be engaged in, including but not limited to receipts from advertising services, construction, process or manufacturing and the sale of any goods or services upon which sales tax is required to be paid under CMC 5.40.010. The giving or supplying of services as an employee and the furnishing of property, services, substances or things, by persons who do not hold themselves out as regularly engaging in such transactions, does not constitute business within the meaning of this Chapter.

"Buyer" or "purchaser" means a person to whom a sale of property or product is made or to whom a service is furnished.

"Casual, occasional or isolated sales or services" means a sale made or service provided by a person who is not engaged in a business. Sales or services meeting the Threshold Criteria for taxation under the Remote Sellers Tax Code does not fall within the definition of "casual, occasional or isolated sales or services."

"Cigarette" means a roll for smoking of any size or shape, made wholly or partly of tobacco, whether the tobacco is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco.

"Commission" means the Alaska Remote Sales Tax Commission established by agreement between local government taxing jurisdictions within Alaska.

Commission rate" means the percentage or fixed payment associated with a certain amount of a sale or service. It includes fees paid for services rendered in selling real property and fees charged for finding potential employees for a person.

"Cordova Remote Seller" means a seller or marketplace facilitator making sales of goods or services for delivery within the State of Alaska without having a physical presence in Cordova where Cordova is the jurisdiction in which delivery is being made.

"Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

"Entity-based exemption" or "person-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption or a person-based exemption.

"Finance Director" means the finance director of the City or the designee of the Finance Director, the City Manager or City Council; the designee may be an employee of the City, an accountant or other person who is not an employee of the City, a certified public accounting firm or other type of firm.

"Goods," "fixtures," "investment securities," "general intangibles," "accounts," "chattel paper," "documents," "instruments" and "money" and their singulars have the meanings given the terms by the Alaska Uniform Commercial Code, AS 45.01 *et seq.*, as amended.

"Goods for resale" means:

- A. The sale of goods by a manufacturer, wholesaler or distributor to a retailer or vendor for the purpose of resale by that retailer or vendor.
- B. Sales of personal property as raw material to a person engaged in manufacturing components for sale where the property sold is consumed in the manufacturing

process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

- C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

"Local sale" or "local sales" means a sale or sales by a seller with a physical presence in Cordova where the point of delivery is a location within Cordova.

"Marijuana" shall have the meaning given in section 8.40.020 of this code.

"Marijuana concentrate" shall have the meaning given in section 8.40.020 of this code.

"Marijuana products" shall have the meaning given in section 8.40.020 of this code.

"Marketplace" means a physical or electronic place, platform or forum, including a store, booth, internet website, catalog or dedicated sales software application where productions or services are offered for sale.

"Marketplace facilitator" means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller's property, product or services through a physical or electronic marketplace operated by the person, and engages:

- A. Directly or indirectly, through one or more affiliated persons in any of the following:
1. Transmitting or otherwise communicating the offer or acceptance between the buyer and remote seller;
 2. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;
 3. Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or
 4. Software development or research and development activities related to any of the activities described in Subsection B of this definition, if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and
- B. In any of the following activities with respect to the seller's products:
1. Payment processing services;
 2. Fulfillment or storage services;
 3. Listing products for sale;
 4. Setting prices;
 5. Branding sales as those of the marketplace facilitator;
 6. Order taking;
 7. Advertising or promotion; or
 8. Providing customer service or accepting or assisting with returns or exchanges.

"Marketplace seller" means a person that makes retail sales through any physical or electronic marketplace that is operated by a marketplace facilitator.

“Monthly” means occurring once per calendar month.

“Person” means an individual, partnership, cooperative, association, joint venture, society, corporation, estate trust, business, receiver, or any entity, group or combination of any such persons acting as a unit.

"Physical presence in Cordova" means a seller who establishes any one or more of the following within the boundaries of Cordova:

- A. Has any office, distribution or sales house, warehouse, storefront or any other place of business within the boundaries of Cordova;
- B. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of Cordova or engages in activities in Cordova that are significantly associated with the seller's ability to establish or maintain a market for products in Cordova;
- C. Provides services or holds inventory within the boundaries of Cordova; and/or
- D. Rents or leases property located within the boundaries of Cordova.

A seller that establishes a physical presence in Cordova in any calendar year will be deemed to have a physical presence within Cordova for the following calendar year.

"Point of delivery" means the location at which property or product is delivered or service rendered.

- A. When the product is not received or paid for by the purchaser at a business location of a remote seller in Cordova, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller.
- B. When the product is received or paid for by a purchaser who is physically present at a business location of a Remote Seller in Cordova, the sale is considered to have been made in Cordova if the purchaser is present in Cordova, even if delivery of the product takes place in another member jurisdiction of the Commission as that term is defined in the Remote Sellers Tax Code. Such sales are reported and tax remitted directly to the City.
- C. When a service is not received by the purchaser at a business location of a remote seller, the service is considered delivered to the location where the purchaser receives the service.
- D. For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.

“Product-based exemptions” means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

“Professional services” means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment, and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations that require a professional license under Alaska Statute.

"Property" and "product" and "good" mean both tangible and intangible property. "Tangible" property is an item that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. "Intangible" property is anything that is not physical in nature (i.e.: intellectual property, brand recognition, goodwill, trade, copyright and patents).

"Receive or receipt" means:

- A. Taking possession of property;
- B. Making first use of services; or
- C. Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include temporary possession by a shipping company on behalf of the purchaser.

"Remote sales" means sales of goods or services by a remote seller or marketplace facilitator.

"Remote seller" means a seller or marketplace facilitator making sales of goods or services for delivery within the State of Alaska but without having a physical presence in the member jurisdiction of the Commission in which delivery is being made.

"Resale of services" means sales of intermediate services to a business where the charge for which will be passed directly by that business to a specific buyer.

"Rental" means any transfer of the right to use or occupy property for consideration.

"Sale" or "retail sale" means any transfer of property or product or any provision of service(s) for consideration for any purpose other than for resale.

"Sales price" or "purchase price" means the total amount of consideration, including cash, credit, property, products, and services, for which property, products, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property or product sold;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges; and
- F. Credit for any trade-in, as determined by State law.

"Seller" means a person making sales of property, products or services or a marketplace facilitator facilitating sales on behalf of a seller, excluding services rendered by employees for their employer, but including services for remuneration for which an Alaska Business License and/or City business license is required.

"Services" means all services of every manner and description, which are performed or furnished for compensation, and delivered in-person, electronically or otherwise within the boundaries of Cordova, including but not limited to:

- A. Professional services;
- B. Services in which a sale of property or product may be involved, including property or products made to order;
- C. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;
- D. The sale of transportation services;
- E. Services rendered for compensation by any person who furnishes any such services in the course of his or her trade, business, or occupation;
- F. Advertising, maintenance, recreation, amusement, and craftsman services

"Special annual public events" means those events which are annually scheduled and open to the public, such as the Shorebird Festival and the Bidarki Christmas Bazaar.

"Tobacco product" means:

- A. A cigar;
- B. A cheroot;
- C. A stogie;
- D. A perique;
- E. Snuff and snuff flour;
- F. Smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette;
- G. Chewing tobacco, including cavendish, twist, plug, scrap, and tobacco suitable for chewing; or
- H. An article or product made of tobacco or a tobacco substitute, but not including a cigarette as defined in Section 5.25.030(M) of this code.

"Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

"Transient lodging services" or "public accommodation services" means providing, for consideration, members of the public with temporary or transient sleeping accommodations and related services for a period of less than thirty consecutive days in any facility, including hotels, motels, lodges, tourist homes, houses or courts, lodging houses, resorts, campgrounds, inns, rooming houses, boarding houses, bunkhouses, bed and breakfasts, trailer houses or motels, apartment hotels, and any other facility in which rooms, beds or sleeping facilities or space are furnished for consideration.

"Remote Sellers Tax Code" means the Alaska Uniform Remote Sellers Sales Tax Code as adopted and amended by The Alaska Remote Seller Sales Tax Commission.

“Resale” means to sell again and is limited to items which are resold per se or are physically present in a final product which is sold and is subject to tax at the time of final sale. The item must be easily and readily identifiable in the final product.

5.25.040 Supplemental definitions.

Supplemental definitions in the Remote Sellers Tax Code shall apply to this chapter so long as they are not in conflict with or contrary to the definitions set forth in this chapter.

5.25.050 Imposition—Rate.

- A. To the fullest extent permitted by law, a sales tax is hereby levied and assessed on all retail sales and services, including rentals, within the City unless specifically exempted from taxation under this chapter.
- B. The tax rate added to the sale price shall be:
 - 1. 12 percent on transient lodging;
 - 2. 12 percent on motor vehicle rentals, excluding watercraft;
 - 3. 12 percent on sales of marijuana, marijuana concentrates, and marijuana products;
 - 4. 12 percent on sales of cigarettes and other tobacco products;
 - 5. 12 percent on sales of alcoholic beverages
 - 6. Six percent for all other local and remote sales and services equal to or more than .20 cents.
- C. The applicable tax rate shall be added to the sales price.
- D. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with any applicable tax cap applied, at the time of the original sale or the date the service is rendered as provided in this chapter.
- E. When a sales transaction involves placement of a single order with multiple deliveries made at different points in time that are separately invoiced, the applicable sales tax shall be collected on each separately invoiced delivery, calculated at the sales tax rate in effect, and any applicable tax cap applied, at the time of the original sale or the date the service is rendered.

5.25.060 Alaska Uniform Remote Seller Sales Tax Code—adopted.

- A. The City adopts the Alaska Uniform Remote Seller Sales Tax Code of the Alaska Remote Seller Sales Tax Commission and any future amendments to that code. The Alaska Uniform Remote Seller Sales Tax Code may be referred to as the “Remote Sellers Tax Code” throughout this title.
- B. In the event of conflict between the provisions of this chapter and the Remote Sellers Tax Code, the provisions of this chapter shall govern unless otherwise required by law.
- C. Provisions of this chapter shall be interpreted to be consistent with provisions in the Remote Sellers Tax Code.

5.25.070 Title to collected sales tax.

Notwithstanding provisions regarding title in the Remote Sellers Tax Code, upon collection by the seller, title to sales tax vests in the City. The seller holds collected sales tax in trust for the City

and is accountable to the City for that tax. Upon collection by the remote seller or marketplace facilitator, title to collected City sales tax vests in the Commission in trust for the City.

5.25.080 Maximum tax per transaction.

- A. *Maximum Tax on a Single Sale of Goods.* Except as otherwise provided in this section, only the first \$3,000.00 of the sales price of each transaction shall be subject to sales tax.
- B. Except as otherwise provided in this section, a single transaction for sales or services performed over more than one month or paid for over a period that exceeds one month shall be allocated pro rata to each one-month period of the transaction and the first \$3,000.00 of the price allocated to each such period shall be subject to City sales tax.
- C. *Rentals rendered over multiple months.* Except as otherwise provided in this chapter, the payment of rent, whether for real or personal property, in excess of \$3,000.00 that is for more than one month shall be treated as a separate transaction each month with the first \$3,000.00 of a transaction in each month subject to taxation until the end of the rental term.
- D. *Construction materials maximum tax.* A purchaser who obtains a building permit before the start of work on a construction project may obtain a refund of all sales tax paid on the sales of construction materials and services exceeding \$3,000.00 used for that project in each 12-month period. In order to qualify for a refund of sales tax paid in excess of \$3,000.00 under this subsection, the purchaser must properly file a refund application under Section 5.25.250 of this code.

5.25.090 Person-based exemptions.

Sales and services by the following persons are exempt from the tax levied under this chapter only in accordance with the exemptions, and limitations on such exemptions, provided for in this chapter:

- A. *Credit unions.* Sales to or by federally chartered credit unions or credit unions organized under AS 06.45 are exempt.
- B. *The U.S. Postal Service.* Sales by the U.S. postal service are exempt.
- C. *Governments.* Gross receipts or proceeds derived from sales to the United States Government, the State, a political subdivision of the State or any political department of the United States Government, the State or a political subdivision of the State are exempt. This exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering services for sale to such government units or agencies on a contract bid award, in which event the contractor shall be deemed the buyer and subject to the payment of the tax.
 - 1. A sale or rental to an employee of the State, its political subdivisions, or the federal government is exempt only when the government employee provides proof that the sale is for government business by paying for the sale with a government voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for government business exempt under this subsection.
- D. *Federally Recognized Tribal Entities.* A sale or rental by or to a federally recognized tribe, but only when the tribal employee provides proof that the sale is for tribal government business and pays for the sale with a tribal voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for tribal government business.

5.25.100 Product-based exemptions.

The following sales and services are exempt from the tax levied under this chapter only in accordance with the exemptions, and limitations on such exemptions, provided for in this chapter:

- A. *Casual and isolated sales, services or rentals.* Proceeds from casual, occasional or isolated sales which are easily identified as the sale of tangible personal property or goods at such functions as moving, garage, yard, food and bake sales, markets or fairs, the sale of private vehicles when the seller is not a dealer in used vehicles or services such as babysitting or house-sitting provided the seller does not regularly engage in the business of selling such goods or services or rentals are exempt, except that:
1. The sale of goods and services occurring for more than 10 days in a calendar year are not exempt;
 2. Sale of goods and services made through a dealer, broker, agent or consignee are not exempt;
 3. The rental of personal tangible property for more than 60 days in a calendar year, whether or not those days are consecutive, is not exempt;
 4. Sales or rentals made pursuant to a business license or by sellers representing themselves to be in the business of making sales, rentals or services are not exempt; and
 5. The rental of real estate is not exempt.
- B. *Banking.* The following fees, sales and services charged by banks, savings and loan associations, credit unions, and investment banks are exempt:
1. Fees for the sale, exchange or transfer of currency, stocks, bonds, and other securities;
 2. The principal amount of loans, the interest charged for loaning money, escrow collection services, and any fees associated with the loaning of money
 3. Services associated with the sale, exchange or transfer of currency, stocks, bonds, and other securities;
 4. Pass-through charges on loan transactions which includes sales tax; and
 5. Sale of insurance policies, bonds of guaranty and fidelity and the commission on these sales (AS 21.09.210(f); 21.79.130, 21.80.130).
- C. *Transportation.*
1. *Commercial flights.* The sale of passenger seat tickets by a commercial airline is exempt
 2. *Charters.* Proceeds from air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation is exempt but the portions of a sale that are charges for recreational flightseeing or air/water/shore excursion travel or adventure services are not exempt, unless otherwise exempted by AS 29.45.820.
 3. *Vehicles for hire.* The lease or rental of vehicles is not exempt.
- D. *Interstate commerce, wharfage, and shipping.*

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1. *Fish Shipments.* Gross receipts or proceeds derived from servicing, freezing, storing, handling or wharfing of fisheries commodities awaiting shipment or in the process of being shipped;
 2. *Shipping.* Gross receipts or proceeds from the transportation (including freight and shipping charges), loading, unloading or storing of cargo from marine vessels or aircraft in foreign, interstate or intrastate commerce.
- E. *Charitable and Public assistance.*
1. *Nonprofit organizations.* A sale of goods or services to any nonprofit entity that, at the time of sale, can produce a sales tax exemption card and that has a duly authorized federal tax-exempt status pursuant to IRS Regulations, Section 501(c)(3), (4) or (19) is exempt; provided, that any income from the exempt sale is also exempt from federal taxation.
 2. *Public Assistance.* Purchases made with food coupons, food stamps, or other type of certificate issued under 7 USC Sections 2011 through 2025 (“Food Stamp Act”) or other certificates issued under 42 USC Section 1786 (“Special Supplemental Food Program for Women, Infants and Children”) are exempt.
 3. *Home heating oil.* Home heating oil purchased for use in a dwelling, as defined in this code is exempt so long as at least 50 percent of the floorspace of the dwellings is used as a residence and not for commercial or business activities.
- F. *Medical care.*
1. *Medical professional services.* Professional services of a person in the field of medicine, integrated medicine or the healing arts and sciences, including therapy, counseling, surgery, veterinary care, dentistry, optometry, and chiropractic care are exempt.
 2. *Assisted living.* Assisted living services provided in accordance with an assisted living plan and in an assisted living home licensed by the State are exempt.
 2. *Medical equipment.* Fees for supplies, equipment, and services provided by a hospital, medical clinic, assisted living facility or dental clinic for patient treatment including laboratory and x-ray services are exempt.
 3. *Prescription drugs.* Gross receipts or proceeds of the retail sale of prescription drugs are exempt.
 4. *Medical Facility Meals.* Sales of food at hospital cafeterias and lunchrooms which are operated primarily for staff and patients and which are not operated for the purpose of sale to the general public for profit;
- G. *Cemetery goods and services.* Sale of cemetery plots, caskets, funeral and burial related items and the services by a funeral home.
- H. *Dues.* Dues or fees to clubs, labor unions or fraternal organizations.
- I. *School.*
1. *Student Activities.* Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations;

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2. *Student sales.* Sales by any student organization, parent/teacher organization or booster club recognized by the school or educational organization in which it operates, which proceeds are utilized to further the purposes for which the organization was formed;
 3. *School Sales and services.* Sales and services by schools or other educational organizations made in the course of their regular functions and activities, which proceeds are utilized to further the purposes for which such organization was formed;
 4. *School cafeteria sales.* Sales of food at an educational facility provided primarily for staff and/or students, and which is not operated for the purpose of sale to the general public for profit.
 5. *Daycare facilities.* Proceeds from contract services provided by a state-licensed child care contractor or from contract services provided by a person for the purpose of taking temporary care of minors for another person.
- J. *Compliance with State and Federal Laws-generally.* Gross receipts or proceeds derived from sales or services which the City is prohibited from taxing under the laws of the State or under the laws and the Constitution of the United States are exempt.

5.25.110. Wholesale/Manufacturer/Resale Exemptions and limitations of exemptions.

- A. The following transactions are exempt from sales tax so long as the buyer presents to the seller at the time of the sale transaction a valid exemption card issued under Section 5.25.210 of this code and meets the requirements of this section:
1. *Wholesale/Resale.* Sales to a person designated by the State as a wholesaler. This includes the sale of goods to a retail dealer, manufacturer or contractor for resale within the City “as is” or incorporated into a product or commodity to be sold by them if the resale is subject to City sales tax. The retail dealer, manufacturer or contractor reselling the goods must hold itself out as regularly engaged in the business of selling that product or commodity for resale, stock that product or commodity, and display it to the public.
 2. *Manufacturer.* Sales of raw material to a manufacturer located or making sales inside the City and registered with a City business license, which raw material becomes an ingredient or component part of a manufactured product or a container thereof, or is consumed in the manufacturing process.
- B. Food products that are purchased for resale must be purchased and sold “as is” or prepared in a kitchen that is DEC-certified in order to qualify for a sales tax exemption under this section. Proof of certification must be available upon request.
- C. *Construction resale.* Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment or services by a licensed contractor under AS 8.18 to an owner of real property for use in the original construction of, or renovations to, improvements to real property located inside the City are exempt under this section. This exemption does not apply to sales of tangible personal property or rentals of equipment that are used in repairing or maintaining real property. Services that are provided by a subcontractor to a contractor for a third party is considered services for resale and is exempt from taxation.

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- D. Goods, wares or merchandise that can be purchased only as part of a package purchase of services, such as a bed-and-breakfast or a fishing or hunting charter and not by the general public as separate and individual items are not exempt under this chapter.

5.25.120 Rules applicable to particular businesses or occupations.

- A. *Commission rates and fees.*
1. Commission rates and fees on sales of real property located in the City are subject to sales tax, regardless of the location of the person to whom the commission is payable.
 2. Commission rates and fees received as a result of professional services performed within the City are subject to sales tax regardless of the location of the person to whom the commission rate or fee is payable when the subject of the services occurred within the City.
- B. *Coin-operated machines.* An amount equal to the gross receipts from each coin-operated machine that the seller operates in the City shall be subject to sales tax.

5.25.130 Payment and collection.

Taxes imposed by this chapter shall be due and paid by the buyer to the seller at the time of sale or service, or with respect to credit transactions, at the time of collection. It shall be the duty of each seller making sales taxable under this chapter to collect the taxes imposed by this chapter from the buyer at the time of each sale, or with respect to a credit transaction, at the time of collection of sales, and to hold those taxes in trust for the City. Failure by the seller to collect the tax shall not affect the seller's responsibility for payment of the tax to the City.

5.25.140 Sales tax collection-registration requirement.

- A. No person may engage in any taxable transactions within the City without first procuring a sales tax collection certificate from the City.
- B. A new business shall apply for a sales tax collection certificate concurrently with the new business license application that must be obtained before commencing business.
- C. Sales tax collection certificates shall expire at the same time as the establishment's business license and must be renewed concurrently.
- D. A person shall file an application for a sales tax collection certificate with the Finance Department before conducting business within the City or within 30 days of adoption of this section. The complete business license and sales tax certificate application shall be returned to the City Finance Department along with a copy of the business entity's Alaska State business license and City business license. The sales tax collection certificate will not be issued until all of these requirements have been met.
- E. Each business entity shall have a sales tax certificate under the advertised name and each separate business shall be registered under its own account.
- F. No sales tax collection certificate shall be issued to or renewed for:
1. A person who does not meet the licensing requirements set out in Chapter 6.05 of this code; or
 2. A person who has failed to pay any necessary fees due to the City; or
 3. A person owing a judgment, delinquent taxes or a utility bill to the City, unless the person is in a satisfactory repayment plan.

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- G. Where the application or City records indicate that applicant is currently in violation of filing and/or remittance requirements of the City's sales tax provisions, the Finance Director may deny the application for a sales tax certificate until the applicant enters into binding agreement setting out a method by which full compliance will be attained.
 - H. The sales tax collection certificate of any seller will be suspended when such seller fails to pay delinquent taxes, penalties and interest within 30 days after notice of delinquency is given or mailed provided such seller shall be afforded due process before the certificate suspension.

5.25.150 Certificate to be displayed.

- A. Upon receipt of a properly executed application, the Finance Director shall issue to the seller a sales tax certificate authorizing the seller to collect City sales tax. The certificate shall state the name of the business as well the address of the place of business to which it is applicable, and shall authorize the seller to collect the tax.
- B. The certificate must be prominently displayed at the place of business named in the certificate. A seller who has no regular place of business shall attach such certificate to their stand, truck or other merchandising device.
- C. Upon notification, the Finance Director shall issue a duplicate sales tax collection certificate to any seller whose certificate has been lost or destroyed.

5.25.160 Certificate nontransferable/nonassignable.

The sales tax collection certificate is non-assignable and non-transferable and must be surrendered to the Finance Director by the seller to whom it was issued upon its ceasing to do business at the location named in the certificate or upon its revocation or suspension. If there is a change in the form of organization such as from a single proprietorship to a partnership or a corporation, the seller making such change shall surrender the old certificate to the Finance Director for cancellation. The successor seller is required to file a new application for a sales tax certificate. Upon receipt of such application, properly executed, as provided in this chapter, a new certificate may issue to such successor seller.

5.25.170 Injunction prohibiting operation of business for failure to register/failure to remit returns.

- A. A proceeding requesting the issuance of an injunction prohibiting a business from continuing to conduct business within the City may be filed by the City in the Superior Court 15 days after providing notice either by hand delivery or by regular mail to any business which has failed to file a sales tax return or has failed to pay the sales taxes due even if a sales tax return has been filed.
- B. A proceeding requesting the issuance of an injunction prohibiting a business from continuing to conduct business within the City may be filed by the City in the Superior Court fifteen 15 days after providing notice either by hand delivery or by regular mail to any business which has failed to file a sales tax return or filed a sales tax return without remitting the payment due.

5.25.180 Revocation hearing.

- A. A hearing shall be conducted before a hearing officer within 15 calendar days of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing.
- B. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence.
- C. The person demanding the hearing shall carry the burden of establishing that such person has the right to represent the business (is an owner, agent or attorney hired for the proceeding).
- D. The Finance Director shall carry the burden by clear and convincing evidence.
- E. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision and the reasons for that decision shall be provided to the person demanding the hearing and the owner of the business if such owner is not the person requesting the hearing.
- F. The hearing officer's decision in no way affects any civil proceeding in connection with the matter in question and any civil charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final.
- G. Failure of the owner, operator, master, or managing agent to request or attend a scheduled hearing shall be deemed a waiver of the right to such hearing.

5.25.190 Limit of liability.

- A. Questions regarding the applicability of this code, its interpretation, forms or any other matter relating to sales taxes shall be submitted in writing to the finance director or an appointed designee. Oral statements are not binding on the City. Only written interpretations, properly requested, may be relied upon. The authority granted to the Finance Director shall not create an obligation or duty requiring the Finance Director to take any action to protect or notify any seller or buyer within the City regarding their tax rights. The City assumes no liability for loss or damage caused by individual interpretation and application of this code or forms related to it. Sellers are encouraged to work with their accountants and/or attorneys.
- B. *Electronic Transactions.* To the extent that the City sends and accepts electronic records and electronic signatures, those electronic records and electronic signatures are governed by the Uniform Electronic Transactions Act, AS 09.080.010 et seq.

5.25.200 Tax receipts.

- A. The following types of businesses shall provide a cash register receipt for all sales transactions, including those that are wholly exempt from taxes:
 - 1. *Retail Sellers.* To include, but not be limited to, supermarkets, sellers of fuel, boutiques, stores;
 - 2. Restaurant/eating establishments;
 - 3. Movie theaters;
 - 4. Coffee stands.
- B. The following types of businesses shall provide either a receipt or an invoice for all sales transactions, including those that are wholly exempt from taxes:
 - 1. Construction;
 - 2. *Trades.* For example, plumbing, electrical, carpet installation, etc.;

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3. *Professional Services*. For example, accounting, tax preparation, veterinary care;
 4. *Transient lodging*.

C. *Receipt Exceptions*. The following types of businesses are exempt from the receipt/invoice requirements as outlined below:

1. *Lessors*. When a valid rental agreement exists covering the period for which the rent amount was received;
2. *Vending machine sales*;
3. *Insurance sales*;
4. *Legal Services*. When such services are performed under a contract or other agreement for services;
5. *Vehicles for Hire*. Provided registration and licensing are up to date with the City.

D. Each receipt or invoice shall:

1. Be dated; and
2. Be sequentially prenumbered, but may be sequentially machine-numbered if the number printed on the receipt or invoice is machine-generated; and
3. Show the quantity, description and price of the goods sold, services rendered or sold or rentals made; and
4. Show the amount of the sales tax on the sale.

E. The seller shall, whenever feasible, separately state the tax to the buyer on each taxable transaction. When not feasible to state separately, the seller shall prominently display a sign indicating the imposition of the tax.

F. *Exempt Sales*. If any part of the sale is exempt, it must be shown on the sales receipt. Exempt sales can only be made upon showing of a valid exemption card or certificate. For each such sale, the seller shall:

1. Record the date of the sale; and
2. Record the exempt card/certificate number presented (when applicable); and
3. Record the expiration date for the exempt card/certificate presented (when applicable); and
4. Record the name of the person making the exempt sale; and
5. Record the name of the entity/business claiming the exemption; and
6. Record the receipt number for the sale.

5.25.210 Exemption application and exemption authorization card.

Any person claiming an exemption under this chapter shall apply to the City for an exemption authorization card within one month of operating or conducting business or sales or performing services within the City in the first year in which sales are made, and thereafter shall apply by December 15th of each year for the following calendar year. Numbered exemption authorization cards will be issued by the City. The exemption authorization card must be shown to all sellers or the number must be recorded on a list provided by the City for all sales and must be recorded at the time of sale by the seller. The exemption is valid only for those items that are purchased for resale as described under Section 5.25.110 or are purchased by agencies and organizations that are exempted by City, state or federal law. Any person that believes an attempt to purchase unauthorized items as tax exempt is being made at his place of business may refuse to accept the exemption card.

5.25.220 Revocation of exemption status.

- A. The City Manager may revoke any exemption authorization, card or other authority to obtain an exemption if the person holding the exemption has been found to have used the exemption authorization card to obtain an exemption to which the holder or any other person is not entitled. The burden of proving an exemption shall be on the person claiming an exemption.
- B. Upon a determination by the City Manager that an exemption holder has misused or permitted another to misuse the sales tax exemption authorization issued to the holder, the City Manager may revoke the sales tax exemption authorization of such person by sending written notice via certified mail to the exemption holder. Before such action, the City Manager shall send written notice via certified mail to the exemption holder advising the holder of the violation and that the holder has the right to request a meeting with the City Manager to discuss and resolve the issue without revocation of the sales tax exemption authorization. Should the holder not respond within five business days of receipt of the certified letter, the City Manager may revoke the sales tax exemption authorization of the holder.
- C. The revocation shall be permanent unless the City Manager provides for a shorter period in the revocation order.
- D. The order and period of revocation may be appealed to City Council if an appeal is filed in writing with the City Clerk within 10 days of the receipt of the written order. The decision of the City Manager is final and may be appealed only to the city council.

5.25.230 Refunds.

- A. A claim for refund of payment of sales tax or a protest of assessment of sales tax which is made more than six months from the date on which the tax was paid or became due and payable is forever barred, except for a refund for construction materials and services as set forth in this chapter and a refund for taxes paid by a benevolent and civic organization as set forth in Section 5.25.260 of this code.
- B. A claim for refund of payment or a protest of assessment shall be made by filing with the City Manager a statement of claim, specifying the date the tax was imposed, the amount of protest or refund claimed and the basis upon which the protest or claim for refund is made. The City Manager shall respond in writing within 30 days. If the City Manager does not respond within 30 days, the claim of refund or protest shall be deemed to be approved. The decision of the City Manager shall be the final decision of the city.
- C. Any appeal of the city's decision must be filed in the superior court for the state of Alaska in Cordova within 30 days of the final decision of the City Manager in accordance with the Alaska Rules of Appellate Procedure. Failure to file an appeal within the time period waives any claims to a sales tax refund.

5.25.240 Protest of tax by buyer.

- A. If a seller adds the tax levied under this chapter to the selling price, service charge or rent in a transaction that the buyer believes is exempt from taxation under this chapter, the buyer may remit the tax to the seller with a statement that the tax is paid under protest, and requesting that the seller mark any receipt, invoice or other evidence of the sale to indicate that the tax is paid under protest. A buyer who fails to remit the tax at the time of the sale with a statement that the tax is paid under protest waives the right to protest the tax or

otherwise to challenge the imposition of the tax. The seller shall include with the seller's sales tax return for the tax reporting period in which the protested tax was paid a copy of the receipt, invoice or other evidence of the sale marked to reflect the payment of the tax under protest. The seller shall pay the protested tax to the City with any other sales tax that is due for the reporting period.

- B. A buyer who has remitted sales tax under protest in accordance with subsection A of this section shall file with the Finance Director a statement of protest on a form provided by the Finance Director accompanied by a copy of the receipt or invoice for the sale within ten days after the date of the sale. The buyer shall state on the form the terms of the sale, the amount of the sale, the goods, rental or services purchased, the location from which the seller fulfilled the order, and all other information necessary to support the exemption of the transaction from taxation. A buyer who fails to make a timely filing of a completed statement of protest waives the right to protest the tax or otherwise to challenge the imposition of the tax.
- C. A buyer who files a statement of protest under subsection B of this section bears the burden of proving that a transaction is exempt from taxation. In addition, the Finance Director or designee may investigate the facts related to the claim of exemption, and seek the advice of the city attorney on the claim. The finance director or designee shall issue a written decision within thirty days after the filing, stating the reasons for granting or denying the protest. The ruling will be mailed to the buyer and the seller at the addresses given on the protest.
- D. If a protest is granted, the City shall refund the protested tax amount to the buyer upon receipt of protested tax from the seller.
- E. If a protest is denied, the buyer may appeal the denial by filing an appeal to the City Manager, and providing a copy of the appeal to the Finance Director, within 20 days after the date of mailing of the notice of denial. The decision of the City Manager shall be the final decision of the City on the protest.

5.25.250 Refund for construction materials and services.

- A. A purchaser seeking a refund for construction materials and services shall file a complete construction materials tax refund application with the City Clerk no later than February 1st after completion of the construction project for which the purchases were made or, if the project is not yet complete, completion of the 12-month period for which refund is sought. The application must include:
 - 1. A copy of the building permit
 - 2. Proof of sales tax paid on at least \$3,000 of purchases for the project
 - 3. Itemized receipts showing sales tax paid for all purchases of construction materials and services for which the purchaser is seeking a refund
 - 4. If the project is not completed within a 12-month period, an affidavit from the purchaser stating that the work on the same project is continuing in order to obtain a refund for the next 12-month period.
- B. Once an application is filed, the City will notify the applicant that it has received the application and indicate whether or not it is complete. If it is not complete, the City will notify the applicant of the missing information. If incomplete, the applicant will have 30 days to update the application. Incomplete applications that are not corrected within 30 days from the date of notification will be rejected.

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- D. The Finance Director or the municipal assessor may require review the project before a decision is issued on the application. Once an application has been deemed complete, the City Manager shall review the application and issue a written decision granting or denying it. If denied, the written decision must include the reasons for denial.
 - E. Any appeal of the City's decision regarding the application must be filed in the Superior Court of the State of Alaska in Cordova within 30 days of the date the written decision is issued. Failure to file an appeal within the time period waives any claims to a sales tax refund.
 - F. The total time period for sales tax refunds on any one project cannot exceed four years.

5.25.260 Refund for taxes paid by benevolent or civic organizations.

A benevolent or civic organization seeking a refund for taxes paid on sales and services shall submit to the City Manager or his designee, no later than February 1st of each year, a completed sales tax refund form for the previous year. The organization shall attach a copy of the receipts for all purchases of sales and services within the City for the taxes for which the organization seeks a refund and proof that the proceeds were donated to charity.

5.25.270 Disposition of proceeds.

- A. The revenue received by the city under this chapter shall be first applied by the Finance Director in accordance with the provisions of any outstanding bond or other evidence of indebtedness secured by a pledge of such revenue and consistent with the ordinances creating the same.
- B. Sales tax revenue received by the City which is not obligated as security for the payment of bonded indebtedness of the city shall be deposited in the general fund of the city.

5.25.280 Tax return—Payment to City.

- A. On or before the last day of the month succeeding the end of each quarter year ending March 31st, June 30th, September 30th and December 31st every seller who has made any retail sales and every person who has performed any services during the preceding quarter shall complete and deliver to the City a sales tax return for that preceding quarter upon forms to be provided by the City Manager, setting forth the amount of all gross sales and services, the amount of such sales and services claimed exempt, the amount of sales tax credits accruing as a result of uncollectible accounts receivable and the amount of all taxable sales and services for such preceding quarter, and the amount of the tax thereon and such other information as may be required, and shall sign and transmit the same to the Finance Director. Every person holding a City business license must file a sales tax return form even if there is no reported gross revenue for that period of time. The preparer of the sales tax return form shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases, and to produce the documentation if requested. Documentation will include for exempted sales the number of the City exemption authorization card presented by the buyer at the time of the purchase. Failure to provide such documentation will invalidate only that portion of the claim of exemption for which no documentation is provided.
- B. The seller shall sign and transmit the same to the city manager or his designee. The amount of tax due shall be paid by the seller to the city manager or his designee at the time of transmitting the return.

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- C. The City Manager may require that a seller or any person performing services make out a return on a monthly basis and file the return on the last day of each calendar month if the seller has been in business for less than 12 consecutive calendar months, or if a seller has been late in filing sales tax returns or transmitting sales taxes collected two or more times within the preceding two-year period.

5.25.290 Record keeping and investigation.

- A. It shall be the duty of every seller engaged or continuing in business in the City to keep and preserve suitable records of all sales made, and such other books or accounts as may be necessary to determine the amount of tax for collection of which the seller is liable herein, including records of the gross daily sales, together with invoices of purchases and sales, bills of lading, bills of sale or other pertinent records and documents as will substantiate and prove the accuracy of a tax return. In the event the seller allows an exemption pursuant to Sections 5.25-080—5.25.090, the seller shall reserve a copy of the bill of sale therefor. It shall be the duty of every such seller to keep and preserve for a period of three years from the date of filing any return, all such books, invoices and other records as may be necessary, all of which shall be subject to examination by the city treasurer or any authorized employee or agent thereof who is engaged in checking or auditing the records of any seller required to make a return under the provisions of this chapter.
- B. For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax collected or which should have been collected, the Finance Director, or the Finance Director's duly authorized agent, may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records or memoranda of any seller, or may require the attendance of any seller, or officer or employee of seller. The city council shall have the power to issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda.

5.25.300 Estimated tax.

- A. In the event the City is unable to ascertain taxes due under this Chapter due to the failure of the seller to keep accurate books, allow inspection or file a return, the City may make an estimate of the tax due based on any evidence in its possession.
- B. Sales taxes may also be estimated, based on any information available, whenever the City has reasonable cause to believe that any information on a sales tax return is not accurate.
- C. A seller's tax liability under this chapter may be determined and assessed for a period of three years after the date the return was filed or due to be filed with the City. No civil action for the collection of such tax may be commenced after the expiration of the three-year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the three-year period, unless the seller waives the protection of this section.
- D. The City shall notify the seller, in writing, that the City has estimated the amount of sales tax that is due from the seller. The City shall serve the notice on the seller by delivering the notice to the seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address. A seller who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

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- E. The City's estimate of the amount of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within 30 calendar days after service of notice of the estimated tax:
 - 1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs, and other charges due; or
 - 2. Files a written notice with the City appealing the estimated tax amount.
 - F. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment issued by the City are:
 - 1. The identity of the seller is in error;
 - 2. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or
 - 3. The seller disputes the denial of exemption(s) for certain sales.
 - G. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of 50 dollars for each calendar month or partial month for which the amount of sales tax that is due has been determined.

5.25.310 Recovery of taxes—Delinquency date.

- A. Taxes due but not paid may be recovered by the city by an action at law against the buyer. Taxes collected by the seller but not transmitted to the city or which should have been collected by the seller but were not may be recovered by an action at law against the seller, and sales tax returns shall be prima facie proof of tax collected but not transmitted.
- B. Taxes shall be considered delinquent if not received by the City Manager or his designee by the due date for transmission of the seller's tax return for each quarter as required by Section 5.25.280 of this code.

5.25.320 Lien.

The tax, penalty and interest, as imposed by this chapter, together with all administrative and legal costs incurred, shall constitute a lien in favor of the city upon all the seller's real and personal property. The lien arises upon delinquency, and continues until the liability for the amount is satisfied, or the property is sold at a foreclosure sale. The lien has priority as allowed by AS 29.45.650(e).

5.25.330 Penalty for violations.

- A. Late filing penalty. A seller who has made sales in the City, and who thereafter fails to file a sales tax return, as required by this Chapter, shall incur a civil penalty of 25 dollars for each month, or fraction thereof, that the return is late. Fees under this subsection shall not exceed one hundred dollars per return.
- B. Late payment penalty. A seller who has collected taxes and who thereafter fails to transmit the collected taxes, as required by this chapter, shall incur a civil penalty of five percent of the taxes for each month of delinquency, or any fraction thereof, from the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed a total of 20 percent of the amount of the taxes due to be transmitted.

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- C. Interest on delinquent taxes. In addition to the amount of civil penalty as provided for violation of each Subsection in this Chapter, interest shall accrue at the rate of 15 percent per year on the unpaid tax from the date of delinquency until paid for sellers, and from the date of sale for buyers.
 - D. Fees, penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to fees, penalties, and interest, second to past due sales tax.
 - E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing of no return.
 - F. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the City Manager upon written application of the taxpayer accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed to the city, within 45 calendar days after the date of delinquency.
 - G. A buyer who purchased items as exempted purchases and who thereafter is found to have used the exemption card fraudulently shall incur a civil penalty of 100 percent of the taxes not paid in addition to payment of the unpaid taxes. Further, the exemption card shall be permanently revoked.

5.25.340 Repayment plans.

- A. The City may agree to enter into a repayment plan with a delinquent seller. No repayment plan shall be valid unless agreed to by both parties in writing.
- B. A seller shall not be eligible to enter into a repayment plan with the City if the seller has defaulted on a repayment plan in the previous two calendar years.
- C. The repayment plan shall include a secured promissory note that substantially complies with the following terms:
 - 1. The seller agrees to pay a minimum of ten percent down payment on the tax, interest and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.
 - 2. The seller agrees to pay the balance of the tax, penalty, and interest owed in monthly installments over a period not to exceed two years.
 - 3. Interest at a rate of 15 percent per year shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.
 - 4. If the seller is a corporation or a limited liability entity, the seller agrees to provide a personal guarantee of the obligations under the repayment plan.
 - 5. The seller agrees to pay all future tax bills in accordance with the provisions of this Chapter.
 - 6. The seller agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the city at the time the repayment plan is signed. The seller shall be responsible for the cost of recording the tax lien.
- D. If a seller fails to pay two or more payments in accordance with the terms of the repayment plan agreement, the seller shall be in default and the entire amount owed at the time of default shall become immediately due. The City will send the seller a notice of default. The City may immediately foreclose on the sales tax lien or take any other remedy available under the law.

5.25.350 Additional regulations enacted when.

Council may promulgate by resolution such additional regulations as may be found necessary from time to time to carry out the purpose of this chapter.

5.25.360 Delinquent sales tax roll confidentiality.

- A. During the third week of June of each year, the City Manager shall publish a notice with the names of those sales tax accounts that are delinquent for the quarter ending March 31st; and successively in September, those sales tax accounts that are delinquent for the second quarter ending June 30th; in December, those sales tax accounts that are delinquent for the third quarter ending September 30th; in March, those sales tax accounts that have become due and delinquent for the fourth quarter ending December 31st. The City Manager shall include in the notice the names of those sales tax accounts which remain delinquent from any preceding quarter. For the purposes of determining delinquency for publication, an account shall be considered delinquent if the account is delinquent as defined by Section 5.25.310 of this code and no agreement has been reached by the seller with the city for other means of payment. The publication of such delinquent sales tax accounts shall not be considered a disclosure within the provisions of this section.
1. All returns filed with the City for the purpose of complying with the terms of this chapter, all data obtained for such returns, and all books, papers, record or memoranda obtained under the provisions of this section are declared to be confidential, and shall be exempt from inspection of all persons except the City Treasurer, City Manager and City Attorney, or any authorized employee thereof; provided, however, the City Manager may present to the City Council in executive session any return or data obtained therefrom; provided, the purpose of such presentation is informational or concerning legal action against the person whose return or tax remittance is in question.
 2. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection, except as provided otherwise in this section; provided, however, nothing in this section shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return or report filed by him or her, nor to prohibit the publication of notices provided for in this section.
- B. The use of tax returns in a criminal or civil action brought to enforce the terms of this chapter against any person shall not be deemed a violation of this section, and the City, in the prosecution of any such action, may allege, prove and produce any return theretofore filed by and on behalf of any such defendant, including any data obtained from any such return or returns, other provisions of this chapter to the contrary notwithstanding.

Chapter 5.30 RAW FISH TAX

Sections

5.30.010 Definitions

5.30.020 Levy of tax.

5.30.030 Dedicated use of tax proceeds.

5.30.040 Exemptions.

5.30.050 Exemption cards.

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- 5.30.060 Obligation to pay tax.
 - 5.30.070 Registration.
 - 5.30.080 Collection of tax.
 - 5.30.090 Remittance of tax to the City.
 - 5.30.100 Raw fish tax return.
 - 5.30.110 Delinquency, penalties, and interest.
 - 5.30.120 Enforcement.
 - 5.30.130 Tax rulings.
 - 5.30.140 Protest procedure.
 - 5.30.150 Regulations, procedures, and forms.
 - 5.30.160 Record keeping and audits.
 - 5.30.170 Confidentiality of fish tax returns.

5.30.010 Definitions.

For purposes of this chapter, the following terms shall be defined as follows:

- A. “Buyer” means any person, whether acting as principal, agent or broker, purchasing raw fish from a seller and required and responsible to collect and remit raw fish sales tax under this chapter. A direct to market seller qualifies as a “buyer” when falling within this definition.
- B. “Indirect consideration” means anything of value furnished directly or indirectly to a seller by a buyer. Indirect consideration includes, but is not limited to, any discounts or payments made for fuel, supplies, ice, gear, handling fees, tender fees, or volume bonuses, whether paid at the time of purchase or later.
- C. “Processed” means raw fish that has been cooked, canned, smoked, butchered, frozen, salted, dehydrated, or other actions have occurred to modify the condition of raw fish in preparation of the raw fish for sale. Processed does not mean raw fish that has been decapitated, gutted, gilled, slimed, or iced for the purpose of maintaining the quality of the raw fish until it can be sold.
- D. “Raw fish” means fin fish and shellfish and includes, but is not limited to: crabs, shrimp, scallops, clams, oysters, salmon, halibut, cod, trout, and rockfish that have not been processed.
- E. “Sale price” means total consideration in money, credit, rights or other property paid or given to seller by a buyer in exchange for raw fish transferred, sold or otherwise conveyed within the boundaries of the City. “Total consideration” as used in this chapter includes but is not limited to cash value and any indirect consideration.
- F. “Seller” means a person or entity that has caught raw fish and sells it to a buyer.

5.30.020 Levy of tax.

There is levied a raw fish sales tax of 0.5 percent on the sale price of raw fish transferred, sold or otherwise conveyed within the boundaries of the City. Raw fish delivered outside the boundaries of the City shall be taxable if the sales are contracted for or agreed to be made within the City.

5.30.030 Dedicated use of tax proceeds.

The net proceeds from the taxes levied by this chapter shall be used for the cost of improving, repairing and maintaining city harbor facilities.

5.30.040 Exemptions.

The following sales of raw fish are exempt transactions and are not subject to taxation by the City under this chapter:

- A. The sale of raw fish for the sole purpose and use as bait.
- B. The sale of raw fish by a hatchery permitted under AS 16.10.

5.30.050 Exemption cards.

- A. Any person claiming exemption from raw fish sales tax collection or remittance under this chapter shall apply to the City for an exemption authorization card within one month of any purchase or sale of raw fish. Any seller may refuse to accept an exemption card if he or she believes that the sale of raw fish is not tax exempt.
- B. An exemption card may be revoked, and a revocation appealed in the same manner as provided in Section 5.25.220 of this Code. The burden of establishing an exemption shall be on the person claiming an exemption.

5.30.060 Obligation to pay tax.

- A. The obligation to pay the tax to the City is upon seller; however, buyer shall retain the raw fish sales tax at the time of the sale and shall remit the amount retained to the City as provided in this chapter. Collection by buyer shall not limit the liability of seller to the City to pay the tax.
- B. All raw fish sales taxes collected by buyer are city monies and must be held in trust for the City. Buyer is accountable to the City for all taxes collected until the taxes have been transferred to the City in full.

5.30.070 Registration.

- A. All buyers of raw fish shall file an application for a certificate of registration to be submitted to the City Manager or her designee on a form approved by the City Manager and available online or at City Hall. All applications must be complete and accompanied by the registration fee required under this section.
- B. The application shall include, but may not be limited to, the following information:
 - 1. The name of the applicant.
 - 2. The name under which the applicant intends to buy raw fish within the boundaries of the City.
 - 3. The applicant's mailing address, telephone number and email address.
 - 4. The street address and legal description of each location in the City where the applicant will engage in business.
 - 5. If the applicant is not a natural person, the applicant's type of organization, and the jurisdiction under whose laws the applicant was organized.
 - 6. Proof that the buyer maintains a business license as required by the Code and a fisheries business license with the State of Alaska.
- C. The application fee for a certificate of registration under this section is thirty-five dollars.

5.30.080 Collection of tax.

- A. Buyer shall add the 0.5 percent raw fish sales tax to the sale price of raw fish and collect the tax at the time raw fish is purchased from seller. Notwithstanding the

liability of seller, taxes collected or taxes that should have been collected by buyer under this chapter are monies of the City for which buyer is at all times liable to the City.

- B. On any invoice, bill or other record of payment, the tax must be shown as a separate and distinct item. The tax imposed on the sale of more than one separately priced item may be shown as a total tax on the aggregate price of all items purchased and delivered at one time.

5.30.090 Remittance of tax to the City.

- A. Taxes collected by buyer shall be remitted to the City March 31 of the year following the year of activity subject to tax under this chapter.
- B. A buyer who sells his or her business, business inventory, or accounts receivable to another, shall file a final raw fish sales tax return within fifteen days after the date of sale. The purchaser of the business, business inventory, or accounts receivable shall withhold a portion of the purchase money sufficient to pay the tax, penalties, and interest that may be due until seller displays a receipt from the City showing that all tax obligations imposed by this chapter have been paid. If any purchaser of a business, business inventory, or accounts receivable fails to withhold this sum, the purchaser shall be personally liable for the taxes, penalties and interest owed by seller of the business, business inventory, or accounts receivable to the City. The City may continue to make efforts to collect the tax from the person or entity who owned the business or accounts receivables at the time the liability was incurred.
- C. If buyer terminates his or her business without the benefit of a purchaser, successor or assign, buyer shall make a final return and settlement of tax obligations within fifteen days of the termination of business.

5.30.100 Raw fish tax return.

At the time the tax is remitted under Section 5.30.090, buyer must file a completed raw fish sales tax return with the finance department. Tax forms are available at City Hall. The buyer submitting the return must sign the return certifying that the return correctly states the information set forth therein. The tax return shall set forth:

- A. Name and address of buyer;
- B. The calendar month(s) covered by the return;
- C. The date the return is prepared;
- D. The total sale price of raw fish purchased, sold, or delivered within the City by month, pounds, average price per pound, and by species;
- E. Taxes due; and,
- F. Such other information as may be required by the City or the City Manager.

5.30.110 Delinquency, penalties, and interest.

In the event that a party fails to remit taxes when due, the City shall be entitled to recover penalties and interest as follows:

- A. Penalties and interest as provided in Section 5.25.330 of the Code.
- B. All payments received shall be applied in the following order of priority:
 - 1. Penalties due, beginning with the oldest penalty;
 - 2. Interest due, beginning with the interest due on the oldest month; and

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3. Taxes due, beginning with the taxes due from the oldest month.
- C. The tax, penalty and interest, as imposed by this chapter, together with all administrative and legal costs incurred, shall constitute a lien in favor of the City upon all the delinquent taxpayer's real and personal property. The lien arises upon delinquency and continues until the liability for the amount is satisfied, or the property is sold at a foreclosure sale. The lien has priority as allowed by AS 29.45.650(e).

5.30.120 Enforcement.

- A. If tax is not paid when due, the City may enforce the payment of the tax, interest and any penalties by any method permitted by law, including but not limited to the lien and sale of property of the delinquent taxpayer, and a personal action against the delinquent taxpayer.
- B. The City may bring an action for civil penalties for the violation of any provision of this chapter. The City may seek injunctive relief from any violation or threatened violation of this chapter.
- C. An action for injunctive relief may be brought notwithstanding the availability of any other remedy. Upon an application for injunctive relief and a finding of violation or threatened violation of a provision of this chapter, the Superior Court shall grant the injunction. Each day that a violation continues is a separate violation.
- D. For the violation of any provision of this chapter, the City may bring a criminal action without regard to whether any civil remedy is available or has been sought or obtained.

5.30.130 Tax rulings.

If any person who is or may be required to pay or collect a tax under this chapter questions the application of this chapter to a transaction or other situation in which that person is involved or may become involved, the person may apply to the City Manager for a ruling on the question. The City Manager may rule on the question and may seek the advice of the City Attorney in doing so. The City shall not be bound by tax rulings later determined to be issued without accurate or full information regarding the circumstances of the parties and application of the tax. If, during a protest or audit the parties rely on a tax ruling the City Manager will consider the facts as determined through the protest or audit processes to be determinative.

5.30.140 Protest procedure.

- A. A protest and claim of refund for over or improper payment of raw fish tax which is made more than six months from the date on which the tax was paid or became due and payable is forever barred.
- B. A protest shall be made by filing with the City Manager or his or her designee a joint statement of claim by buyer and seller, specifying the date the tax was imposed, the amount of refund requested and the basis for the protest. The City Manager or his or her designee shall respond in writing within thirty days and may seek the advice of the City Attorney while the protest is under consideration. If the City Manager or his or her designee does not respond within thirty days, the City shall issue the refund in the amount requested. Such refund shall not constitute the City's acquiescence as to substantive or legal claims lodged with any particular

protest. Any decision of the City Manager or his or her designee shall be the final decision of the City.

- C. Any appeal of the City's decision must be filed in the Superior Court for the State of Alaska in Cordova within thirty days of the final decision of the City Manager or his or her designee in accordance with the Alaska Rules of Appellate Procedure. Failure to file an appeal within the time period waives any claims to a raw fish sales tax refund.

5.30.150 Regulations, procedures, and forms.

The City Manager may promulgate regulations, procedures, and adopt forms to implement, interpret, and apply the provisions of this chapter.

5.30.160 Record keeping and audits.

- A. It shall be the duty of every buyer to keep and preserve suitable records of all sales of raw fish made, and such other books or accounts as may be necessary to determine the amount of tax for collection of which buyer is liable under this chapter, including records of daily sales, together with invoices of purchases and sales, bills of lading, bills of sale or other pertinent records and documents as will substantiate and prove the accuracy of a raw fish sales tax return. It shall be the duty of every buyer to keep and preserve for a period of three years from the date of filing any return, all such books, invoices and other records as may be necessary, all of which shall be subject to examination by the City Manager or any authorized employee or agent thereof who is engaged in checking or auditing the records of any seller required to make a return under the provisions of this chapter.
- B. For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax collected or which should have been collected, the City Manager, or his or her duly authorized agent, may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records or memoranda of any buyer, and may require the attendance of any buyer, or officer or employee of buyer. The City Council shall have the power to issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda.

5.30.170 Confidentiality of fish tax returns.

Raw fish tax returns filed with the City for the purpose of complying with the terms of this chapter and all data obtained from such returns shall be confidential and may only be disclosed to the taxpayer, the State of Alaska or the United States for tax enforcement purposes or in response to a court order. The City may publish or compile general data based on the information in the tax returns so long as the published or compiled information does not directly or indirectly identify any buyer or seller.

Chapter 5.35 SIGNATURE REQUIREMENTS

Sections

5.35.010 Signature requirements.

5.35.020 Facsimile signature.

5.35.010 - Signature requirements.

Every warrant or other order for disbursement of money shall be signed by both the City Manager and the City Clerk, or in the absence of either the City Manager or City Clerk, the Public Works Director. The Mayor and City Council Members shall by resolution be authorized to sign said warrant or other order for the disbursement of money in the event that both the City Manager and City Clerk are unavailable; but under no circumstances shall the Mayor or City Council Members sign a warrant or other order for the disbursement of money on behalf of both the City Manager and City Clerk.

5.35.020 - Facsimile signature.

Nothing in this chapter shall be construed to prohibit the use of facsimile or electronic signatures of officers authorized in Section 5.35.010 to sign warrants or other orders for the disbursement of money.

Chapter 5.40 BUSINESS WITH PERSONS INDEBTED TO THE CITY

Sections

5.40.010 Business prohibited to persons indebted to the City.

5.40.020 Waiver permitted when.

5.40.010 - Business prohibited to persons indebted to the city until debt is paid.

- A. Subject to Section 5.40.020 of this code, except as otherwise required by law, the City shall not conduct the following financial business with any person who is 90 days or more delinquent on any payment to the City, including its departments or any authority of the City, on any accounts receivables, or any person that controls such a person, until any and all delinquent accounts are paid in full:
 - 1. The payment or compensation for any work, labor, rentals or services rendered the City; or
 - 2. The sale of personal or real property.
- B. The City shall exercise the rights of set-off and recoupment to the maximum extent allowed by law in all cases.

5.40.020 - Waiver permitted when.

- A. The City Manager may waive the enforcement of this chapter one time only as to any person, upon a written determination that such waiver is in the best interests of the City. Any subsequent waiver as to such person shall require the approval of Council in accordance with subsection B of this section.
- B. Council may waive the enforcement of this chapter as to any person upon finding that such waiver is in the best interest of the City.

Chapter 5.45 CORDOVA GENERAL RESERVE FUND

Sections

5.45.010 Cordova general reserve fund established.

5.45.020 Purpose.

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- 5.45.030 Deposits to the fund.
 - 5.45.040 Management of fund.
 - 5.45.050 Income and distribution.
 - 5.45.060 Principal.

5.45.010 Cordova general reserve fund established.

There is established as a separate fund within the finances of the City a fund to be known as the Cordova general reserve fund (hereinafter referred to as “the fund” or the “city permanent fund”). The fund shall be administered in accordance with the provisions of this chapter.

5.45.020 Purpose.

The purpose for establishment of the fund is to provide a continuing source of funding for the capital and operating expenses of the City. The City Council may not consider any revenue from the fund as anticipated revenues for the purpose of funding operating expenses when approving the budget. The establishment of the fund is intended to assist in minimizing the tax burden to the citizens of Cordova, and preserve in trust assets of the city for the benefit of present and future generations of Cordova residents.

5.45.030 Deposits to the fund.

The City Council may, from time to time, make deposits to the fund in the same manner as it makes other appropriations. Any funds received by the City from any source may be deposited into the fund; provided, however, it shall be the policy of the Council that any windfall funds from legal settlements received by the city shall be deposited into the fund to fulfill the purpose as set forth in Section 5.45.020 of this chapter.

5.45.040 Management of fund.

An investment policy consistent with the Prudent Investor Act shall be adopted by the City Council by resolution, and may be amended as necessary by resolution. The City Treasurer shall follow the investment policy adopted by the Council for investment and management of amounts in the fund.

5.45.050 Income and distribution.

A. In conjunction with the audit of the City’s financial statements each year, the City Treasurer shall prepare a report for the City Council which shows, as of the last day of the preceding fiscal year, the nature of each outstanding investment, including the purchase date, purchase price, and estimated net yield rate at the time of purchase, and the income earned from each investment from the initial date of purchase to the date of the report. The report shall be delivered to the Council in conjunction with the audited financial statements.

B. In conjunction with audit of the City’s financial statements each year, the net income of the fund shall be determined as of the last day of the preceding fiscal year in accordance with this section and utilizing generally accepted accounting principles. The City Treasurer shall report such determination to the City Council in conjunction with delivery of the audited financial statements.

C. For the purposes of determining the net income of the fund, "net income" means the total income yielded from investment of the principal of the fund for the preceding fiscal year, less any amounts needed;

1. To reimburse the fund principal in the event a transaction results in an actual dollar loss in principal;
 2. To offset any reduction in fund principal due to administrative costs;
 3. To offset any depletive effect of inflation on the fund principal during the fiscal year, as may be determined by a nationally recognized inflation index.
- D. The net income of the fund is unrestricted general income of the City.

5.45.060 Principal.

A. Fund principal may be appropriated only by ordinance. A public hearing shall be held on the introduction and first reading of such ordinance. The procedure for passage of any such ordinance shall be governed by subsection B of this section.

B. No ordinance to appropriate principal from the fund shall be passed, except upon the favorable roll call of all seven City Council Members, or six City Council Members and the Mayor, the results of which shall be entered in the minutes of the meeting. The Mayor shall be allowed to vote only if exactly six of the City Council Members vote in favor of any such appropriation.

Section 4. Title 5 “Revenue and Finance” is amended to repeal Chapter 5.45 “Self-Insurance Trust Fund.”

Section 5. Section 1.28 “Minor Offense Schedule” is amended to add the following violations and fines:

CODE REF	CODE TITLE	FINE PER DAY
<u>5.16.020(F)</u>	<u>False application for exemption.</u>	<u>\$1,000</u>
<u>5.16.020(F)</u>	<u>False representation regarding tax exemption or deferral.</u>	<u>\$1,000</u>
<u>5.16.070</u>	<u>Failure to notify Assessor of change in ownership, use, or sale.</u>	<u>\$300.00</u>

Section 6. Title 15 “Cordova Community Medical Center Authority” is amended to add section 15.40.050 “Confidentiality of records” to read as follows:

15.40.045- Confidentiality of records.

All records in the possession of the City, the Authority or any officer, official, employee, agent, representative or independent contractor of the City or the Authority concerning medical care administered by the Authority, its officers, employees, agents, representatives or independent contractors or at a facility operated by the Authority, including any claims of malpractice filed or threatened against the City or the Authority, are confidential and may not be disclosed.

Section 7. This ordinance shall be effective thirty (30) days after its passage and publication. This ordinance shall be enacted in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska, within ten (10) days after its passage.

1st reading: _____, 2023

2nd reading and public hearing: _____

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

David Allison, Mayor

ATTEST:

Susan Bourgeois, CMC, City Clerk

DRAFT