

Mayor

David Allison

Council Members

Tom Bailer

Cathy Sherman

Kasey Kinsman

Wendy Ranney

David Zastrow

Kristin Carpenter

Ken Jones

City Manager

Samantha Greenwood

City Clerk

Susan Bourgeois

Deputy Clerk

vacant

**Regular City Council Meeting
October 2, 2024 @ 7:00pm
Cordova Center Comm Rooms**



A. Call to order

B. Invocation, pledge of allegiance

I pledge allegiance to the Flag of the United States of America, and to the republic for which it stands, one Nation under God, indivisible with liberty and justice for all.

C. Roll call

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

D. Approval of Regular Agenda..... (voice vote)

E. Disclosures of Conflicts of Interest and Ex Parte Communication

- conflicts as defined in Cordova Municipal Code 3.10.010 should be declared, then Mayor rules on whether member should be recused, Council can appeal the Mayor’s ruling
- ex parte should be declared here, the content of the ex parte should be explained when the item comes before Council, ex parte does not recuse a member, it is required that ex parte is declared and explained

F. Communications by and Petitions from Visitors

1. Guest Speakers - none
2. Audience comments regarding agenda items..... (3 minutes per speaker)
3. Chairpersons and Representatives of Boards and Commissions (Hospital Board, School Board, etal)
4. Student Council Report – vacant

G. Approval of Consent Calendar

5. Minutes: Sept 18, 2024, City Council Public Hearing Minutes..... (page 1)
6. Per Charter Section 2-8 and Cordova Municipal Code 3.12.022, recordation of excused absence of Council member **Dave Zastrow** from the Sept 18, 2024, Regular Meeting

H. Approval of Minutes – in Consent Calendar

I. Consideration of Bids/Proposals/Contracts – none

J. Reports of Officers

7. Mayor’s Report
8. City Manager’s Report
9. City Clerk’s Report:
 - notice of upcoming board & commission vacancies..... (page 2)
 - notice of date change for 2nd October meeting – now October 23, 2024..... (page 3)

K. Correspondence..... (see primer for description page 4)

10. 09-17-24 Letter from Sr. VP External Affairs of Santos Ltd..... (page 5)
 - introducing Santos to the community
11. 09-17-24 Email from K. Hayden regarding disposal of Lots 3 & 4, Block 8..... (page 7)
 - Original Townsite

L. Ordinances and Resolutions

12. Ordinance 1221..... (voice vote)(page 8)
An ordinance of the Council of the City of Cordova, Alaska enacting Chapter 5.01 “disbursement and investment of city funds”; amending and renaming Chapter 5.04 “warrants” to “signature requirements” and clarifying the signature process on City fund disbursements; amending, renumbering, and renaming Chapter 5.44 “Cordova general reserve fund” to Chapter 5.02 “Cordova permanent fund (general reserve fund)”; repealing Chapter 5.40 “sales tax” and enacting Chapter 5.10 “sales tax” to adopt a registration process for sellers; update the sales tax return, implementation, enforcement, protest, and collection procedures; remove the sales tax exemptions for travel agencies, professional services commissions and fees, and recreational flights; to clarify the exemption for nonprofit entities and expressly exclude rentals from the exemption; and to require purchasers to file a refund application for the sales tax exemption on construction materials and services – 1st reading
13. Ordinance 1222..... (voice vote)(page 108)
An ordinance of the Council of the City of Cordova, Alaska enacting Title 7 “City property” and relocating and renumbering CMC Chapters 5.12, 5.14, 5.16, 5.22, 5.23, 5.24, 5.28, and 5.29 to Chapters 7.10 through 7.80 of title 7 of the Cordova Municipal Code – 1st reading
14. Resolution 10-24-31..... (voice vote)(page 133)
A resolution of the Council of the City of Cordova, Alaska, encouraging the State of Alaska and the US Secretary of Commerce to declare fisheries disaster as follows: 2024 Prince William Sound pink and chum salmon; and to encourage the same to declare a condition of economic disaster in Cordova as a result
15. Resolution 10-24-32..... (voice vote)(page 136)
A resolution of the Council of the City of Cordova, Alaska, disbanding the Fisheries Advisory Committee and the Fisheries Development Committee, consolidating the roles of those two committees, authorizing establishment of the Cordova Fisheries Committee (CFC), and tasking the CFC with the consolidated roles

M. Unfinished Business - none

N. New & Miscellaneous Business

16. Pending Agenda, CIP List, Calendar, Elected & Appointed Officials lists..... (page 147)

O. Audience Participation

P. Council Comments

Q. Executive Session

17. Council discussion of recent land disposal action and negotiations, to be discussed in executive session because it is a subject the immediate knowledge of which would clearly have an adverse effect on the finance of the government.

The City Council is permitted to enter an executive session if an explicit motion is made to do so calling out the subject to be discussed and if that subject falls into one of the 4 categories noted below. Therefore, even if specific agenda items are not listed under the Executive Session header on the agenda, any item on the agenda may trigger discussion on that item that is appropriate for or legally requires an executive session. In the event executive session is appropriate or required, Council may make a motion to enter executive session right during debate on that agenda item or could move to do so later in the meeting.

R. Adjournment

Executive Sessions per Cordova Municipal Code 3.14.030

- **subjects which may be considered are:** (1) matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the government; (2) subjects that tend to prejudice the reputation and character of any person; provided that the person may request a public discussion; (3) matters which by law, municipal charter or code are required to be confidential; (4) matters involving consideration of governmental records that by law are not subject to public disclosure.
- **subjects may not be considered in the executive session except those mentioned in the motion calling for the executive session, unless they are auxiliary to the main question**
- **action may not be taken in an executive session except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations**

if you have a disability that makes it difficult to attend city-sponsored functions, you may contact 907-424-6200 for assistance.
full City Council agendas and packets available online at www.cityofcordova.net

Regular Meetings of the Cordova City Council are live streamed on the City's YouTube
or are available there for viewing or audio-only by the next business day

**City Council Public Hearing
September 18, 2024 @ 6:45 pm
Cordova Center Community Rooms
Minutes**

A. Call to order

Mayor David Allison called the Council public hearing to order at 6:45 pm on September 18, 2024, in the Cordova Center Community Rooms.

B. Roll call

Present for roll call were **Mayor David Allison** and Council members **Tom Bailer, Cathy Sherman, Kasey Kinsman, Wendy Ranney, Kristin Carpenter,** and **Ken Jones**. Council member **Dave Zastrow** was absent. Also present were City Manager **Samantha Greenwood** and City Clerk **Susan Bourgeois**.

C. Public hearing

1. Substitute Ordinance 1219 An ordinance of the Council of the City of Cordova, Alaska amending Chapter 5.38, Biennial motor vehicle registration tax, to increase the motor vehicle registration tax levied on registered vehicles within the city

Mayor Allison opened the hearing for public testimony on the ordinance. There was no public testimony. **Mayor Allison** recessed the Public Hearing for approximately 10 minutes at 6:47 pm.

Mayor Allison called the Public hearing back to order at 6:55 pm; there was still no public comment.

D. Adjournment

Hearing no objection **Mayor Allison** adjourned the public hearing at 6:55 pm.

Approved: October 2, 2024

Attest: _____

Susan Bourgeois, CMC, City Clerk

The background of the slide features a field of green tulips with long stems and pointed buds, set against a light green background. The tulips are scattered across the entire page, creating a decorative and naturalistic backdrop for the text.

**Mayor Allison and Cordova City Council are soliciting interest
for upcoming City Board and Commission vacancies**

Library Board – 1 seat, Planning Commission – 2 seats,

Harbor Commission – 2 seats,

Parks & Recreation Commission – 2 seats,

Historic Preservation Commission – 2 seats

all vacancies have terms through November 2027

applications available on the City website

deadline to apply for these appointments is November 26, 2024

email cityclerk@cityofcordova.net or call 907-424-6248

appointments will be made at a City Council meeting in Dec 2024



Public Notice

The Regular City Council Meeting

of October 16, 2024

will be held one week later

on October 23, 2024

due to a room availability conflict

Questions: email cityclerk@cityofcordova.net

Council Packet Correspondence Primer: Communicating with Your Elected Cordova Officials

This primer provides an overview of City of Cordova policies regarding the submission of correspondence to the City Clerk's office for distribution to City Council. These policies are general in nature and do not preempt the application of relevant laws to correspondence distribution. To the extent you have questions regarding the distribution of specific correspondence, please contact the City Clerk's office.

What gets published in Council packets as Correspondence?

- Letters, emails, cards, or other written or electronic mail addressed to City Council, any individual member of City Council or the Mayor, regardless of whether or not the sender has requested inclusion of the correspondence in a City Council packet.
- Letters, emails, cards, or other written or electronic mail written by the Mayor, individual City Council members in their capacity as elected officials, or the Council as a body
- Letters, emails, cards, or other written or electronic mail by agencies/entities that are pertinent to Council and the citizens of Cordova (e.g. population determination, full value determination, open comment periods for projects/leases in and around Cordova, etc.)
- Only correspondence received by the Clerk's Office on or before noon on the Wednesday before a regular Council meeting is eligible for inclusion in the packet for that meeting. Correspondence eligible for inclusion received after that date and time will be included in the next regularly scheduled Council meeting packet. (See CMC 3.12.035).

What does not get published in Council packets as Correspondence?

- Letters, emails, cards, or other written or electronic mail that are disparaging to individuals or entities
- Letters, emails, cards, or other written or electronic mail that have been sent anonymously
- Letters, emails, cards, or other written or electronic mail that contain confidential information or information that would warrant a constitutional violation of privacy or could potentially violate an individual's or an entity's constitutional rights.

More information about items not subject to publication:

- Correspondence that is not subject to publication in a Council packet will, however, be forwarded to the Mayor and City Council members with notification that the communication will not be included in the Council packet and the reasons for the exclusion.
- The City will attempt to contact the writer of the correspondence to inform them that the City has determined not to publish what they have sent. Notifications will be sent to the return address on the communication if one has been provided. (the best way to ensure the City is able to reach the writer is if the correspondence has been emailed through the City Clerk cityclerk@cityofcordova.net)
- A person who submits a communication that is not subject to publication in a Council packet, may still attend a meeting and read the communication during audience comments (if it is about an agenda item) or during audience participation, if it is not about an agenda item. Oral comments during a Council meeting will not be monitored or limited for content unless the comments made incite or promote violence against a person or entity. The City is not responsible or liable for the comments, thoughts, and/or opinions expressed by individuals during the public comment period at a Council meeting.

Suggestions concerning correspondence:

- Correspondence intended for all Council members should be emailed to the City Clerk at cityclerk@cityofcordova.net, hand-delivered or sent via U.S. mail to the Clerk's office. Correspondence should be clearly addressed to "Cordova City Council." Unless clearly stated otherwise, the City Clerk will presume that all correspondence addressed to City Council is intended for inclusion in the packet.

September 17, 2024

Mayor David Allison
City of Cordova
PO Box 1210
Cordova, AK 99574

Dear Mayor Allison,

On behalf of our workforce here in Alaska, I would like to formally introduce Santos to you and your community. As the Pikka Phase 1 project moves forward on the North Slope, we recognize the importance of taking time to lay the groundwork for partnerships with stakeholders of the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). Therefore, we hope this letter will serve as a first step in sharing more about who we are, illustrating our commitment to the safe transportation of oil in your region, and building a level of trust and communication that will last for years to come.

At Santos, our purpose and vision is to provide cleaner energy that is both affordable and sustainable, to help create a better world for everyone. Founded in 1954 and headquartered in Adelaide, Australia, Santos is one of Australia's largest domestic gas suppliers and a leading LNG supplier in the Asia Pacific region. Through a merger with Oil Search in 2021, Santos now has a global footprint with assets in Australia, Papua New Guinea, Timor-Leste, and the United States. Although not yet a household name in Alaska, Santos brings 70 years of experience working in partnership with local communities, safely and sustainably developing natural resources, safely transporting fuels, providing local jobs, and powering households.

Santos is one of the largest oil and gas leaseholders in the State of Alaska, holding over 500 oil and gas leases on the North Slope, many of which are on State lands. On the North Slope, Santos is the operator of the Pikka Unit. Development of Phase 1 of the Pikka Unit is currently underway and on track for first oil in 2026. From a single drill site, Phase 1 will develop nearly 400 million barrels of oil and bring an anticipated contribution of 80,000 barrels per day to the Trans Alaska Pipeline System (TAPS). Pikka sits on the lands of the Iñupiat people, stewarded by Kuukpik, the ANCSA corporation for the village of Nuiqsut and with whom Santos has entered into a Land Use Agreement. As the largest project developed on State lands in the last 20 years, Pikka Phase 1 is already contributing significantly to the State of Alaska's economy, with widespread benefits to the region and across the state. It is the first oil project sanctioned in Alaska, and one of the first in the world, to be developed on a net-zero equity basis for Scope 1 and 2 emissions from first oil.

Santos

While our company name may be new to Alaska, our staff is definitely not. With an intentional focus on hiring those with local expertise, we are proud to report more than 80% of our team were already residents when they came on board, and 95% of our Santos employees now call Alaska home. Santos' Alaska senior management team has a combined 500-plus years of global oil and gas experience, with nearly 300 of those experience years earned right here in-state.

Looking long-term, we see a great future here. Beyond Pikka Phase 1, Santos has already established a team for Pikka Phase 2, which will develop another drilling pad and increase production from the Pikka Unit. Furthermore, we have two additional units on the North Slope, Quokka and Horseshoe, which we believe have the potential to be just as large as Pikka. In short, Santos looks forward to being in Alaska for decades to come.

While the focus of our work today is on the North Slope, we recognize the critical importance of ensuring safe and sustainable operations throughout the entirety of our upstream and midstream activities, from Prudhoe Bay to Prince William Sound and beyond. As a large, experienced global transporter of hydrocarbons, we at Santos are not new to this work. Santos is thoroughly committed to the safe transportation of oil in Prince William Sound, and just as with other regions in our diverse, global portfolio, we will apply our same high standards of environmental safety to our operations here in Alaska.

To our partners and stakeholders, our door is always open and we will work to make ourselves available to you. We appreciated the opportunity to present at the PWSRCAC Board meeting in May and look forward to again joining PWSRCAC regional representatives to hear from our partner, Repsol, in Kodiak later this week. Should you find yourself in Anchorage, whether for the Alaska Municipal League Annual Conference or otherwise, we would love the opportunity to connect directly and invite you to join us at our downtown Anchorage headquarters.

If you have additional questions or would like to arrange a time to meet, please contact us at Joe.Balash@santos.com or (907) 903-8089.

Sincerely,



Joe Balash
Senior Vice President External Affairs

CC: David Janka, PWSRCAC Board of Directors

From: [Kelsey Hayden](#)
Subject: Comments for council RE Chamber lease
Date: Wednesday, September 18, 2024 8:53:38 AM

Hello!

I am writing in regards to the Chamber lease Lots 3 & 4, on mainstreet. I firmly believe those 2 lots need to be put out for a longer RFP, to see what interest there may be in selling/leasing that space for profit.

It's no secret the budget is tight. We can expect low fish taxes for a couple of years, and we can expect that sales tax will also be down. All of the revenue workshops and conversations are fantastic and I've been appreciative of the staff time and effort by the council to pursue them. The sale or lease of this building and land are a little piece of that revenue puzzle we need to pursue.

The lots are valued on the property tax roll at \$283,000. The city is missing out on roughly \$2500 property tax income every single year, as well as potential sales taxes from a for profit business if it resided there. If the lot is sold, that is say \$250,000 that could go into the permanent fund, and make money for the community year over year through our investments.

The Chamber provides a benefit to the community, like many of our local nonprofits do. But it is an independent non profit, and not a department of the City of Cordova. The Council has no oversight of its budget like other city departments. It is not the City of Cordova's responsibility to subsidize non profits, or provide free office space, or find office space for them. The City's responsibility is to fund its own departments first and foremost.

The city has an obligation to use taxpayer dollars for city responsibilities first and foremost. My tax dollars are paying the utilities for their business, for the maintenance of their space, and subsidizing their budget, instead of being used for city services I need and rely on, like our schools, EMS services, our road/plow budget, etc.

If we had a budget surplus (what a DREAM), we could spread it around non profit entities that benefit the community. But we don't. We cannot afford it. It is a disservice to our community to use taxpayer dollars to fund 1 non profit over any other non profit, and over immediate city needs. We have to take care of our own house before we spend money on someone else's.

I would like to see a long RFP to allow time for people to dream up plans and find financing. The chamber should continue in their existing space, while paying rent and utilities. They must at least pay their way in that space so it is not coming at a further cost to taxpayers.

Thank you!

Kelsey Hayden

MEMORANDUM

**TO: CORDOVA CITY COUNCIL
CORDOVA CITY MANAGER
CORDOVA CITY CLERK**

**FROM: HOLLY C. WELLS
JESSICA SPUHLER**

**RE: ORDINANCE 1221 REGARDING REVISIONS TO CMC TITLE 5
“REVENUE AND FINANCE”, INCLUDING REPEAL AND
REENACTMENT OF SALES TAX CHAPTER AND ORDINANCE 1222
ADOPTING TITLE 7 “CITY PROPERTY” AND RELOCATING
PROPERTY PROVISIONS IN CMC TITLE 5 TO TITLE 7**

CLIENT: CITY OF CORDOVA, ALASKA

FILE NO.: 401777.310

DATE: SEPTEMBER 25, 2024

I. INTRODUCTION

The purpose of this memorandum is to provide a summary of the changes proposed in Ordinance 1221 (the “Sales Tax Ordinance”) and Ordinance 1222 (the “City Property Ordinance”). In addition to this memorandum, City Council will be presented with a PowerPoint presentation regarding the substantive changes proposed in the Ordinances as well as a redlined comparison of Proposed CMC Chapter 5.10 “Sales Tax,” which replaces current CMC Chapter 5.40 “Sales Tax.” Chapter 5.40 “Sales Tax” was repealed, and Chapter 5.10 “Sales Tax” adopted due to substantial amount of changes made to the organization and text of this chapter. In addition, Proposed CMC Chapter 5.10 removes and revises specific sales tax exemptions to reflect current laws and Council priorities. Throughout this memo, the proposed Code provisions are referred to as “PCMC” and current Code provisions are referred to as “CMC”. This memo is comprehensive and is intended to provide City Council a resource when reviewing the ordinances before adoption and to provide a legislative history in the future that can be used in the interpretation and administration of the ordinances.

II. BACKGROUND

Currently, Title 5 “Revenue and Finance” has 17 chapters. These chapters result in approximately 73 pages of law, governing everything from purchasing to tidelands. Cordova City Council began examining these chapters, and the ability for the community to navigate the laws within them, over one year ago. Council, and the Administration wanted to both update the provisions to make Cordova’s tax obligations and opportunities clear and to create a more user-friendly Code. As a

result, the Administration and the City’s legal counsel have been working to both update Title 5 and the Code structurally and substantively. While legal counsel and the Administration began working from an updated proposed Title 5 and Title 7 over a year ago, substantial changes in City Administration, City law, and the needs of the City over that time gave rise to a more pointed approach to revisions that would present City Council an opportunity to make some changes immediately and postpone other changes until additional public process, deliberation, and notice could take place.

More specifically, the following actions have occurred in the last year that have impacted the content and application of Title 5:

- On November 29, 2023, City Council adopted Ordinances No. 1212 amending CMC Section 5.40.030 to increase the cap on taxable sales and services from \$3,000 to \$5,000.
- On November 29, 2023, City Council also adopted Ordinance No. 1210 increasing the sales tax rate from 6% to 7% and revising related language in Section 5.40.010 to clarify the scope and application of Cordova’s sales tax.
- On August 7, 2024, City Council adopted Ordinance 1217 which repealed CMC Chapter 5.36 entitled “Property Tax” and adopted CMC Chapters 5.04-5.06, which included updated and revised property tax provisions.
- On August 21, 2024, City Council considered but did not introduce Ordinance No. 1220 removing the property tax exemption applied on aircraft stored or landed in Cordova with a fair market value of \$2 Million or more and amending CMC 5.05.030 to clarify that personal property was exempt from property tax except as otherwise stated in the Code.
- On August 21, 2024, City Council adopted Ordinance No. 1219S increasing the motor vehicle registration tax levied on registered vehicles within the City and amending CMC 5.05.030, which will be effective January 1, 2025, to clarify that personal property is exempt from property tax except as otherwise stated in the Code.

Although the revisions to Cordova’s sale tax rate and cap became effective January 1, 2024, the remaining revisions will all go into effect January 1, 2025.

In addition to Council’s public hearings on these ordinances, Council held numerous work sessions before issuing decisions on these ordinances to discuss taxation and revenue-raising options in the City and the impact of each of these ordinances on the public and City services. Further, the Administration and legal counsel worked on numerous projects that required the application and interpretation of Title 5.

Given the substantial work on Title 5 and its provisions over the last year, this Ordinance aims to update the remaining provisions of Title 5, implement much needed structural and organizational changes to Title 5, and clarify and streamline the remaining substantive provisions of Title 5 that Council has been diligently working on over the last few years.

Finally, Ordinance 1221 also updates Title 5 to incorporate and reflect changes to the Remote Sellers Tax Code approved by the Alaska Remote Seller Sales Tax Commission (the “Remote Tax

Commission”) on July 17, 2024, to be effective on January 1, 2025. While Cordova has adopted the Uniform Sales Tax Code by reference and thus does not need to amend its Code to reflect the changes made by the Remote Tax Commission, there are several proposed definitions that need to be updated and incorporated into Cordova’s Code to ensure clarity and easy navigation.

III. ANALYSIS

A. Structural and Organization Changes to Title 5 and Enactment of Title 7

Despite its “Revenue and Finance” title, Title 5 includes numerous provisions that fall outside traditional “revenue and finance” code provisions. Instead, almost of half of the provisions included in Title 5 involve the rights and obligations impacting City property and the City’s management, acquisition, disposal, and interest of and in property. Title 5 is missing, however, provisions regarding the budget, the general fund or management or investment of that fund. While the absence of provisions governing the budget process or general funds makes sense given the comprehensive provisions regarding the budget and funding in the Charter, it makes it difficult for users to find finance provisions in the Code or to separate out provisions governing City funds from those governing its lands. In an effort to make the Code more user-friendly, the following organization changes were made:

1. Ordinance 1222 (The “City Property Ordinance”) proposes the removal of provisions governing the City’s management, acquisition, disposal, and interest in property and the placement of these provisions in a new title entitled Title 7 “City Property.”
2. Chapter 5.01 “Disbursement and Investment of City Funds” was proposed to provide some cross-reference to the City Charter and acknowledgement of the City’s fund management and planning obligations.
3. Chapter 5.08 “Business with Persons Indebted to the City” was relocated to Chapter 5.45 to ensure the tax provisions were in sequence.
4. The chapters were renumbered to create clear sequencing when it was possible to do so without renumbering recently revised or adopted provisions.

Currently, Title 5 “Revenue and Finance” has 17 chapters. These chapters are as follows:

- 5.04 Warrants
- 5.05 Property Tax¹
- 5.06 Property Tax Exemptions and Deferrals
- 5.07 Property Tax Exemption and Deferral Criteria
- 5.08 Business With Persons Indebted To The City
- 5.12 Purchases
- 5.14 Sale of City Personal Property
- 5.16 Tidelands
- 5.22 Disposal Of Real Property

¹ CMC Title 5, Chapters 5.05, 5.06, and 5.07 were adopted by City Council through Ordinance 1217 and will go into effect on January 1, 2025. CMC Chapter 5.36, which currently governs property tax, will be repealed on that same date.

- 5.23 Acquisition Of Real Property
- 5.24 Abandoned Property
- 5.28 Use Of City Equipment
- 5.29 Local Hire For Public Improvements
- 5.32 Special Assessment Districts For Local Improvements
- 5.36 Property Tax
- 5.38 Biennial Motor Vehicle Registration Tax
- 5.40 Sales Tax
- 5.41 Raw Fish Tax
- 5.44 Cordova General Reserve Fund
- 5.45 Self Insurance Trust Fund

Proposed CMC Title 5 has only 10 chapters, numbered and titled as follows:

- 5.01 Disbursement and Investment of City Funds.
- 5.02 Cordova Permanent Fund (General reserve Fund)(formerly “General reserve fund”)
- 5.04 Signature Requirements (formerly “Warrants”)
- 5.05 Property Tax
- 5.06 Property Tax Exemptions and Deferrals
- 5.07 Property Tax Exemption and Deferral Criteria
- 5.10 Sales Tax
- 5.15 Raw Fish Tax
- 5.38 Biennial Motor Vehicle Registration Tax
- 5.40 Special Assessment Districts for Local Improvements
- 5.45 Business with Persons Indebted to the City

This numbering reserves numbers where possible for future additions to CMC Title 5 but attempts to make it easier for users to navigate the Code. The Title begins with funding provisions and leads into taxation.

B. Proposed Changes to the General Financial Provisions in Title 5.

While Council has been primarily focused on the taxation provisions in Title 5, several changes are proposed in the Ordinance to update the general financial provisions in Title 5. A brief summary of each of these proposed changes and the reasons underlying them is included in this section.

1. Proposed Chapter 5.01 entitled “Disbursement and Investment of City Funds”

PCMC Chapter 5.01 was added to Title 5 to acknowledge the fund management and investment policies that are anticipated by Article V of the City Charter. There are no new obligations imposed by this proposed chapter, but it directs the reader to the City Charter and clarifies that the City Manager has authority to adopt policies for disbursement and investment in accordance with the Charter.

2. Proposed Chapter 5.02 entitled “Cordova Permanent Fund”

PCMC Chapter 5.02 “Cordova Permanent Fund (general reserve fund)” contains current CMC Chapter 5.44, which is entitled “Cordova General Reserve Fund.” Frequently, Council and the public refer to the “General Reserve Fund” as the “Cordova Permanent Fund” and the current Code acknowledges that the General Reserve Fund may be referred to as the Cordova Permanent Fund. However, the use of two names for the City reserve fund is confusing. The purpose and intent of this fund is best reflected in the name “Cordova Permanent Fund” and thus the Code provisions were reflected to make clear that the two names refer to the same fund but to change references to the fund to “Cordova Permanent Fund.”

3. Proposed Chapter 5.04 entitled “Signature Requirements”

PCMC Chapter 5.04 has been renamed to more accurately reflect its content. Most importantly, the language has been clarified to make it clear that two signatures are needed for a warrant or order disbursing City funds and to require Council to adopt a resolution designating at least five signers for the City, one of which must be the City Manager. Currently, the language is unclear as to who may be designated and in what circumstances.

4. Repeal of CMC Chapter 5.45 “Self-Insurance Trust Fund”

Ordinance 1221 also proposes the repeal of CMC Chapter 5.45, which addresses the creation, administration, and details of a fund created for the purpose of adjusting and defending against malpractice claims brought against the City through its operation of the Cordova Community Hospital. At this time, the Hospital manages its own liability protection and insurance and bears its own liability.

C. Repeal of Chapter 5.40 “Sales Tax” and Proposed Enactment of Chapter 5.10 “Sales Tax”

By far the most substantive changes to Title 5 are the changes to sales tax. While a redlined version of these changes is included with the materials presented to Council alongside this memo, the following provides an introduction to the most substantive changes made and the reasons for these changes.

1. PCMC 5.10.020 “Interpretation and general presumptions of taxability.”

CMC Chapter 5.40 does not currently have a section regarding the “interpretation and general presumptions of taxability.” However, the Uniform Remote Sellers Sales Tax Code does have this provision. Thus, this provision was added to ensure that the presumptions and interpretation of both City Code and the Uniform Remote Sellers Sales Tax Code are aligned and applied uniformly to both remote sellers and brick and mortar establishments. The proposed language derives directly from the Uniform Sales Tax Code.

2. PCMC 5.10.030 “Definitions”

The sales tax definitions were substantially revised to ensure that the definitions were consistent with those imposed by the Uniform Remote Sellers Sales Tax Code, to incorporate definitions added by the Remote Sellers Sales Tax Commission in July of this year, and to clarify outdated definitions. More particularly, the substantive changes to definitions include:

- A. A definition for “bundled transaction” that was recently added to the Uniform Remote Sellers Tax Code. This definition, combined with PCMC 5.10.085 entitled “Bundled Transactions” prevents taxpayers from avoiding taxation on taxable sales by bundling these sales with a nontaxable item or service. It also provides taxpayers with a clear definition of what constitutes a “bundled transaction” and ensures that this definition is uniform between remote sellers and brick and mortar establishments.
- B. Definitions from the Uniform Remote Sellers Tax Code including “commission”, “commission rate”, “Cordova remote seller”, “delivery network company”, “digital good”, and “digital service”, “marketplace”, “resale”, and “resale of services”, many of which were added to or updated in the recent updates to the Remote Sellers Tax Code and provide the City greater flexibility in imposing its tax on these types of services, goods, and companies.
- C. A “Construction materials” definition was added to clarify what type of materials are considered “construction materials” for purposes of sales tax. This definition is important because the City treats the sale of construction materials differently than all other sales. Currently, the Code defines “construction materials” in the section that pertains to construction as “items that become a permanent part of the structure being constructed.” This definition still creates confusion as to what materials are included. For example, would this include cabinetry, flooring or light fixtures? The proposed definition clarifies that “construction materials” do not include personal property that can be removed or replaced in a structure without impairing the integrity of the structure and gives specific examples.
- D. Definition for “Finance Director” was clarified to reflect the duties of the “City Treasurer” under the Code but to allow the City Manager to designate an individual or entity to fulfill the obligations of the Finance Director to the maximum extent allowable under the Code. This ensures that if the City has a personnel shortage, the City Manager has flexibility to use resources to administer the sales tax provisions.
- E. A definition for “person” was added to ensure that no entity or individual misunderstood the scope of the tax provisions and the application of those provisions to individuals, corporations, agencies, entities, groups, societies, joint ventures, partnerships, cooperatives, and so on.

- F. A definition for “product-based exemptions” was added to allow the City to categorize exemptions by “person-based” exemptions and “product-based” exemptions. The specific definitions used mirror those adopted in the Remote Sellers Tax Code.
- G. A definition of “professional services” was also added to ensure uniformity with the Remote Sellers Tax Code and to clarify for taxpayers what services constitute “professional services” for exemptions referencing such services, which include “medical professional services,” commission rates and fees related to “professional services,” and the types of receipts or invoices that must be submitted by sellers providing “professional services.”
- H. The definition for “public accommodation services” was incorporated into the definition for “transient lodging.”
- I. A definition was added for “recreational flight” that defines a recreational flight as one that takes off from and returns to Cordova without landing in any other tax jurisdiction unless the flight is solely for emergency medical transport, military transport, government operations or ancillary to a use otherwise exempt from sales tax under the Code to allow the City to tax air transportation services to the greatest extent allowed by law.
- J. The definition of “rental” was clarified to define it as the transfer of the right to use or occupy property rather than the transfer of property itself.
- K. The definition of “sales” was updated to mirror the Uniform Sales Tax definition and to clarify that a sale includes both the sale of goods and services.
- L. The definition of “sales price” or “purchase price” was revised to include “bundled transactions”.
- M. The definition of “services” was updated to include “digital services” and “rentals.” While both of these were encompassed by the former definition of services, it was not clearly acknowledged in the definition.
- N. “Special annual public events” was revised to remove references to specific examples of such events given that these events may or may not continue into the future.
- O. “Taxing jurisdiction” was defined to ensure that the reference to recreational flights landing in a taxing jurisdiction clearly applied to a jurisdiction that imposed a sales tax.
- P. “Tobacco product” was revised to expressly include vaping products and other nicotine containing products.

- Q. A definition for “transient lodging services” or “public accommodation services” was updated to consolidate and expand on the previous definition to encompass all types of housing, including a house.
- R. A definition for “travel agency services” was added to include within it all types of services that arrange for travel reservations.

3. PCMC 5.10.050 “Imposition-Rate”

CMC 5.40.012 “Surtax levied on certain sales, services and rents” was repealed. That section noted that a “surtax” of 6 percent was applied to certain specified services and rents collected, namely public accommodation services, motor vehicle rentals (excluding watercraft), retail marijuana, marijuana concentrates, and marijuana products, retail cigarettes and tobacco products, and retail alcoholic beverages. Many members of the public do not know what a “surtax” is and the separation of the tax rate made it difficult to understand when and how an increase in the tax rate would, if at all impact these taxed goods and services. Thus, this section was removed and PCMC 5.10.050 “Imposition-Rate” was proposed, incorporating all of the tax rate provisions in a single section. The proposed rate provision also clearly designates how the tax rate is applied and do so in the same manner as the Uniform Sales Tax Code.

4. PCMC 5.10.060 “Alaska Uniform Remote Sellers Sales Tax Code-adopted.”

This provision clarifies the City’s adoption of the Remote Sellers Tax Code and any future amendments to it.

5. PCMC 5.10.070 “Title to collected sales tax.”

This provision expands the previous provision which related only to remote sellers sales tax and confirms the City’s title to collected sales tax and confirms that the seller holds collected sales tax in trust for the City and is accountable to the City for that tax.

6. PCMC 5.10.080 “Maximum tax per transaction-the tax cap.”

Currently, a sales tax cap for single items and single transactions of service is included in the general exemptions section of the Code. *See* CMC 5.40.030 entitled “Exemptions-General.” At the preliminary work session with Council regarding sales tax there was confusion as to how the tax cap applied. Sellers and City Administration have repeatedly raised questions of how to apply the tax cap, especially when there is a mix of services and goods, installment payments, monthly services or an attempt to apply it to construction services. In an effort to clarify when and how the \$5,000 maximum tax per transaction applies, the tax cap was removed from the laundry list of exemptions and placed in a dedicated section. Additionally, the tax cap provisions were proposed that address how the tax cap applies to: 1) single items or single transactions of a service; 2) extended services or deliveries; 3) rentals rendered over more than one month; and 4) rentals rendered over less than one month. Finally, these definitions were compared with those imposed by the Remote Sellers Tax Code and refined to apply the tax cap consistently with the Remote

Sellers Tax Code. While the proposed provisions do not change how the tax cap previously applied, it makes it clear to sellers, buyers, and the administrators how the cap should be applied, ensuring that it is done so uniformly in the future.

Revisions to this section and the tax cap include the removal of the “construction materials and services” tax cap. This tax cap has been relocated to PCMC 5.10.240 “Construction materials and services exemption and refund” and is addressed in that section below.

Currently, there is a provision that suspends the sales tax cap when there is a sudden influx of sales and services exceeding \$5,000 in response to an oil spill. During the preliminary work session on this provision, Council members did not appear to have a continued policy basis or desire to impose this suspension and thus it has been removed.

8. PCMC 5.10.085 “Bundled Transactions.”

This provision was added to mirror the recently adopted provision by the Remote Sellers Tax Commission that clarifies that if taxable and untaxable products or services are bundled together, a tax may be applied to the “bundled transaction” as a whole unless the seller can separate out the taxable from nontaxable for the City. It also clarifies that bundled transactions do not qualify for the single item or single transaction of service sales tax cap but preserves the seller’s ability to separate out the bundled services or products in order to apply the tax cap to each portion.

The Administration and taxpayers, both remote and local, have struggled to determine what services and goods are taxable when services and goods were bundled together. In response to these concerns, the Remote Tax Commission attempted to address these “bundled transactions.” To that end “bundled transactions” were defined and a provision adopted that clarified:

1. If the sales price of a bundled transaction is attributable to some taxable and some nontaxable services/goods, the nontaxable goods/services may be subject to tax unless the seller is able to identify the nontaxable portion of the sale “by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.”
2. A “bundled transaction” will not qualify for application of the single item or single transaction of service tax cap unless specific conditions are met, which require the seller to separate the respective portions of a bundle for purposes of applying the tax cap and to identify the sales price attributable to the different portions in the sales tax return containing the bundled transaction sale at issue.

The bundled transactions provision provides greatest clarity to the “bundled transactions” that are offered as tourism packages throughout Alaska, which are offered by local businesses as well as remote sellers.

9. PCMC 5.10.090 “Person-based exemptions”

This proposed provision includes all tax exemptions granted based solely on the identity of the seller or buyer. CMC 5.40.025 attempts to make this distinction in the current sales tax provisions

but only applied it to certain government entities and nationally recognized tribes. Article X, Section 1 of the Alaska Constitution is intended to prevent the duplication of tax-levying jurisdictions. This exemption is in furtherance of that intention. Also, according to the National Congress of American Indians, Federal law generally recognizes tribes are governments, and many, but not all, state and local governments exempt them from taxation. The Department of Revenue has developed Form 36 0001, Tax Exemption for Sales to Tribes, to apply for tax exemptions for retail sales/use taxes for sellers delivering to the buyer's Indian Country. Accordingly, Cordova's sales tax exemption reflects the exemptions that are afforded to these buyers.

The proposed provision includes all entities or persons exempted from sales tax solely based on the person. Notably, the person-based exemption section does not include other organizations or persons that may be exempt such as charitable or religious organizations because those exemptions are based upon the nature of the activity being taxed. A sale for profit that is not conducted in the normal course of a nonprofits' business for example, may be subject to tax.

10. PCMC 5.10.100 "Product-based exemptions."

PCMC 5.10.100 includes all product-based exemptions applied by the City. However, unlike the current Code, these exemptions are grouped by type of exemption. This not only makes it easier for taxpayers and buyers to identify specific exemptions, it makes it easier for the City to compare the terms and nature of exemptions when updating and adopting additional exemptions or considering the repeal of specific exemptions. Product-based exemptions are grouped in the following categories:

1. Casual and isolated sales, services or rentals.
2. Banking
3. Transportation
4. Interstate commerce, wharfage and shipping
5. Charitable and public assistance
6. Medical care
7. Cemetery goods and services
8. Dues
9. School
10. Compliance with State and federal laws-generally

Casual and isolated sales, services or rentals.

The exemption for casual and isolated sales was revised to include specific occurrences that would trigger taxation. This provision is ultimately intended to protect persons from having to collect sales tax at markets, garage sales, babysitting, Facebook marketplace sales, and so on. However, the current exemption does not have a clear definition for what constitutes an isolated sale or service. The proposed provision clarifies that a sale will not qualify for this exemption if the sale of goods or services occurs for more than 10 days in a calendar year, the sale is made through a dealer, broker or agent, property is rented for more than 60 days in a calendar year or is a rental of

real estate or the sales or rentals are made pursuant to a business license or by sellers representing themselves to be in the business of making sales, rentals or services.

Banking

The exemptions in the banking section were expanded to encompass all mandatory exemptions under federal and State law. Currently, the Code exempts “sale of insurance and bonds of guaranty and fidelity” but it does not specifically address exemptions applied to the fees for sale, exchange or transfer of currency, stocks, bonds, and other securities or the principal amounts of loans or other fees associated with the loaning of money, pass-through charges on loan transactions which include sales tax; and the commission on the sale of insurance policies, bonds of guarantee and fidelity. *See* AS 21.09.210(f); 21.79.130; and 21.80.130. In the most general terms, a fidelity bond guarantees the person while a surety bond guarantees the performances. This exemption results from the City’s need to avoid double taxation as the State of Alaska taxes insurance and bonds, arguably foreclosing the City’s ability to do the same.² The proposed ordinance preserves the City’s ability to tax services that fall outside the tax imposed by the State by making direct reference to the relevant State statutes.

One of the most difficult aspects of revising the sales tax provisions was locating the basis for the exemptions and the required or permitted scope of an exemption. To this end, we recommend preparing a worksheet after Council has adopted changes to the exemptions that references any relevant federal or state law on which the exemptions are based. If no such law exists, an incorporation of the policy reason underlying the exemption will prove helpful and would greatly reduce legal review efforts in the future.

Transportation

Currently, the City appears to exempt all gross receipts or proceeds from transportation by boat or air. Specifically, the City exempts:

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.³

This exemption combines many forms of transportation into a single exemption without regard for the differences in the underlying bases for these exemptions.

Cordova also exempts “proceeds from air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation.”⁴

While much of transportation is exempt from taxation, not all transportation is outside the scope of taxation. For example, AS 29.45.820 prohibits the City from collecting a tax or fee on the air transportation of individuals or goods by a “federally certificated air carrier other than a tax or fee authorized under 49. U.S.C. 40116(e) or 40117. Thus, portions of a sales that charges for

² *See* AS 21.09.210(f), AS 21.79.130, 21.80.130.

³ CMC 5.40.030(G).

⁴ CMC 5.40.030(AD).

recreational flightseeing or air, water, and shore excursions are not exempt unless AS 29.45.820 otherwise requires. Ideally, the City would have clear exemptions for transportation and a separate exemption for freight or wharfage arising out of interstate commerce. The proposed revisions to Title 5 separate out these exemptions and propose them to the extent mandated by law.

“Recreational flights” that are subject to taxation are defined as flights that take off and land in Cordova without landing in another tax jurisdiction. Council had robust discussions regarding the taxation and exemption of recreational flights at its initial work session regarding tax exemptions. Based on that discussion, we incorporated the tax on recreational flights into the Ordinance to further Council discussions. One question previously raised by Council was the ability to tax both recreational flights and transportation via vessel. Given the protections afforded vessel transportation by the Tonnage Clause of the United States Constitution and other constitutional and federal protections, we do not recommend imposing a sales tax on transportation by vessel without pointed and specific research and analysis on such a tax.

Interstate commerce, wharfage and shipping

This category includes the gross receipts or proceeds derived from fish shipments and shipping currently exempted under the Code. These types of exemptions generally arise from the limitations on taxation under the Commerce Clause of the U.S. Constitution.

Charitable and public assistance

Cordova has several exemptions that apply to specific types of organizations that have obtained 501(c)(3) or 501(c)(4) exemption certificates from the IRS. Specifically, Cordova exempts:

sales, services, and rentals by or to religious organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of religious activity; provided, the income from the exempt transaction is also exempt from federal income taxation,⁵

sales, services, and rentals by or to scouting, 4H or similar youth organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation,⁶ and

sales, services, and rentals by or to benevolent or civic organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation and the income is donated to a charity. Such organizations shall pay the sales

⁵ CMC 5.40.030(S).

⁶ CMC 5.40.030(T).

taxes at the time of purchase and shall apply to the city for a refund as provided in Section 5.40.040.⁷

The proposed Code simplifies these provisions, and enforcement of them, by consolidating them into a single provision that exempts nonprofit organizations provided that any income from the exempt sale is also exempt under federal taxation. This prevents the City from having to conduct a separate analysis of the activity or conduct of the nonprofit organization. Further, the exemption is expanded to include 501(c)(19) organizations, which are organizations of past or present members of the U.S. Armed Forces.

Additionally, the exemption was narrowed to ensure that rentals of property and space was excluded from the exemption, which eliminates an area of the exemption which would traditionally require significant investment of resources by the City to determine if such rentals fit within the exemption. It also reflects Council's previous comments regarding the importance of maintaining a level playing field for both public and private entities leasing/renting space within the City.

The other provisions in this category involve state-mandated exemptions for state and federal assistance programs such as food stamps. The current Code exemptions do not mirror the mandatory exemption of public assistance programs and thus the revisions in the Sales Tax Ordinance updated the language to do so.⁸

Finally, this category of exemptions includes the exemption for the use of home heating oil, which has been changed to greatly simplify application of that exemption. Currently, Cordova exempts home heating oil when certain conditions are met. Specifically, Cordova exempts:

home heating oil purchased for use in a dwelling, as defined in [Section 18.08.190], for use at that location conditioned on the following:

1. That no more than fifty percent of the floorspace of the building(s) considered as dwellings be used as nonresidential use, including business activities.
2. That the dwelling be operated in compliance with all other regulations and laws.
3. If a fuel tank is used to supply more than one structure or area then no more than fifty percent of the floorspace and area supplied shall be non-dwelling and nonresidential including business activities.⁹

⁷ CMC 5.40.030(U).

⁸ See AS 29.45.650(f).

⁹ CMC 5.40.030(AC).

Cordova’s exemption of heating oil may no longer provide the relief initially anticipated as the types of heating fuel sources. While Cordova adopted a rebate on home heating oil in 2008, it only applied to home heating oil purchases occurring before July 1, 2009, unless extended by Council. After discussions of this exemption with Council and the expressed desire to retain it, it was greatly simplified, exempting “home heating oil purchased for use in a dwelling so long as at least 50% of the floorspace of the dwelling is used as a residence and not for commercial or business purposes.”

Medical care

Medical care exemptions include exemptions for assisted living facilities, medical equipment, medical professional services, prescription drugs, and medical facility meals. Council reviewed each of these exemptions at its preliminary work session and decided to preserve these exemptions.

Cemetery goods and services

Council also considered the exemption for cemetery goods and services, which includes plots, caskets, and burial related items, at its preliminary work session and expressed support for retaining this exemption.

Dues

The City currently exempts “[d]ues or fees to clubs, labor unions or fraternal organizations” but does not limit this exemption in any way. The proposed Code clarifies the scope of this exemption by revising this exemption to provide “[d]ues or fees to clubs, labor unions or fraternal organizations *solely for the privilege of membership.*”

School

Exemptions currently exist for student activities, student sales, school sales and services, school cafeteria sales, and childcare providers. These exemptions were predominately retained but simplified where appropriate. Additionally, exemptions regarding childcare were included in this category. Currently, “proceeds from contract services provided by a state-licensed childcare contractor”¹⁰ are exempt. This exemption is clearly a policy-based exemption that is found in the vast majority of local Alaska Tax Codes. However, it excludes from the exemption childcare provided by unlicensed childcare providers. Unlike other jurisdictions, Cordova also exempts “proceeds from contract services provided by a person for the purpose of taking temporary care of minors for another person.”¹¹ Council expressed a consensus in retaining both of these exemptions and thus they were consolidated in a single category.

Exemptions Removed from The Code

While the majority of the changes to exemptions in the Code included clarifying language and changes in the scope of an exemption, some of the exemptions were removed after Council discussed the policies underlying them.

¹⁰ CMC 5.40.030(V).

¹¹ CMC 5.40.030(W).

Repeal of Travel agent Commission Exemption

The exemption on travel agent commission was removed from the proposed Code. This exemption applied to commissions received by travel agencies. The exemption provides:

commissions received by travel agencies for their services that are not set by and billed by the travel agencies [are exempt]. Service charges set by and billed by the travel agencies are not exempt from taxation under this chapter.¹²

This section exempts from sales taxes the commissions received by travel agencies for their services, but only where the service charges are set and billed by a party other than the travel agencies. Otherwise, the commissions received by travel agencies are not exempt from sales taxes and are set and billed by the travel agencies. The removal of the exemption removes confusion about its application.

Repeal of Exemptions for Commissions and Fees

Cordova currently has exemptions that prevent the City from imposing sales tax on sales of real property and a portion of the brokerage commissions on those sales. Cordova's Tax Code exempts "commissions or fees in excess of five thousand dollars earned by brokers or agents in real estate sales transactions."¹³ After a work session with Council where no policy could be identified justifying these exemptions, this exemption was removed and PCMC 5.10.130 "Rules applicable particular businesses and occupations" was adopted. The proposed provision states:

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.

11. PCMC 5.10.110. Wholesale/Manufacturer/Resale Exemptions and limitations of exemptions.

Currently, exemptions pertaining to wholesale, manufacturing, and resale are located in different locations among the general list of exemptions. However, resale, manufacturing, and wholesale activities are all very similar and should be addressed together as some taxpayers are not sure how to classify a sale. Ultimately, the City Code should ensure that taxes are only paid once on goods and services subject to tax. Thus, if a grocery store purchases food wholesale to then resale to its customers, the purchases by the store should not be taxed. Subsequent sales of the food to

¹² CMC 5.40.030(M).

¹³ CMC 5.40.030(AB).

customers of the grocery store, however, should be taxed. Further, if a person purchases materials to then manufacture a product for sale to another, the materials purchased that comprise the final good should be exempt from tax.

12. PCMC 5.10.120 Rules applicable to particular businesses or occupations.

As discussed above, the proposed Code removes the exemption previously applied to certain commissions and brokerage fees. PCMC 5.10.120 consolidates the rules applicable to specific industries and includes the commission rates and fees that apply to professional services provided in the City as well as brokerage fees on real estate sales.

13. PCMC 5.10.130 Payment and collection.

This section of the Code remains predominately unchanged but for the addition of Subsection (B), which makes it clear that tax payments on installments are collected on each payment but if the service or delivery is rendered over more than one month, the provisions of PCMC 5.10.080(C) apply. This addition makes it clear that services rendered or deliveries that span more than a month will have the tax cap applied to each month of services or delivery.

14. PCMC 5.10.140 Sales tax collection-registration requirement.

CMC 5.10.140 incorporates a very simple registration process that is added to the business license application process to minimize the impact on the public while ensuring that the City has a way of memorializing who is collecting sales tax on behalf of the City. This also allows the City to more easily identify any sellers that have not filed a sales tax return.

15. PCMC 5.10.170 Injunction prohibiting operation of business for failure to register/failure to remit returns.

Unlike property tax payments, sales tax payments involve the collection and remittance of taxes paid by someone other than the taxpayer themselves. As a result, PCMC 5.10.170 proposes a section that makes clear the City's right to take court action to enjoin a business from operating where it has failed to file a tax return.

16. PCMC 5.10.180 Protests.

The City's current sales tax provisions have numerous procedures for challenging different aspects of sales tax collections. In the Sales Tax Ordinance, the procedures for appealing a decision regarding sales tax are limited to filing a protest. In order to ensure that remote sellers and local sellers had substantially the same process and procedures, the protest procedures for the Remote Sellers Tax Code were predominately adopted for protests in the City.

17. PCMC 5.10.190 Limit of liability.

This section of Proposed Chapter 5.10 ensures that taxpayers and sellers do not rely on verbal representations by the City that are not in writing, ensuring consistent and uniform enforcement and interpretation of the sales tax provisions by the Administration both now and into the future. It also gives taxpayers and sellers confidence that when they do receive interpretation or direction in writing, they can rely on that direction or interpretation.

18. PCMC 5.10.200 Tax receipts.

This provision requires sellers to separately state the tax being imposed and to show information regarding exempt sales on the receipt. This ensures that proper record keeping regarding exemptions and proper notice regarding taxation are maintained by sellers.

19. PCMC 5.10.220 Revocation of exemption status.

While the City Manager’s authority to revoke an exemption card exists in current Code, this section was revised to provide an exemption card holder more time, 30 days rather than just five days, to respond to a notice of violation prompting the revocation. It also was revised to clarify the notice requirements that must be followed by the City before an exemption.

20. PCMC 5.10.230 Refunds.

This provision was revised to remove specific requirements for a request for refund applied to nonprofit organizations and to remove language regarding the filing of a protest, which is now governed by PCMC 5.10.180.

21. PCMC 5.10.240 “Construction materials and services exemption and refund.”

One area that was changed was the tax treatment of construction materials. Currently, construction materials are treated differently than all other goods and services within the City. At first glance, the current Code provision appears to simply authorize a sales tax cap on “construction materials and services” that allows purchasers to limit taxation on purchases for a construction project to the first \$5,000 of taxable sales and service. Alternatively, the refund application process in the current Code authorizes purchasers to get a refund of the sales tax paid on “construction materials and service” paid on sales exceeding \$5,000 for a permitted construction project. In reality, imposing a tax cap on only the first \$5,000 of “construction materials and services” purchased in a given year ignores that the tax cap applies to single items or single transactions of services and that by grouping *all* construction materials and services as a single transaction, these services and goods are essentially wholly exempt from sales tax except for an annual \$350 payment. Further, given the inability of Council to legally limit the exemption to purchase of goods sold by local stores, the City is exempting *all* purchases of construction materials and services used for permitted construction projects in the City. Finally, the use of an exemption card for “construction materials and services” on a construction project provides no mechanism for oversight or audit of the use of this exemption card for the purpose intended.

At Council’s last work session on sales tax, Council members debated the elimination of the construction materials exemption with some members requesting that the proposed Title 5 include only the refund option for Council’s consideration. At the time, it was Council’s intention to revisit

this provision and again weigh the pros and cons of the exemption and the ways in which it is collected. Council’s discussion acknowledged that while the exemption card may be easier for the taxpayer, it was more difficult for the entities and individuals remitting the taxes and also made it difficult to confirm that the taxes owed were being paid. In addition to the refund, contractors are considered resellers of subcontractor services and thus services provided by a subcontractor are exempt under PCMC 5.10.110(C).

It is also worth noting that since Council’s last work session, it has adopted property tax exemptions that will provide the same class of taxpayers additional exemptions from taxation, clearly reflecting and implementing tax relief for the construction of new infrastructure within the City. Council may want to consider if the intention was to provide relief to a single industry in both sales tax and property tax provisions.

Given the unique treatment of construction materials and services under the Code, the proposed Code separates the construction materials and services exemption and refund process from all other provisions in the Code and attempts to clearly state the scope of the exemption and the process for getting sales tax payments refunded to the purchaser. The proposed provision removes the issuance of the exemption card and requires purchasers seeking the construction materials exemption to pay taxes and file for a refund. Given that the “construction materials and services” are taxes as a single item, this is the only method that allows the City to review the purchases as a single item. In order to ensure filers have sufficient time to gather receipts and file a complete refund application, the deadline for a refund application under the proposed provision was extended from February 1st to October 1st.

22. 5.10.280 Tax return—Payment to City.

PCMC 5.10.280 retains the quarterly tax return and payment deadlines imposed under the current Code but attempts to make those obligations clearer. Currently, CMC 5.40.080 requires sellers to maintain documentation of the number of the exemption authorization card presented by a buyer but no other relevant information. PCMC 5.10.280 requires the sales tax return preparer to retain not only the number of the exemption authorization card presented by the buyer but the date and time of the purchase, the name of the person and organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. While this is likely information that the seller has, it provides sufficient information for the City to investigate any disparities or misuse of an exemption authorization card or misunderstandings regarding the scope of the exemption. It also assists the City in determining the costs of any misunderstandings or misuse of exemptions.

23. 5.10.315 Penalties and interest for late filing.

Currently, CMC 5.40.130 “Penalty for violations” imposes the following penalties:

- A. A \$25 penalty each month for late filing up to \$100 per return.

B. A 5% late payment penalty for each month of delinquency up to 20% of the amount of taxes due.

C. 15% interest per year on the unpaid tax

It further states that a person who purchased items as exempted purchases but is found to have done so fraudulently must have their exemption card permanently revoked and pay a civil penalty of 100% of the unpaid taxes.

This provision does not address specific violations beyond these mentioned.

PCMC 5.10.315 addresses only the late filing fees, penalties, and interest on late filing. PCMC 5.10.325 addresses other violations of Proposed Chapter 5.10. The proposed changes increase the late filing fee to \$50 per month with a maximum of \$150 owed on a single tax return. It does not change the 5% late payment penalty for each month of delinquency up to 20% or the 15% interest due per year for unpaid tax. Provisions regarding fraudulent misuse of an exemption card are addressed in PCMC 5.10.325 “Violations.” Alaska Statute 29.45.250 provides that a penalty not to exceed 20 percent may be added to all delinquent taxes, and interest not to exceed 15% a year shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full.

24. 5.10.320 Lien.

CMC 5.40.125 “Lien” specifies that the tax, penalty, and interest imposed by the City, together with all administrative and legal costs incurred, constitutes a lien on the seller’s real and personal property. It does not, however, provide any guidance for when and how the City executes this lien. PCMC 5.10.320 imposes some limitations on when a lien may be filed against a seller and requires the City to provide the seller notice of filing a lien before recording the lien. More specifically, PCMC 5.10.320 states that the City may cause a sales tax lien against the seller’s real and personal property where the seller has: 1) failed to file sales tax returns for two consecutive filing periods and 2) failed within 60 days from the end of the filing period from which the taxes are due to remit all amounts due or enter into a secured payment agreement approved by the City Manager. Further, before filing a sales tax lien, the City must send the seller a written notice of intent to file. These provisions were added to protect the interests of the seller and protect the seller’s right to come into compliance.

25. 5.10.325 Violations.

PCMC 5.10.325 was added to create clear violations, and consequences, for conduct beyond the mere failure to file or pay sales taxes. When a seller fails to file a tax return or remit sales tax owed when due or otherwise comply with exemption requirements, it requires the seller to pay all costs incurred by the City to determine the amount of the seller’s liability to collect the sales tax, including, without limitation, reviewing and auditing the seller’s business records, collection agency fees, and actual reasonable attorney’s fees. It also clarifies that officers or directors or managers of certain types of entities are liable for the taxes that they were obligated to collect and

remit to the City. It also expressly establishes jurisdiction in Cordova for cases involving a violation and authorizes the City to bring a civil action to:

1. Enjoin a violation of this Chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.
3. Foreclose a recorded sales tax lien as provided by law.

This proposed provision is intended to protect the City's authority to enforce its sales tax provisions without question and in a manner that prevents any efforts to evade taxation.

26. PCMC 5.10.330 Penalty for violations.

PCMC 5.10.330 "Penalty for Violations" identifies the penalties for violating PCMC Chapter 5.10 outside just failure to file and pay taxes and provides the specific amount of the penalty for violations. Specifically, the violations and penalties identified are as follows:

- A. A buyer or seller who knowingly or negligently submits false information in a document filed with the City under this Chapter is subject to a penalty of \$500.
- B. A seller who knowingly or negligently submits false information in a document filed with the City pursuant to this Chapter is subject to a penalty of \$500.
- C. A seller who knowingly or negligently falsifies or conceals information related to its business activities with the City is subject to a penalty of \$500.
- D. A person who knowingly or negligently provides false information when applying for an exemption is subject to a penalty of \$500.
- E. A seller who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the City a penalty equal to three times any deficiency found or estimated by the City with a minimum penalty of \$500.
- F. A seller who falsifies or misrepresents any record filed with the City is guilty of an infraction and subject to a penalty of \$500 per record.
- G. Misuse of an exemption card is a violation and subject to a penalty of \$50 per incident of misuse.

While the current Code has a penalty for fraudulent misuse of an exemption card, it does not address knowing or negligent conduct by buyers and sellers regarding the submission of false information, refusal to produce documents and records or false misrepresentation of records. By including these violations in the Code and the penalties for them, sellers and buyers are aware of the consequences of their actions regarding tax filings. Further, these violations mirror those adopted by the Remote Tax Commission. Thus, the adoption of these violations creates clarity and consistency for remote sellers subject to Cordova tax as well as taxes elsewhere in Alaska.

III. CONCLUSION

While this memo attempts to address the substantive changes in both the Sales Tax Ordinance and the City Property Ordinance, both City Attorney Wells and staff shall be available to answer additional questions at the upcoming Council meeting. In addition, the City Administration is preparing public handouts, postings, and notices to inform the public, including buyers and sellers, of the proposed changes and their potential impacts. Once and if Council adopts these ordinances, the Administration will also be revising its tax filing forms and documents to further assist buyers and sellers in complying with the new provisions.

**CITY OF CORDOVA, ALASKA
ORDINANCE 1221**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA ENACTING CHAPTER 5.01 “DISBURSEMENT AND INVESTMENT OF CITY FUNDS”; AMENDING AND RENAMING CHAPTER 5.04 “WARRANTS” TO “SIGNATURE REQUIREMENTS” AND CLARIFYING THE SIGNATURE PROCESS ON CITY FUND DISBURSEMENTS; AMENDING, RENUMBERING, AND RENAMING CHAPTER 5.44 “CORDOVA GENERAL RESERVE FUND” TO CHAPTER 5.02 “CORDOVA PERMANENT FUND (GENERAL RESERVE FUND)”; REPEALING CHAPTER 5.40 “SALES TAX” AND ENACTING CHAPTER 5.10 “SALES TAX” TO ADOPT A REGISTRATION PROCESS FOR SELLERS; UPDATE THE SALES TAX RETURN, IMPLEMENTATION, ENFORCEMENT, PROTEST, AND COLLECTION PROCEDURES; REMOVE THE SALES TAX EXEMPTIONS FOR TRAVEL AGENCIES, PROFESSIONAL SERVICES COMMISSIONS AND FEES, AND RECREATIONAL FLIGHTS; TO CLARIFY THE EXEMPTION FOR NONPROFIT ENTITIES AND EXPRESSLY EXCLUDE RENTALS FROM THE EXEMPTION; AND TO REQUIRE PURCHASERS TO FILE A REFUND APPLICATION FOR THE SALES TAX EXEMPTION ON CONSTRUCTION MATERIALS AND SERVICES

WHEREAS, the City of Cordova has not substantively revised many of its Cordova Municipal Code Title 5 “Revenue and Finance” provisions in over 30 years; and

WHEREAS, the City has experienced numerous requests regarding interpretation and scope of Title 5 “Revenue and Finance” in the last few years and determined it was in the City’s best interest to revise this title to ensure clear provisions governing the City’s tax regime; and

WHEREAS, City Council has reviewed the exemptions afforded buyers in the City and determined that exemptions for travel agencies, certain recreational flights, and commissions, rates, and fees for professional services are not justified by City policies and objectives; and

WHEREAS, it is in the City’s best interest to preserve the exemption on “construction materials and services” to incentivize housing development within the City while updating the Code to require purchasers to file a refund application for sales tax payments on “construction materials and services”; and

WHEREAS, the refund application process for purchasers claiming the construction materials and services exemption ensures that this exemption is only applied to qualifying purchases and assists the City in understanding the cost of this exemption to the City for future consideration by Council; and

WHEREAS, the adoption of a registration process that incorporates registration for sales tax collection into the business license application process provides the City a way to identify sellers in Cordova and the nature of their sales,

NOW, THEREFORE, be it ordained by the Council of the City of Cordova, Alaska,

Section 1. Removal of Cordova Municipal Code Title 5 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” from Title 5 “Revenue and Finance” and relocation of the chapters into Title 7 “City Property” is being proposed by Ordinance 1222.

Section 2. The Cordova Code of Ordinances of Cordova, Alaska Title 5 “Revenue and Finance” is renumbered and re-titled as follows:

TITLE 5 “REVENUE AND FINANCE”

Chapters

5.01 Disbursement and Investment of City Funds

5.02 Cordova Permanent Fund (General Reserve Fund)

5.04 Warrants **Signature** Requirements

5.05 Property Tax

5.06 Property Tax Exemptions and Deferrals

5.07 Property Tax Exemption and Deferral Criteria 5.12 Purchases

5.14 Sale of Personal Property

5.16 Tidelands 5.22 Disposal of Real Property

5.23 Acquisition of Real Property

5.24 Abandoned Property

5.28 Use of City Equipment

5.29 Local Hire for Public Improvement

5.40 **10** Sales Tax

5.41 **15** Raw Fish Tax

5.35 Signature Requirements

5.38 Biennial Motor Vehicle Registration Tax

5.32 **40** Special Assessment Districts for Local Improvements

5.08 **45** Business with Persons Indebted to the City

5.44 Cordova General Reserve Fund

Section 3. Title 5 of the Cordova Code of Ordinances of Cordova, Alaska is hereby amended by adding a chapter, to be numbered Chapter 5.01, which said chapter reads as follows:

Chapter 5.01 DISBURSEMENT AND INVESTMENT OF CITY FUNDS.

5.01.010 Disbursement of City Funds.

5.01.020 Investment of City Funds.

5.01.010 Disbursement of City Funds.

The City Manager may adopt policies for the disbursement of funds subject to approval by City Council and in compliance with Article V of the City Charter.

5.01.020 Investment of City Funds.

The City Manager may adopt policies for the investment of funds subject to approval by City Council and in compliance with Article V of the City Charter.

Section 4. Chapter 5.44 of the Cordova Code of Ordinances, Alaska is hereby amended to read as follows:

Chapter 5.445.02 CORDOVA GENERAL RESERVE FUND-PERMANENT FUND (GENERAL RESERVE FUND)

Sections

5.4402.010 Cordova Permanent Fund(General Reserve Fund)-Established.

5.4402.020 Cordova Permanent Fund-Purpose.

5.4402.030 Deposits to the Cordova Permanent Fund.

5.4402.040 Management of Cordova Permanent Fund.

5.4402.050 Cordova Permanent Fund-Income and Distribution.

5.4402.060 Cordova Permanent Fund-Principal.

5.4402.010 Cordova Permanent Fund (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 Permanent Fund or the Cordova General Reserve Fund. ~~general reserve fund~~ (hereinafter referred to as "the ~~fund~~" or the "~~city permanent fund~~"). The Cordova Permanent ~~general reserve~~ Fund shall be administered in accordance with the provisions of this Chapter and Section 5-22 of the City Charter.

5.4402.020 Purpose.

The purpose for establishment of the Cordova Permanent ~~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~~ Cordova Permanent ~~Fund~~ as anticipated revenues for the purpose of funding operating expenses when approving the budget. The establishment of the Cordova Permanent ~~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.

5.4402.030 Deposits to the Cordova Permanent ~~Fund~~.

~~The City Council may, from time to time, make deposits to the~~ Cordova Permanent ~~Fund~~ in the same manner as it makes other appropriations. Any funds received by the City from any source may be deposited into the Cordova Permanent ~~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 Cordova Permanent ~~Fund~~ to fulfill the purpose as set forth in Section 5.0244.020 of this Chapter.

5.4402.040 Management of Cordova Permanent ~~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 Cordova Permanent ~~Fund~~.

5.4402.050 Cordova Permanent Fund-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 Cordova Permanent ~~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 **Cordova Permanent Fund**, "net income" means the total income yielded from investment of the principal of the **Cordova Permanent Fund** for the preceding fiscal year, less any amounts needed;
1. To reimburse the **Cordova Permanent Fund** principal in the event a transaction results in an actual dollar loss in principal;
 2. To offset any reduction in ~~fund~~ **the principal of the Cordova Permanent Fund** due to administrative costs;
 3. To offset any depletive effect of inflation on the ~~fund~~ **principal of the Cordova Permanent Fund** during the fiscal year, as may be determined by a nationally recognized inflation index.
- D. The net income of the **Cordova Permanent Fund** is unrestricted general income of the Ccity.

5.4402.060 Cordova Permanent Fund-Principal.

- A. **The Cordova Permanent** 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 **Cordova Permanent 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 5. Chapter 5.04 of the Cordova Code of Ordinances, Alaska is hereby amended to read as follows:

Chapter 5.04 ~~WARRANTS SIGNATURE REQUIREMENTS~~

Sections

5.04.010 Signature requirements.

5.04.020 Facsimile signature.

5.04.010 - Signature requirements.

Every warrant or other order for disbursement of money by the City shall be signed by at least two signers employed by the City and designated by City Council. City Council shall adopt a resolution identifying at least five designated signers for purposes of this section. The resolution shall include the City Manager as one of the five designated signers. ~~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.~~

5.04.020 - Facsimile signature.

Nothing in this Chapter shall be construed to prohibit the use of facsimile or electronic signatures of officers authorized in Section 5.04.010 to sign warrants or other orders for the disbursement of money.

Section 6. Chapter 5.40 of the Cordova Code of Ordinances of Cordova, Alaska is hereby repealed.

Section 7. The Cordova Code of Ordinances of Cordova, Alaska is hereby amended by adding Title 5, Chapter 5, which said chapter reads as follows:

Chapter 5.10 SALES TAX

Sections

- 5.10.010 Purpose and intent.
- 5.10.020 Interpretation and general presumptions of taxability.
- 5.10.030 Definitions.
- 5.10.040 Supplemental definitions.
- 5.10.050 Imposition—Rate.
- 5.10.060 Alaska Uniform Remote Seller Sales Tax Code—adopted.
- 5.10.070 Title to collected sales tax.
- 5.10.080 Maximum tax per transaction-the tax cap.
- 5.10.085 Bundled transactions.
- 5.10.090 Person-based exemptions.
- 5.10.100 Product-based exemptions.
- 5.10.110 Wholesale/Manufacturer/Resale Exemptions and limitations of exemptions.
- 5.10.120 Rules applicable to particular businesses or occupations.
- 5.10.130 Payment and collection.
- 5.10.140 Sales tax collection-registration requirement.
- 5.10.170 Business operation injunction-failure to file or pay taxes.
- 5.10.180 Protests.
- 5.10.185 Protest of tax by buyer.
- 5.10.190 Limit of liability.
- 5.10.200 Tax receipts.
- 5.10.210 Exemption application and exemption authorization card.
- 5.10.220 Revocation of exemption status.
- 5.10.230 Refunds.
- 5.10.240 Construction materials and services exemption and refund.
- 5.10.270 Disposition of proceeds.
- 5.10.280 Tax return—Payment to City.
- 5.10.290 Record keeping and investigation.
- 5.10.300 Estimated tax.
- 5.10.310 Recovery of taxes—Delinquency date.
- 5.10.315 Penalties and interest for late filing.
- 5.10.320 Lien.
- 5.10.325 Violations.
- 5.10.330 Penalty for violations.
- 5.10.340 Repayment plans.
- 5.10.350 Additional regulations enacted when.
- 5.10.360 Delinquent sales tax roll confidentiality.

5.10.010 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.

5.10.020 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 in the City are subject to sales tax.
- B. The application of the tax to be collected under this Chapter shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax to be collected under this Chapter shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Chapter.
- D. For purposes of this Chapter, except as expressly provided otherwise in this Chapter, the sales price or purchase price of property is based on the date the property or product was sold or the date the service rendered was received.
- 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 Chapter.

5.10.030 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.

"Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where 1) the products are otherwise "distinct and identifiable" and 2) the products are sold for one non-itemized price. For purposes of this definition, a "bundled transaction" does not include the sale of any products in which the "sales price" varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

- A. As used in this definition, "distinct and identifiable" does not include:
 - 1. Packaging-such as containers, boxes, sacks, bags, and bottles-or other materials-such as wrapping, labels, tags, and instruction guides-that accompany the "retail sale" of the products and are incidental or immaterial to the "retail sale" thereof; or
 - 2. A product provided free of charge with the required purchase of another product. A product is "provided free of charge" if the "sales price" of the product purchased does not vary depending on the inclusion of the product "provided free of charge."
- B. As used in this definition, the term "one non-itemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.
- C. A transaction that otherwise meets the definition of a "bundled transaction" as defined above, is not a "bundled transaction" if it is:
 - 1. The "retail sale" of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service; or
 - 2. The "retail sale" of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service; or

3. A transaction that includes taxable products and nontaxable products and the “purchase price” or “sales price” of the taxable products is de minimus.

"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 this Chapter. 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 as further defined in Section 5.10.100 of this Chapter. 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.

“Construction materials and services” means items that become a permanent part of the structure being constructed and services rendered in constructing the permanent part of the structure. It does not include personal property that can be removed or replaced in a structure without impairing the integrity of the structure. Personal property that can be removed or replaced in a structure without impairing the integrity of the structure includes, but is not limited to, appliances, flooring, light fixtures, and cabinetry.

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

“Delivery network company” means a business that facilitates, through the use of an Internet website or mobile application, the delivery of products or services.

“Digital good” means any product delivered electronically (whether downloaded, streamed or subscribed to). A digital good generally takes the form of a license to use or store in a digital or electronic format. Digital goods are generally intangible property for purposes of this Chapter.

“Digital service” means any service delivered electronically that uses one or more software applications. Digital service includes any service that primarily involves the application of human effort by the seller,

and the human effort originated after the customer requested the service, provided the service is delivered electronically.

“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 City Treasurer or an individual designated to serve as the Finance Director by the City Manager. Except as otherwise prohibited by this Code or the City Charter, 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 person.

“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 retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.
- 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 marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the marketplace 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 marketplace seller;
 - 2. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and marketplace sellers together;

3. Providing a virtual currency that buyers are allowed or required to use to purchase products from the marketplace 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 Alaska that are significantly associated with the seller’s ability to establish or maintain a market for its product in Cordova
- C. Provides services through an employee, agent, salesman or other representative or holds inventory within the boundaries of Cordova
- 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, including but not limited to, 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 means 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).

“Quarter” means trimonthly periods of a calendar year; January-March, April-June, July-September, and October-December.

"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.

“Recreational flight” means any flight that takes off from Cordova and returns to Cordova without landing in any other taxing jurisdiction unless that flight is solely for emergency medical transport, military transport, government operations or ancillary to a use otherwise exempt from sales tax under this Code.

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

"Remote seller" means a seller or marketplace facilitator making sales of goods, services or bundled transactions for delivery within Cordova without having a physical presence in Cordova.

"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.

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

“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.

“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.

"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, services or bundled transactions 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 that person's trade, business, or occupation;
- F. Advertising, maintenance, recreation, amusement, and craftsman services
- G. Digital services
- H. Rentals of real and personal property

"Special annual public events" means those events which are annually scheduled and open to the public.

“Taxing jurisdiction” means another jurisdiction that imposes a sales tax.

"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. another article or product made of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or
- I. Any noncombustible device that provides a vapor of liquid nicotine to the use or relies on vaporization of any liquid or solid nicotine, including devices manufactured as e-cigarettes, e-cigars, e-pipes, or any other product name.

“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 30 consecutive days in any building or facility, including room or house rentals, 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.

“Travel agency services” means arranging or booking for a commission, fee or other consideration, vacation or travel packages, rental car, tours or other travel reservations or accommodations, tickets for domestic or foreign travel by air, ship, rail, bus or other medium of transportation, or hotel or other lodging accommodations.

5.10.040 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.

5.10.050 Imposition—Rate.

- A. To the fullest extent permitted by law, a sales tax is hereby levied and assessed on all retail sales and all 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. 13 percent on transient lodging
 - 2. 13 percent on motor vehicle rentals, excluding watercraft
 - 3. 13 percent on sales of marijuana, marijuana concentrates, and marijuana products
 - 4. 13 percent on sales of cigarettes and other tobacco products
 - 5. 13 percent on sales of alcoholic beverages

6. Seven 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. The tax rate shall be added based on the date the property or product was sold or the date the service rendered was received.

5.10.060 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 Chapter.
- 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.

5.10.070 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.

5.10.080 Maximum tax per transaction-the tax cap.

- A. *Maximum Tax on a Single Item or Single Transaction of a Service.* Except as otherwise provided in this section, only the first \$5,000.00 of the sales price of a single item or single transaction for a service shall be subject to sales tax. This maximum tax per single transaction may be referred to as the “tax cap” or, when applied to a service, “the single service tax cap” or when applied to an item, “the single item tax cap.”
- B. *Extended Services and Deliveries.* Payment for services to be rendered or personal property to be delivered over a period of more than one month shall be treated as separate transactions occurring one each month over the period of time that the service is rendered or property delivered. The purchase price shall be allocated pro rata to each month in which the service is rendered or the property delivered with the tax cap applied to the first \$5,000 of each monthly transaction and subject to taxation until the service is no longer performed or the property is fully delivered.
- C. *Rentals rendered over more than a month.* Except as otherwise provided in this Chapter, the payment of rent, whether for real or personal property that is for more than one month shall be treated as a separate transaction each month the property is rented with the tax cap applied to the first \$5,000.00 of each monthly transaction until the end of the rental term.
- D. *Rentals rendered over less than one month.* Except as otherwise provided in this Chapter, the payment of rent, whether for real or personal property, that is for less than one month shall be treated as a separate transaction each day the property is rented with the tax cap applied to the first \$5,000 of each nightly transaction subject to taxation.

5.10.085 Bundled transactions.

- A. If the sales price of a bundled transaction is attributable to both products or services that are taxable and products or services that are nontaxable, the portion of the sales price attributable to the nontaxable products may be subject to tax unless the seller can identify the nontaxable portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.

- B. Except as otherwise authorized in this Chapter, a bundled transaction does not qualify for exemption under Cordova's single item tax cap or single service tax cap and thus the full sale price of the bundled transaction shall be subject to tax unless the following conditions are met:
1. The seller separates the respective portions of a bundle for purposes of applying the tax cap to each respective portion; and
 2. The seller identifies the sales price attributed to each portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes, on the sales tax return containing the sale for which the tax cap was applied.

5.10.090 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.* Except as otherwise provided in this section, 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.
1. This exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering of services for sale to governments or government units on a contract bid award. In this case, the contractor shall be deemed the buyer and subject to the payment of the tax.
 2. 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.

5.10.100 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, whether or not these days are consecutive, 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. Recreational flights 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.*
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. This exemption does not apply to the rental of real property, personal property or space by or to nonprofit entities that otherwise qualify for an exemption under this subsection. Such rentals remain subject to sales tax under this Chapter.
 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 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.
 3. *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.
 4. *Prescription drugs.* Gross receipts or proceeds of the retail sale of prescription drugs are exempt.
 5. *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 solely for the privilege of membership.
- I. *School.*
1. *Student Activities.* Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations;
 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. *Childcare services.* 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. *Required exemptions.* Sales, rentals or services which the city is prohibited from taxing by the Constitution or statutes of the United States or the state of Alaska.

5.10.110. Wholesale/Resale/Manufacturer 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 5.10.210 of this Chapter and meets the requirements of this section:
1. *Wholesale/Resale.* Sales to a wholesale or retail dealer in the property sold, for the purpose of resale by the dealer located or making sales inside the city and registered with a city business license where the subsequent sale is subject to the City sales tax.
 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 of that manufactured product, 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.* Services that are provided by a subcontractor to a contractor for a third party are considered services for resale and are exempt from taxation.
- D. *Limitation for Bundled Transaction.* Goods, wares or merchandise that are provided as part of a bundled transaction and are not offered for sale as separate and individual items do not constitute a resale and are not exempt under this section as a resale, wholesale or manufactured product. For example, the goods, wares, and merchandise that make up a bed and breakfast stay or a fishing or hunting charter service are not exempt under this section.

5.10.120 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, including travel agency services, 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.

5.10.130 Payment and collection.

- A. 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, 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.
- B. When a sale is made and services are rendered or the product is delivered but payment for the services or product is made over time, the applicable sales tax shall be collected on each payment but the sales tax shall be calculated at the sales tax rate in effect at the time the sale was made and any applicable tax cap shall be applied at the time of the sale. If the service or delivery will not be completed within one month from the date of payment, payments shall be made and the sales tax cap applied in compliance with Section 5.10.080(B) of this Chapter.

5.10.140 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 through and as part of the business license application process under Title 6 of this Code.
- 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. 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 City Manager or the City Manager’s designee 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.

- E. 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 the postmark date of the notice of delinquency.

5.10.170 Business operation injunction-failure to file and pay.

In addition to all other rights and remedies available to the City under law, 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 30 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.

5.10.180 Protests.

- A. If a seller wishes to dispute a finding of the City involving taxable sales, sales taxes or penalties or interest, the seller must file a written protest with the City Clerk within 30 calendar days of the date of the written notice of the City's findings. The protest must set forth:
 - 1. The seller's justification for reducing or altering the taxes, penalties or interest due; or
 - 2. The seller's reasons for challenging the City's findings.
- B. In processing the protest, the City Manager, or the City Manager's designee, may hold an informal meeting with the seller either on its own or upon request of the seller and may also require the seller to submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.
- C. The City Manager shall make a final written determination on the seller's protest and mail a copy of the determination to the seller.
- D. If a written protest is not filed within 30 days of the date of the written notice of the City Manager's findings, then the findings shall be final, due and payable to the City.

5.10.185 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 no more than 30 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 may investigate the facts related to the claim of exemption. The Finance Director shall issue a written decision,

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 30 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.

5.10.190 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. 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.
- 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.

5.10.200 Tax receipts.

A. 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.

5.10.210 Exemption application and exemption authorization card.

- A. Any person claiming an exemption under this Chapter shall apply to the City for an exemption authorization card on a form provided by the Finance Director 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 5.10.110 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 that person's place of business may refuse to accept the exemption card.

- B. Purchasers of “construction materials and services” are not eligible for an exemption card for such purchases.
- C. Exemption cards may not be assigned or transferred.

5.10.220 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 sending a notice of revocation under this chapter, the City Manager shall send a written notice of violation via certified mail to the exemption holder advising the holder of the violation and the potential for revocation. Upon written request filed with the Finance Director by the holder, the City Manager shall meet with the holder to discuss the alleged violations. If the City Manager determines a violation of this Chapter has occurred by the holder, the City Manager shall revoke the exemption card. If an exemption holder does not respond to a notice of violation issued under this section within 30 calendar days of receipt of a notice of violation, the exemption card shall be revoked.
- C. The revocation shall be permanent unless the City Manager provides for a shorter period in the revocation order.

5.10.230 Refunds.

- A. A claim for a refund of a payment 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.
- B. A claim for refund of payment shall be made by filing a request for refund with the City Manager on a form provided by the Finance Director, specifying the date the tax was imposed, the amount of refund claimed, and the basis upon which the claim for refund is made. 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.

5.10.240 Construction materials and services exemption and refund.

- A. Except as limited by this section, a purchaser who obtains a building permit for a construction project may apply for a refund for sales tax paid to the City above \$350 on purchases of “construction materials and services.”
- B. The total time period eligible for refund of sales tax under this section is two years. A separate application for refund must be submitted for each year.
- C. An exemption under this section requires the purchaser to pay sales tax as otherwise required under this Chapter and submit a request for refund under this section. If no application for refund is filed or the purchaser is not eligible for a refund under the requirements of this section, sales tax on “construction materials and services” shall be due and owing without exemption.

- D. A purchaser seeking a refund for “construction materials and services” shall file a complete “construction materials and services” tax refund application with the Finance Director no later than October 1st for sales tax paid in the prior year. The application must include:
 - 1. Identification of the construction project for which the application is filed and the building permit number for that specific project
 - 2. A copy of the building permit issued for that specific construction project
 - 3. Proof of \$350 in sales tax paid to the City for “construction materials and services” on the specified construction project for that year
 - 4. Itemized receipts showing sales tax paid to the City for all purchases of construction materials and services for which the purchaser is seeking a refund with the building permit number included on each of the receipts.
 - 5. A signed statement attesting to the use of the purchased materials and services for the specified construction project.
- D. 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 completed within 30 days from the date of notification will be rejected.
- E. Once an application has been deemed complete, the City Manager shall review the application and issue a written decision granting or denying it. Refunds will be issued no more than one year from the date awarded. If denied, the written decision must include the reasons for denial. The City Manager’s decision is final.

5.10.270 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.

5.10.280 Tax return—Payment to City.

- A. Every seller required by this Chapter to collect sales tax shall file a tax return each quarter. A tax return shall be filed on or before the last day of the month of the month immediately following the end of the quarter. A tax return must be filed for each quarter. Every seller shall pay the tax due for each quarter at the time the tax return is due for that quarter.
- B. The tax return shall include, but not be limited to, the following information:
 - 1. Gross sales
 - 2. The amount of gross sales claimed exempt or nontaxable and the basis of each exemption
 - 3. Computation of taxes to be remitted
 - 3. The amount of sales tax credits accruing as a result of uncollectible accounts receivable
 - 4. The amount of all taxable sales and services for the preceding quarter and amount of tax on those sales and services
 - 5. Any other information required on the form.
- C. 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.

- D. Each tax return filed with the City shall be signed by an authorized and responsible individual who shall attest to the completeness and the accuracy of the information contained in the tax return. Tax returns shall be filed with the Finance Director.
- E. The preparer of a sales tax return shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases. Documentation for exempted sales must include the number of the exemption authorization card presented by the buyer at the time of purchase; the date of purchase; the name of the person making the purchase; the organization making purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the City upon request. Failure to provide this documentation may invalidate that portion of the claim of exemption for which no documentation is provided.
- F. 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.

5.10.290 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 for which the seller is liable, 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 that are relevant to the accuracy of a tax return. In the event the seller allows an exemption pursuant to this Chapter, 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.
- C. City Council shall have the power to issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda under this Chapter.

5.10.300 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.
- 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.

5.10.310 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 the City Manager's designee by the due date for transmission of the seller's tax return for each quarter as required by Section 5.10.280 of this Code.

5.10.315 Penalties and Interest for late filing.

- A. Late filing fee. 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 late filing fee of 50 dollars for each month, or fraction thereof, that the return is late. Fees under this subsection shall not exceed 150 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. The penalty does not bear interest.
- C. Interest on delinquent taxes. Delinquent sales tax bear interest at the rate of 15% per annum until paid from the date of delinquency until paid for sellers and from the date of sale until paid 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, and 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. A seller may not be granted more than one waiver of penalty under this subsection in any one calendar year. The City Manager shall report any waivers of penalty to City Council in writing.

5.10.320 Lien.

- A. 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).
- B. The City may cause a sales tax lien to be filed and recorded against all real and personal property of a seller where the seller has:
 - 1. Failed to file sales tax returns for two consecutive filing periods required by this Chapter;
 - 2. Failed within 60 days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement authorized and approved by the City Manager
- C. Before filing a sale tax lien, the City shall cause a written notice of intent to file to be mailed to the last known address of the delinquent seller.

5.10.325 Violations.

- A. A seller that fails to file a sales tax return or remit sales tax when due, or to comply with exemption requirements under this chapter, in addition to any other liability imposed by this Code, shall pay to the City all costs incurred by the City to determine the amount of the seller's liability to collect the sales tax, including, without limitation, reviewing and auditing the seller's business records, collection agency fees, and actual reasonable attorney's fees.
- B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales to the City as required by this Chapter shall be liable to the City for the amount that should have been collected or remitted plus any applicable interest and penalty.
- C. Notwithstanding any other provision of law, and whether or not the City may bring a declaratory judgment action against a seller believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state, and federal law. The action shall be brought in the judicial district of Cordova.
- D. In addition to all other remedies available, the City may bring a civil action to:
 - 1. Enjoin a violation of this Chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
 - 2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.

3. Foreclose a recorded sales tax lien as provided by law.
- E. All remedies are cumulative and are in addition to those existing at law or equity.

5.10.330 Penalty for violations.

- A. A buyer or seller who knowingly or negligently submits false information in a document filed with the City under this Chapter is subject to a penalty of \$500.
- B. A seller who knowingly or negligently submits false information in a document filed with the City pursuant to this Chapter is subject to a penalty of \$500.
- C. A seller who knowingly or negligently falsifies or conceals information related to its business activities with the City is subject to a penalty of \$500.
- D. A person who knowingly or negligently provides false information when applying for an exemption is subject to a penalty of \$500.
- E. A seller who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the City a penalty equal to three times any deficiency found or estimated by the City with a minimum penalty of \$500.
- F. A seller who falsifies or misrepresents any record filed with the City is guilty of an infraction and subject to a penalty of \$500 per record.
- G. Misuse of an exemption card is a violation and subject to a penalty of \$50 per incident of misuse.
- H. Except as otherwise provided, each act or omission in violation of this Chapter, and each day in which the act or omission occurs, is a separate violation of this Chapter.
- I. Nothing in this Chapter shall be construed as preventing the City from filing and maintaining an action at law to recover any taxes, penalties, interest, and/or fees due from any seller. The City may also recover attorney's fees in any action against a delinquent seller.

5.10.340 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.

5.10.350 Additional regulations.

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

5.10.360 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 5.10.310 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.

Section 6. Chapter 5.45 “Self-Insurance Trust Fund” of the Cordova Code of Ordinances of Cordova, Alaska is hereby repealed.

Section 7. Section 1.28 of the Cordova Code of Ordinances of Cordova, Alaska is hereby amended to read as follows:

CODE REF	CODE TITLE	FINE PER DAY
5.10.330(A)	Buyer or seller knowingly or negligently submitting false information in a document filed with the City	\$500.00

<u>5.10.330(B)</u>	Seller who knowingly or negligently submits false information in a document filed with the City	<u>\$500.00</u>
<u>5.10.330(C)</u>	Seller knowingly or negligently falsifies or conceals information related to its business activities with the City	<u>\$500.00</u>
<u>5.10.330(D)</u>	Person knowingly or negligently provides false information when applying for an exemption	<u>\$500.00</u>
<u>5.10.330(F)</u>	Seller falsifies or misrepresents any record filed with the City	<u>\$500.00</u>
<u>5.10.330(G)</u>	Misuse of an exemption card	<u>\$50.00</u> <u>per misuse</u>

Section 8. This ordinance shall be effective January 1, 2025 conditional upon the passage and approval of Ordinance No. 2022 and in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska.

1st reading: _____, 2024
 2nd reading and public hearing: _____

PASSED AND APPROVED THIS _____ DAY OF _____, 2024.

 David Allison, Mayor

ATTEST:

 Susan Bourgeois, CMC, City Clerk

DRAFT

**Chapter 5.40 Sales Tax
becoming
Chapter 5.10 Sales Tax
redline for comparison**

~~Current~~ Chapter ~~5.40-10~~ **SALES TAX**

Sections

- ~~5.40.005~~10.010 Purpose and intent.
- ~~5.40.010~~ Sales tax—Levy~~10.020~~ Interpretation and applicationgeneral presumptions of taxability.
- ~~5.40.011~~10.030 Definitions.
- ~~5.10.040~~ Supplemental definitions.
- ~~5.10.050~~ Imposition—Rate.
- ~~5.10.060~~ Alaska Uniform Remote Seller Sales Tax Code—adopted.
- ~~5.40.012~~ Surtax levied on certain sales, services and rents.
- ~~5.40.020~~ Definitions.
- ~~5.10.070~~ Title to collected sales tax.
- ~~5.10.080~~ Maximum tax per transaction-the tax cap.
- ~~5.40.025~~10.085 Bundled transactions.
- ~~5.10.090~~ Person-based exemptions.
- ~~5.10.100~~ Product-based exemptions.
- ~~5.10.110~~ Wholesale/Manufacturer/Resale Exemptions—Class and limitations of buyerexemptions.
- ~~5.40.030~~ Exemptions—General.
- ~~5.40.0315~~10.120 Rules applicable to particular businesses or occupations.
- ~~5.10.130~~ Payment and collection.
- ~~5.10.140~~ Sales tax collection-registration requirement.
- ~~5.10.170~~ Business operation injunction-failure to file or pay taxes.
- ~~5.10.180~~ Protests.
- ~~5.10.185~~ Protest of tax by buyer.
- ~~5.10.190~~ Limit of liability.
- ~~5.10.200~~ Tax receipts.
- ~~5.10.210~~ Exemption application and exemption authorization card.
- ~~5.40.032~~10.220 Revocation of exemption status.
- ~~5.40.040~~10.230 Refunds.
- ~~5.40.041~~ Protest of tax by buyer.
- ~~5.40.042~~ Refund for ~~5.10.240~~ Construction materials and services exemption and refund.
- ~~5.40.043~~ Refund for taxes paid by benevolent or civic organizations.
- ~~5.40.044~~ Rebate of tax on sales of home heating oil.
- ~~5.40.050~~ Bracket collection schedule.
- ~~5.40.060~~ Payment and collection.
- ~~5.40.0805~~10.270 Disposition of proceeds.
- ~~5.10.280~~ Tax return—Payment to City.
- ~~5.40.090~~ Reserved.
- ~~5.40.100~~10.290 Record keeping and investigation.
- ~~5.40.110~~10.300 Estimated tax.
- ~~5.40.120~~10.310 Recovery of taxes—Delinquency date.
- ~~5.40.1255~~10.315 Penalties and interest for late filing.
- ~~5.10.320~~ Lien.
- ~~5.40.130~~10.325 Violations.
- ~~5.10.330~~ Penalty for violations.
- ~~5.40.135~~10.340 Repayment plans.
- ~~5.40.140~~10.350 Additional regulations enacted when.
- ~~5.40.150~~10.360 Delinquent sales tax roll confidentiality.

~~5.40.005-10.010~~ 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.

**~~5.40.010 Sales tax—Levy~~10.020 Interpretation and application~~general presumptions of~~
~~taxability.~~**

~~A. A tax equal to seven percent of the sales price shall be levied on all local sales, including rentals and services, within the City.~~
In order to prevent evasion of the sales price and to aid in its administration, it is presumed that all sales, including rentals and services, within by a person engaging in business in the City.

~~A tax equal to seven percent of the sales price shall be levied on all remote sales within the City are subject to the Alaska Uniform Remote Sellers Sales Tax Code as adopted and incorporated into this Code sales tax.~~

~~1. 5.40.011 Alaska Uniform Remote Seller Sales Tax Code—Adopted.~~

~~The city adopts by reference the Alaska Uniform Remote Seller Sales Tax Code of the Alaska Remote Seller Sales Tax Commission, as that code currently exists, and as it may hereafter be amended. The Alaska Uniform Remote Seller Sales Tax Code may be referred to as the "Uniform Code" throughout this Title.~~

~~2. 5.40.012 Surtax levied on certain sales, services and rents.~~

~~A. In addition to any and all other taxes and charges, there shall be levied a surtax of six percent on the following sale prices, charges for services, and rents collected:~~

- ~~1. Public accommodation services;~~
- ~~2. Motor vehicle rentals, excluding watercraft;~~
- ~~3. Retail marijuana, marijuana concentrates, and marijuana products;~~
- ~~4. Retail cigarettes and tobacco products; and~~
- ~~5. Retail alcoholic beverages.~~

~~3. 5.40.020 Definitions.~~

~~B. For purposes of this chapter, the following definitions shall apply:~~

~~B. The application of the tax to be collected under this Chapter shall be broadly construed and shall favor inclusion rather than exclusion.~~

~~C. Exemptions from the tax to be collected under this Chapter shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Chapter.~~

~~D. For purposes of this Chapter, except as expressly provided otherwise in this Chapter, the sales price or purchase price of property is based on the date the property or product was sold or the date the service rendered was received.~~

~~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 Chapter.~~

5.10.030 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 CMC section 6.12.010 of this Code.

"Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where 1) the products are otherwise "distinct and identifiable" and 2) the products are sold for one non-itemized price. For purposes of this definition, a "bundled transaction" does not include the sale of any products in which the "sales price" varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

A. As used in this definition, "distinct and identifiable" does not include:

1. Packaging-such as containers, boxes, sacks, bags, and bottles-or other materials-such as wrapping, labels, tags, and instruction guides-that accompany the "retail sale" of the products and are incidental or immaterial to the "retail sale" thereof; or

2. A product provided free of charge with the required purchase of another product. A product is "provided free of charge" if the "sales price" of the product purchased does not vary depending on the inclusion of the product "provided free of charge."

B. As used in this definition, the term "one non-itemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

C. A transaction that otherwise meets the definition of a "bundled transaction" as defined above, is not a "bundled transaction" if it is:

1. The "retail sale" of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service; or

2. The "retail sale" of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service; or

3. A transaction that includes taxable products and nontaxable products and the "purchase price" or "sales price" of the taxable products is de minimus.

"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 this Chapter. 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-as further defined in Section 5.10.100 of this Chapter.

Sales or services meeting the Threshold Criteria for taxation under the Uniform 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.

"Construction materials and services" means items that become a permanent part of the structure being constructed and services rendered in constructing the permanent part of the structure. It does not include personal property that can be removed or replaced in a structure without impairing the integrity of the structure. Personal property that can be removed or replaced in a structure without impairing the integrity of the structure includes, but is not limited to, appliances, flooring, light fixtures, and cabinetry.

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

~~"Food Stamps"~~

"Delivery network company" means obligations a business that facilitates, through the use of the United States government issued an Internet website or transferred by mobile application, the delivery of products or services.

"Digital good" means of food coupons or food stamps any product delivered electronically (whether downloaded, streamed or subscribed to enable the purchase). A digital good generally takes the form of food for the eligible household. a license to use or store in a digital or electronic format. Digital goods are generally intangible property for purposes of this Chapter.

~~"Goods" means "property" as defined in this Section.~~

"Digital service" means any service delivered electronically that uses one or more software applications. Digital service includes any service that primarily involves the application of human effort by the seller, and the human effort originated after the customer requested the service, provided the service is delivered electronically.

"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 City Treasurer or an individual designated to serve as the Finance Director by the City Manager. Except as otherwise prohibited by this Code or the City Charter, 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 person.

“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 retail~~ vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by ~~that retailer or vendor~~the dealer.
- 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 ~~a taxing jurisdiction~~Cordova where the point of delivery is a location within ~~the same taxing jurisdiction~~Cordova.

"Marijuana" shall have the meaning given in ~~CMG~~section 8.40.020 of this Code.

"Marijuana concentrate" shall have the meaning given in ~~CMG~~section 8.40.020 of this Code.

"Marijuana products" shall have the meaning given in ~~CMG~~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~~marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the ~~remote seller's~~marketplace 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~~marketplace seller;
 - 2. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and ~~remote~~marketplace sellers together;
 - 3. Providing a virtual currency that buyers are allowed or required to use to purchase products from the ~~remote~~marketplace 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~~Alaska that are significantly associated with the ~~seller's~~seller's ability to establish or maintain a market for ~~products~~its product in Cordova;
- C. Provides services through an employee, agent, salesman or other representative 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 within Cordova in any calendar year will be deemed to have a physical presence within ~~the local taxing jurisdiction~~Cordova for the following calendar year.

"Point of delivery" means the location at which property or product is delivered or service rendered. ~~For products transferred electronically, or other sales where the delivery of the purchase address is unknown, the point of delivery shall be the billing address of the buyer.~~

- 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, including but not limited to, 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” means and “good” mean both tangible and intangible property. “Tangible” property means 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).

~~“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.~~

“Quarter” means trimonthly periods of a calendar year; January-March, April-June, July-September, and October-December.

“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.

“Recreational flight” means any flight that takes off from Cordova and returns to Cordova without landing in any other taxing jurisdiction unless that flight is solely for emergency medical transport, military transport, government operations or ancillary to a use otherwise exempt from sales tax under this Code.

“Remote sales” means sales of goods or services or bundled transactions by a remote seller or marketplace facilitator.

“Remote seller” means a seller or marketplace facilitator making sales of goods or services or bundled transactions for delivery within the State of Alaska but Cordova without having a physical presence in Cordova.

"Sale"

"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.

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

"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.

"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.

"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~~ or bundled transactions 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 ~~an employee~~ employees for ~~his or her~~ 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~~ that person's trade, business, or occupation;
- F. Advertising, maintenance, recreation, amusement, and craftsman services
- G. Digital services

H. Rentals of real and personal property

"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.~~

"Taxing jurisdiction" means another jurisdiction that imposes a sales tax.

"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

A~~n~~H. another article or product made of tobacco or a tobacco substitute ~~or otherwise containing nicotine that is expected or intended for human consumption~~, but not including a ~~cigarette tobacco substitute prescribed a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as defined in CMC 5.40.020.M.~~ a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or

"Uniform Code". Any noncombustible device that provides a vapor of liquid nicotine to the use or relies on vaporization of any liquid or solid nicotine, including devices manufactured as e-cigarettes, e-cigars, e-pipes, or any other product name.

"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 30 consecutive days in any building or facility, including room or house rentals, 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.

"Travel agency services" means arranging or booking for a commission, fee or other consideration, vacation or travel packages, rental car, tours or other travel reservations or accommodations, tickets for domestic or foreign travel by air, ship, rail, bus or other medium of transportation, or hotel or other lodging accommodations.

5.10.040 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.

5.10.050 Imposition—Rate.

- A. To the fullest extent permitted by law, a sales tax is hereby levied and assessed on all retail sales and all 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. 13 percent on transient lodging
 - 2. 13 percent on motor vehicle rentals, excluding watercraft
 - 3. 13 percent on sales of marijuana, marijuana concentrates, and marijuana products
 - 4. 13 percent on sales of cigarettes and other tobacco products
 - 5. 13 percent on sales of alcoholic beverages
 - 6. Seven 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. The tax rate shall be added based on the date the property or product was sold or the date the service rendered was received.

5.10.060 Alaska Uniform Remote Seller Sales Tax Code—adopted.

- A. The City adopts the Alaska Uniform Remote SellersSeller Sales Tax Code as adopted and amended by 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 Chapter.
- B. ~~Except as otherwise required to comply with federal or state law, the definitions adopted in Section 270 of the Uniform Code apply to all remote sales under CMC 5.40.010(B).~~
- 4. ~~5.40.025 Exemptions—Class of buyers.~~

~~The following classes of buyers are exempt from the provisions of this chapter:~~

- 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.

5.10.070 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.

5.10.080 Maximum tax per transaction-the tax cap.

- A. Maximum Tax on a Single Item or Single Transaction of a Service. Except as otherwise provided in this section, only the first \$5,000.00 of the sales price of a single item or single transaction for a service shall be subject to sales tax. This maximum tax per single transaction may be referred to as the “tax cap” or, when applied to a service, “the single service tax cap” or when applied to an item, “the single item tax cap.”
- B. Extended Services and Deliveries. Payment for services to be rendered or personal property to be delivered over a period of more than one month shall be treated as separate transactions occurring one each month over the period of time that the service is rendered or property delivered. The purchase price shall be allocated pro rata to each month in which the service is rendered or the property delivered with the tax cap applied to the first

\$5,000 of each monthly transaction and subject to taxation until the service is no longer performed or the property is fully delivered.

- C. Rentals rendered over more than a month. Except as otherwise provided in this Chapter, the payment of rent, whether for real or personal property that is for more than one month shall be treated as a separate transaction each month the property is rented with the tax cap applied to the first \$5,000.00 of each monthly transaction until the end of the rental term.
- D. Rentals rendered over less than one month. Except as otherwise provided in this Chapter, the payment of rent, whether for real or personal property, that is for less than one month shall be treated as a separate transaction each day the property is rented with the tax cap applied to the first \$5,000 of each nightly transaction subject to taxation.

5.10.085 Bundled transactions.

- A. If the sales price of a bundled transaction is attributable to both products or services that are taxable and products or services that are nontaxable, the portion of the sales price attributable to the nontaxable products may be subject to tax unless the seller can identify the nontaxable portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.
- B. Except as otherwise authorized in this Chapter, a bundled transaction does not qualify for exemption under Cordova's single item tax cap or single service tax cap and thus the full sale price of the bundled transaction shall be subject to tax unless the following conditions are met:
1. The seller separates the respective portions of a bundle for purposes of applying the tax cap to each respective portion; and
 2. The seller identifies the sales price attributed to each portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes, on the sales tax return containing the sale for which the tax cap was applied.

5.10.090 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. Except as otherwise provided in this section, gross receipts or proceeds derived from sales to the United States Government, the State of Alaska, or any instrumentality or, a political subdivision of either, including a city, the State or any political department of the United States Government, the State or a political subdivision of the State are exempt.
1. Federally recognized tribal entities.

5.40.030 Exemptions—General.

1. This exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering of services for sale to

governments or government units on a contract bid award. In this case, the contractor shall be deemed the buyer and subject to the payment of the tax.

2. 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.

5.10.100 Product-based exemptions.

The following sales and services are exempt transactions and are not subject to taxation by the City: 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 or property at such private 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. A city 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, whether or not these days are consecutive, 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 is not required under this subsection A; or by sellers representing themselves to be in the business of making sales, rentals or services are not exempt; and
- Sales5. 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 and policies, bonds of guaranty and fidelity; and the commission on these sales (AS 21.09.210(f); 21.79.130, 21.80.130).

- ~~A. Fees for sales and services in excess of Five Thousand Dollars per item or single purchase transaction of a service. This exemption does not apply to accumulative purchases and billed as a lump sum in excess of Five Thousand Dollars except as provided in subsection D relating to sales of construction materials and services. In the event of an oil spill that requires mobilization of the oil spill response vessels, this exemption is automatically suspended for 90 days on all fees for sales and services commencing on the day of the oil spill;~~
- ~~B. Sales of construction materials and services exceeding Five Thousand Dollars for use in each construction project paid for by any one purchaser during any twelve consecutive month period; provided, that the purchaser has obtained a building permit from the city prior to the start of the project and all receipts for construction materials and services clearly show the building permit number. Construction materials are those items becoming a permanent part of the structure. Purchaser may pay all sales tax on such materials and services and may apply for a refund as set out in [Section 5.40.042] or may pre-pay applicable city sales tax in advance and receive an exemption card;~~
- C. *Transportation.*
- ~~1. *Commercial flights.* The sale of passenger seat tickets by a commercial airline is exempt. Recreational flights 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.*
- ~~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;~~
- ~~C. Gross receipts or proceeds derived from sales or services which the municipality is prohibited from taxing under the laws of the state, or under the laws and the Constitution of the United States, including but not limited to:~~
- ~~1. Sales by the U.S. Postal Service;~~
- ~~2. Sales of any items purchased with food coupons, food stamps or other type of certificate issued under 7 U.S.C. Sections 2011-2025 (Food Stamp Act);~~
- ~~3. Purchases made under the authority of or made with any type of certificate issued pursuant to 42 U.S.C. Sections 1771-1789 (Child Nutrition Act of 1966);~~
- ~~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;~~
- ~~D. Services of a person licensed or certified by the state of Alaska as a doctor of medicine and surgery, a doctor of osteopathy and surgery, a doctor of veterinary medicine, a chiropractor, a dentist, a naturopath, an optometrist, an audiologist, a hospital, an occupational therapist, a physical therapist, a massage therapist or a licensed or practical nurse; provided, that the service is within the scope of the state license or certificate;~~
- ~~E. Services of a person licensed or certified by the state of Alaska as a psychologist or psychological associate, a clinical social worker, an alcohol and drug counselor, or a marital and family therapist;~~

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. This exemption does not apply to the rental of real property, personal property or space by or to nonprofit entities that otherwise qualify for an exemption under this subsection. Such rentals remain subject to sales tax under this Chapter.
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 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.
3. 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.
4. Prescription drugs. Gross receipts or proceeds of the retail sale of prescription drugs; are exempt.
5. 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; ;

~~F. Commissions received by travel agencies for their services that are not set by and billed by the travel agencies. Service charges set by and billed by the travel agencies are not exempt from taxation under this chapter;~~

H. Dues. Dues or fees to clubs, labor unions or fraternal organizations; solely for the privilege of membership.

I. School.

1. Student Activities. Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations;
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 and hospital cafeterias and lunchrooms which are operated facility provided primarily for staff and/or students, and which are is not operated for the purpose of sale to the general public for profit;~~

~~G. Sales. Childcare services and rentals by or to religious organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of religious activity; provided, the income from the exempt transaction is also exempt from federal income taxation;~~

~~H. Sales, services and rentals by or to scouting, 4H or similar youth organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation;~~

~~I. Sales, services and rentals by or to benevolent or civic organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation and the income is donated to a charity. Such organizations shall pay the sales taxes at the time of purchase and shall apply to the city for a refund as provided in Section 5.40.040;~~

~~J. Proceeds from contract services provided by a state-licensed child care contractor;~~

~~Proceeds or from contract services provided by a person for the purpose of taking temporary care of minors for another person;~~

~~Proceeds. Required exemptions. Sales, rentals or services which the city is prohibited from products sold as wholesale sales to businesses designated taxing by the Constitution or statutes of the United States or the state of Alaska as wholesalers. These include the sales of goods, wares, or merchandise to a~~

5.10.110. Wholesale/Resale/Manufacturer 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 5.10.210 of this Chapter and meets the requirements of this section:~~

~~1. Wholesale/Resale. Sales to a wholesale or retail dealer, manufacturer, or contractor in the property sold, for the purpose of resale within the city as is or incorporated into a product or commodity to be sold by the dealer, manufacturer or contractor within located or making sales inside the city, if the subsequent sale is subject to the and registered with a city sales tax. In this connection a retailer must stock that merchandise for resale, display the same to the public and hold himself out as regularly engaged in the business of selling such products; license where the subsequent sale is subject to the City sales tax.~~

~~K. Proceeds from products sold for resale:~~

~~1. Sales of goods, wares or merchandise 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 the dealer, manufacturer or contractor within the city, if the subsequent sale is subject to the city sales tax. The product must be an item that is sold as part of the reseller's primary business and must be of such nature that it can be purchased by the~~

~~general public in a transaction that is not dependent upon the purchase of another product or service;~~

~~2. 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;~~

~~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 of that manufactured product, 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;~~

~~Proceeds from services for C. Construction resale. Services that are provided by a subcontractor to a contractor for a third party isare considered services for resale and isare exempt from taxation;~~

~~L. Sales of real property. Rentals of real property are not exempt from taxation by the city.~~

~~AB. Commissions or fees in excess of Five Thousand Dollars earned by brokers or agents in real estate sales transactions.~~

~~AC. Home heating oil purchased for use in a dwelling, as defined in [Section 18.08.190], for use at that location conditioned on the following:~~

~~1. That no more than fifty percent of the floorspace of the building(s) considered as dwellings be used as nonresidential use, including business activities.~~

~~2. That the dwelling be operated in compliance with all other regulations and laws.~~

~~3. If a fuel tank is used to supply more than one structure or area then no more than fifty percent of the floorspace and area supplied shall be nondwelling and nonresidential including business activities.~~

~~AD. Proceeds from air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation.~~

~~6. 5.40.031 Exemption application and exemption authorization card.~~

~~Any person, corporation, or other organization claiming an exemption under Section 5.40.030 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 City Hall 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 5.40.030(Y) 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.~~

~~7. 5.40.032 Revocation of exemption status.~~

~~The city manager or his designee 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.~~

~~A. Upon a determination by the city manager or his designee that an exemption holder has misused or permitted another to misuse the sales tax exemption authorization issued to the holder, the city manager or his designee 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 or his designee 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 or his designee 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 or his designee may revoke the sales tax exemption authorization of the holder.~~

~~B. The revocation shall be permanent unless the city manager or his designee provides for a shorter period in the revocation order.~~

~~C. The order and period of revocation may be appealed to the city council if an appeal is filed in writing with the city clerk within ten days of the receipt of the written order. The decision of the city manager or his designee is final and may be appealed only to the city council.~~

~~8. 5.40.040 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 Section 5.40.042 and a refund for taxes paid by a benevolent and civic organization as set forth in Section 5.40.043.~~

~~B. A claim for refund of payment or a protest of assessment shall be made by filing with the city manager or his designee 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 or his designee shall respond in writing within thirty days. If the city manager or his designee does not respond within thirty days, the claim of refund or protest shall be deemed to be approved. The decision of the city manager or his designee shall be the final decision of the city.~~

~~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 designee 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.~~

~~D. Limitation for Bundled Transaction. Goods, wares or merchandise that are provided as part of a bundled transaction and are not offered for sale as separate and individual items~~

do not constitute a resale and are not exempt under this section as a resale, wholesale or manufactured product. For example, the goods, wares, and merchandise that make up a bed and breakfast stay or a fishing or hunting charter service are not exempt under this section.

5.10.120 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, including travel agency services, 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.

5.10.130 Payment and collection.

- A. 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, 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.
- B. When a sale is made and services are rendered or the product is delivered but payment for the services or product is made over time, the applicable sales tax shall be collected on each payment but the sales tax shall be calculated at the sales tax rate in effect at the time the sale was made and any applicable tax cap shall be applied at the time of the sale. If the service or delivery will not be completed within one month from the date of payment, payments shall be made and the sales tax cap applied in compliance with Section 5.10.080(B) of this Chapter.

5.10.140 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 through and as part of the business license application process under Title 6 of this Code.
- 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. 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 City Manager or the City Manager's designee 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.
- E. 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 the postmark date of the notice of delinquency.

5.10.170 Business operation injunction-failure to file and pay.

In addition to all other rights and remedies available to the City under law, 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 30 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.

5.40.044-10.180 Protests.

- A. If a seller wishes to dispute a finding of the City involving taxable sales, sales taxes or penalties or interest, the seller must file a written protest with the City Clerk within 30 calendar days of the date of the written notice of the City's findings. The protest must set forth:
1. The seller's justification for reducing or altering the taxes, penalties or interest due;
 - or
 2. The seller's reasons for challenging the City's findings.
- B. In processing the protest, the City Manager, or the City Manager's designee, may hold an informal meeting with the seller either on its own or upon request of the seller and may also require the seller to submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.
- C. The City Manager shall make a final written determination on the seller's protest and mail a copy of the determination to the seller.
- D. If a written protest is not filed within 30 days of the date of the written notice of the City Manager's findings, then the findings shall be final, due and payable to the City.

5.10.185 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~~ no more than 30 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 ~~twenty~~30 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.

5.40.042 Refund**10.190 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. 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 construction materials loss or damage caused by individual interpretation and services application of this Code or forms related to it.

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.

5.10.200 Tax receipts.

A. 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.

5.10.210 Exemption application and exemption authorization card.

A. Any person claiming an exemption under this Chapter shall apply to the City for an exemption authorization card on a form provided by the Finance Director 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 5.10.110 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 that person's place of business may refuse to accept the exemption card.

- B. Purchasers of "construction materials and services" are not eligible for an exemption card for such purchases.
- C. Exemption cards may not be assigned or transferred.

5.10.220 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 sending a notice of revocation under this chapter, the City Manager shall send a written notice of violation via certified mail to the exemption holder advising the holder of the violation and the potential for revocation. Upon written request filed with the Finance Director by the holder, the City Manager shall meet with the holder to discuss the alleged violations. If the City Manager determines a violation of this Chapter has occurred by the holder, the City Manager shall revoke the exemption card. If an exemption holder does not respond to a notice of violation issued under this section within 30 calendar days of receipt of a notice of violation, the exemption card shall be revoked.
- C. The revocation shall be permanent unless the City Manager provides for a shorter period in the revocation order.

5.10.230 Refunds.

- A. A claim for a refund of a payment 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.
- B. A claim for refund of payment shall be made by filing a request for refund with the City Manager on a form provided by the Finance Director, specifying the date the tax was imposed, the amount of refund claimed, and the basis upon which the claim for refund is made. 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.

A purchaser seeking a refund for

5.10.240 Construction materials and services ~~shall submit to the city manager or his designee,~~**exemption and refund.**

- A. Except as limited by this section, a purchaser who obtains a building permit for a construction project may apply for a refund for sales tax paid to the City above \$350 on purchases of "construction materials and services."

- ~~B. The total time period eligible for refund of sales tax under this section is two years. A separate application for refund must be submitted for each year.~~
- ~~C. An exemption under this section requires the purchaser to pay sales tax as otherwise required under this Chapter and submit a request for refund under this section. If no application for refund is filed or the purchaser is not eligible for a refund under the requirements of this section, sales tax on "construction materials and services" shall be due and owing without exemption.~~
- ~~D. A purchaser seeking a refund for "construction materials and services" shall file a complete "construction materials and services" tax refund application with the Finance Director no later than ~~February~~October 1st of each year, a completed for sales tax refund form for paid in the previous prior year. The purchaser shall attach application must include:~~
- ~~1. Identification of the construction project for which the application is filed and the building permit number for that specific project~~
 - ~~2. A copy of the building permit issued for the that specific construction project~~
 - ~~3. Proof of \$350 in sales tax paid to the City for which "construction materials and services" on the refund is sought, and specified construction project for that year~~
 - ~~4. Itemized receipts showing sales tax paid to the City for all purchases of construction materials and services within the city for each project for for which the purchaser seeks is seeking a refund. If a with the building permit number included on each of the receipts.~~
 - ~~5. A signed statement attesting to the use of the purchased materials and services for the specified construction project is.~~
- ~~D. 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 completed within 30 days from the date of notification will be rejected.~~
- ~~E. Once an application has been deemed complete, the City Manager shall review the application and issue a written decision granting or denying it. Refunds will be issued no more than one year, the purchaser shall submit an affidavit with the sales tax refund form stating that the work on the same project is continuing in order to obtain a refund for the following year. The total time period for sales tax refunds on any one project cannot exceed four years. from the date awarded. If denied, the written decision must include the reasons for denial. The project may be reviewed annually by the municipal assessor or the city manager or his designee. Subsections 5.40.040(B) and 5.40.040(C) of this chapter shall apply to refunds for construction materials and services City Manager's decision is final.~~

~~9. 5.40.043 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.~~

~~10. 5.40.044 Rebate of tax on sales of home heating oil.~~

~~A. The city shall rebate to the buyer sales tax on purchases of home heating oil delivered to a dwelling, as defined in Section 18.08.190, occupied by the buyer for use at that location, subject to the remainder of this section. To be eligible to receive the rebate, a buyer must be a member of a household with adjusted gross income for federal income tax purposes that is not greater than specified under the Federal Health and Human Services Poverty Guidelines for 2008 as follows:~~

People in Household	Income Level
1	\$13,000
2	17,500
3	22,000
4	26,500
5	31,000
6	35,500
7	40,000
8	44,500
Add \$4,500 for each additional member of the household.	

~~B. The buyer shall apply for a rebate under this section to the city manager or designee on a form approved by the city manager. The application shall be accompanied by a receipt showing payment of the sales tax for which the rebate is sought, and a copy of the buyer's most recent federal income tax form 1040 as proof that the income of the buyer's household does not exceed the maximum specified in this section. The buyer must submit the application within thirty days after the date of the purchase of the home heating oil.~~

~~C. The rebate authorized by subsection A of this section shall apply only to home heating oil purchases occurring before July 1, 2009 unless extended by resolution of the city council.~~

~~11. 5.40.050 Bracket collection schedule.~~

~~Sellers shall add the tax levied under this chapter to the selling price, service charge or rent collected in accordance with a schedule prepared by the manager in such a manner as to provide an effective tax collection equal to the applicable rate levied by Section 5.40.010.~~

~~12. 5.40.060 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 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 therefor to the city.~~

5.40.070-10.270 Disposition of proceeds.

- A. ~~The revenue received by the City under this Chapter shall be first applied by the city treasurer~~ 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.

5.40.080-10.280 Tax return—Payment to City.

- A. ~~Every seller required by this Chapter to collect sales tax shall file a tax return each quarter. A tax return shall be filed on or before the last day of the month succeeding of the month immediately following 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 quarter. A tax return must be filed for each quarter. Every seller shall pay the tax due for each quarter at the time the tax return is due for that preceding quarter upon forms.~~
- B. ~~The tax return shall include, but not be limited to be provided by, the city manager or his designee, setting forth following information:~~
1. ~~Gross sales~~
 2. ~~The amount of all gross sales and services, the amount of such sales and services claimed exempt, or nontaxable and the basis of each exemption~~
 3. ~~Computation of taxes to be remitted~~
 3. ~~The amount of sales tax credits accruing as a result of uncollectible accounts receivable and~~
 4. ~~The amount of all taxable sales and services for such the preceding quarter, and the amount of the tax thereon on those sales and such services~~
 5. ~~Any other information as may be required, and shall sign and transmit on the same to the city treasurer. form.~~
- C. 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.
- D. ~~Each tax return filed with the City shall be signed by an authorized and responsible individual who shall attest to the completeness and the accuracy of the information contained in the tax return. Tax returns shall be filed with the Finance Director.~~
- E. ~~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 must include the number of the city exemption authorization card presented by the buyer at the time of the purchase; the date of purchase; the name of the person making the purchase; the organization making purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the City upon request. Failure to provide such this documentation will may invalidate only that portion of the claim of exemption for which no documentation is provided.~~
- A. ~~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.~~

~~The city manager or his designee~~F. 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 ~~twelve~~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.

~~13. 5.40.090 Reserved.~~

~~Editor's note(s) — Ord. No. 1160, § 1, adopted November 1, 2017, effective January 1, 2018, repealed § 5.40.090, which pertained to compensatory collection discount and derived from Ord. 948, 2004; Ord. 865 (part), 2000.~~

5.40.100-10.290 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 ~~effor~~ 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 that are relevant to~~ the accuracy of a tax return. In the event the seller allows an exemption pursuant to ~~Section 5.40.030(C), this Chapter~~, 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 ~~city treasurer, or his or her~~ 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~~
- C. City Council shall have the power to issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda ~~— under this Chapter.~~

5.40.110-10.300 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.

- 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.

5.40.120-10.310 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~~**the City Manager's** designee by the due date for transmission of the ~~seller's~~**seller's** tax return for each quarter as required by Section ~~5.40.080~~**10.280 of this Code.**

~~14. 5.40.125 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).~~

5.40.130 Penalty 10.315 Penalties and Interest for ~~violations~~late filing.

- A.** Late filing penalty fee. 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~~**late filing fee** of ~~2550~~ dollars for each month, or fraction thereof, that the return is late. Fees under this subsection shall not exceed ~~one hundred~~**150** 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. The penalty does not bear interest.

- C. Interest on delinquent taxes. In addition to the amount of civil penalty as provided for violation of each Subsection in this Chapter, Delinquent sales tax bear interest shall accrue at the rate of 15 percent% per year on the unpaid tax annum until paid from the date of delinquency until paid for sellers, and from the date of sale until paid 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, and 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. A seller may not be granted more than one waiver of penalty under this subsection in any one calendar year. The City Manager shall report any waivers of penalty to City Council in writing.

5.10.320 Lien.

- A. 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).
- A. 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.

5.40.135-B. The City may cause a sales tax lien to be filed and recorded against all real and personal property of a seller where the seller has:

- 1. Failed to file sales tax returns for two consecutive filing periods required by this Chapter;
- 2. Failed within 60 days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement authorized and approved by the City Manager
- C. Before filing a sale tax lien, the City shall cause a written notice of intent to file to be mailed to the last known address of the delinquent seller.

5.10.325 Violations.

- A. A seller that fails to file a sales tax return or remit sales tax when due, or to comply with exemption requirements under this chapter, in addition to any other liability imposed by this Code, shall pay to the City all costs incurred by the City to determine the amount of the seller's liability to collect the sales tax, including, without limitation, reviewing and auditing the seller's business records, collection agency fees, and actual reasonable attorney's fees.

- B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales to the City as required by this Chapter shall be liable to the City for the amount that should have been collected or remitted plus any applicable interest and penalty.
- C. Notwithstanding any other provision of law, and whether or not the City may bring a declaratory judgment action against a seller believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state, and federal law. The action shall be brought in the judicial district of Cordova.
- D. In addition to all other remedies available, the City may bring a civil action to:
 - 1. Enjoin a violation of this Chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
 - 2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.
 - 3. Foreclose a recorded sales tax lien as provided by law.
- E. All remedies are cumulative and are in addition to those existing at law or equity.

5.10.330 Penalty for violations.

- A. A buyer or seller who knowingly or negligently submits false information in a document filed with the City under this Chapter is subject to a penalty of \$500.
- B. A seller who knowingly or negligently submits false information in a document filed with the City pursuant to this Chapter is subject to a penalty of \$500.
- C. A seller who knowingly or negligently falsifies or conceals information related to its business activities with the City is subject to a penalty of \$500.
- D. A person who knowingly or negligently provides false information when applying for an exemption is subject to a penalty of \$500.
- E. A seller who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the City a penalty equal to three times any deficiency found or estimated by the City with a minimum penalty of \$500.
- F. A seller who falsifies or misrepresents any record filed with the City is guilty of an infraction and subject to a penalty of \$500 per record.
- G. Misuse of an exemption card is a violation and subject to a penalty of \$50 per incident of misuse.
- H. Except as otherwise provided, each act or omission in violation of this Chapter, and each day in which the act or omission occurs, is a separate violation of this Chapter.
- I. Nothing in this Chapter shall be construed as preventing the City from filing and maintaining an action at law to recover any taxes, penalties, interest, and/or fees due from any seller. The City may also recover attorney's fees in any action against a delinquent seller.

5.10.340 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.

5.40.140-10.350 Additional regulations ~~enacted when.~~

~~The~~ 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.

5.40.150-10.360 Delinquent sales tax roll confidentiality.

A. During the third week of June of each year, the City Manager ~~or their designee~~ 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 ~~manager or his designee~~ 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 ~~5.40.120(B)~~ 10.310 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.

Section 6. Chapter 5.45 “Self-Insurance Trust Fund” of the Cordova Code of Ordinances of Cordova, Alaska is hereby repealed.

Section 7. Section 1.28 of the Cordova Code of Ordinances of Cordova, Alaska is hereby amended to read as follows:

<u>CODE REF</u>	<u>CODE TITLE</u>	<u>FINE PER DAY</u>
<u>5.10.330(A)</u>	<u>Buyer or seller knowingly or negligently submitting false information in a document filed with the City</u>	<u>\$500.00</u>
<u>5.10.330(B)</u>	<u>Seller who knowingly or negligently submits false information in a document filed with the City</u>	<u>\$500.00</u>
<u>5.10.330(C)</u>	<u>Seller knowingly or negligently falsifies or conceals information related to its business activities with the City</u>	<u>\$500.00</u>
<u>5.10.330(D)</u>	<u>Person knowingly or negligently provides false information when applying for an exemption</u>	<u>\$500.00</u>
<u>5.10.330(F)</u>	<u>Seller falsifies or misrepresents any record filed with the City</u>	<u>\$500.00</u>
<u>5.10.330(G)</u>	<u>Misuse of an exemption card</u>	<u>\$50.00 per misuse</u>

Section 8. This ordinance shall be effective January 1, 2025 conditional upon the passage and approval of Ordinance No. 2022 and in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska.

Clean copy of current Chapter 5.40 Sales Tax

Current Chapter 5.40 SALES TAX

- 5.40.005 Purpose and intent.
- 5.40.010 Sales tax—Levy and application.
- 5.40.011 Alaska Uniform Remote Seller Sales Tax Code—Adopted.
- 5.40.012 Surtax levied on certain sales, services and rents.
- 5.40.020 Definitions.
- 5.40.025 Exemptions—Class of buyers.
- 5.40.030 Exemptions—General.
- 5.40.031 Exemption application and exemption authorization card.
- 5.40.032 Revocation of exemption status.
- 5.40.040 Refunds.
- 5.40.041 Protest of tax by buyer.
- 5.40.042 Refund for construction materials and services.
- 5.40.043 Refund for taxes paid by benevolent or civic organizations.
- 5.40.044 Rebate of tax on sales of home heating oil.
- 5.40.050 Bracket collection schedule.
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- 5.40.080 Tax return—Payment to city.
- 5.40.090 Reserved.
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- 5.40.110 Estimated tax.
- 5.40.120 Recovery of taxes—Delinquency date.
- 5.40.125 Lien.
- 5.40.130 Penalty for violations.
- 5.40.135 Repayment plans.
- 5.40.140 Additional regulations enacted when.
- 5.40.150 Delinquent sales tax roll confidentiality.

5.40.005 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 in this chapter.

5.40.010 Sales tax—Levy and application.

- A. A tax equal to seven percent of the sales price shall be levied on all local sales, including rentals and services, within the City.
- B. A tax equal to seven percent of the sales price shall be levied on all remote sales within the City subject to the Alaska Uniform Remote Sellers Sales Tax Code as adopted and incorporated into this Code.

5.40.011 Alaska Uniform Remote Seller Sales Tax Code—Adopted.

The city adopts by reference the Alaska Uniform Remote Seller Sales Tax Code of the Alaska Remote Seller Sales Tax Commission, as that code currently exists, and as it may hereafter be amended. The Alaska Uniform Remote Seller Sales Tax Code may be referred to as the "Uniform Code" throughout this Title.

5.40.012 Surtax levied on certain sales, services and rents.

- A. In addition to any and all other taxes and charges, there shall be levied a surtax of six percent on the following sale prices, charges for services, and rents collected:
1. Public accommodation services;
 2. Motor vehicle rentals, excluding watercraft;
 3. Retail marijuana, marijuana concentrates, and marijuana products;
 4. Retail cigarettes and tobacco products; and
 5. Retail alcoholic beverages.

5.40.020 Definitions.

- B. For purposes of this chapter, the following definitions shall apply:

"Alcoholic beverage" shall have the meaning given in CMC 6.12.010.

"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" 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 Uniform 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.

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

"Food Stamps" means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

"Goods" means "property" as defined in this Section.

"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 a taxing jurisdiction where the point of delivery is a location within the same taxing jurisdiction.

"Marijuana" shall have the meaning given in CMC 8.40.020.

"Marijuana concentrate" shall have the meaning given in CMC 8.40.020.

"Marijuana products" shall have the meaning given in CMC 8.40.020.

"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.

"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 within Cordova in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

"Point of delivery" means the location at which property or product is delivered or service rendered. For products transferred electronically, or other sales where the delivery of the purchase address is unknown, the point of delivery shall be the billing address of the buyer.

"Property" and "product" means 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).

"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.

"Receive or receipt" means

- A. Taking possession of property:
- B. Making first use of services:
- 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 Cordova.

"Sale" means any transfer of property 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 an employee for his or her 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 CMC 5.40.020.M.

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

- B. Except as otherwise required to comply with federal or state law, the definitions adopted in Section 270 of the Uniform Code apply to all remote sales under CMC 5.40.010(B).

5.40.025 Exemptions—Class of buyers.

The following classes of buyers are exempt from the provisions of this chapter:

1. The United States, the State of Alaska, or any instrumentality or political subdivision of either, including a city.
2. Federally recognized tribal entities.

5.40.030 Exemptions—General.

The following sales and services are exempt transactions and are not subject to taxation by the City:

- A. Proceeds from casual, occasional or isolated sales which are easily identified as the sale of personal goods or property at such private functions as moving, garage, yard, food and bake sales, sale of private vehicles when the seller is not a dealer in used vehicles, or services such as babysitting or house-sitting. A city license is not required under this subsection A;
- B. Sales of insurance and bonds of guaranty and fidelity;
- C. Fees for sales and services in excess of Five Thousand Dollars per item or single purchase transaction of a service. This exemption does not apply to accumulative purchases and billed as a lump sum in excess of Five Thousand Dollars except as provided in subsection D relating to sales of construction materials and services. In the event of an oil spill that requires mobilization of the oil spill response vessels, this exemption is automatically suspended for 90 days on all fees for sales and services commencing on the day of the oil spill;
- D. Sales of construction materials and services exceeding Five Thousand Dollars for use in each construction project paid for by any one purchaser during any twelve consecutive month period; provided, that the purchaser has obtained a building permit from the city prior to the start of the project and all receipts for construction materials and services clearly show the building permit number. Construction

materials are those items becoming a permanent part of the structure. Purchaser may pay all sales tax on such materials and services and may apply for a refund as set out in [Section 5.40.042] or may pre-pay applicable city sales tax in advance and receive an exemption card;

- E. Gross receipts or proceeds derived from servicing, freezing, storing, handling or wharfing of fisheries commodities awaiting shipment or in the process of being shipped;
- F. Gross receipts or proceeds derived from sales or services which the municipality is prohibited from taxing under the laws of the state, or under the laws and the Constitution of the United States, including but not limited to:
 - 1. Sales by the U.S. Postal Service,
 - 2. Sales of any items purchased with food coupons, food stamps or other type of certificate issued under 7 U.S.C. Sections 2011-2025 (Food Stamp Act),
 - 3. Purchases made under the authority of or made with any type of certificate issued pursuant to 42 U.S.C. Sections 1771-1789 (Child Nutrition Act of 1966),
- G. 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;
- H. Services of a person licensed or certified by the state of Alaska as a doctor of medicine and surgery, a doctor of osteopathy and surgery, a doctor of veterinary medicine, a chiropractor, a dentist, a naturopath, an optometrist, an audiologist, a hospital, an occupational therapist, a physical therapist, a massage therapist or a licensed or practical nurse; provided, that the service is within the scope of the state license or certificate;
- I. Services of a person licensed or certified by the state of Alaska as a psychologist or psychological associate, a clinical social worker, an alcohol and drug counselor, or a marital and family therapist;
- J. Fees for supplies, equipment and services provided by a hospital, medical clinic or dental clinic for patient treatment including laboratory and x-ray services;
- K. Gross receipts or proceeds of the retail sale of prescription drugs;
- L. Sale of cemetery plots, caskets, funeral and burial related items and the services by a funeral home;
- M. Commissions received by travel agencies for their services that are not set by and billed by the travel agencies. Service charges set by and billed by the travel agencies are not exempt from taxation under this chapter;

- N. Dues or fees to clubs, labor unions or fraternal organizations;
- O. Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations;
- P. 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;
- Q. 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;
- R. Sales of food at educational and hospital cafeterias and lunchrooms which are operated primarily for staff and/or students, and which are not operated for the purpose of sale to the general public for profit;
- S. Sales, services and rentals by or to religious organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of religious activity; provided, the income from the exempt transaction is also exempt from federal income taxation;
- T. Sales, services and rentals by or to scouting, 4H or similar youth organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation;
- U. Sales, services and rentals by or to benevolent or civic organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation and the income is donated to a charity. Such organizations shall pay the sales taxes at the time of purchase and shall apply to the city for a refund as provided in Section 5.40.040;
- V. Proceeds from contract services provided by a state-licensed child care contractor;
- W. Proceeds from contract services provided by a person for the purpose of taking temporary care of minors for another person;
- X. Proceeds from products sold as wholesale sales to businesses designated by the state of Alaska as wholesalers. These include the sales of goods, wares, or merchandise 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 the dealer, manufacturer or contractor within the city, if the subsequent sale is subject to the city sales tax. In this connection a retailer must stock that merchandise for resale,

display the same to the public and hold himself out as regularly engaged in the business of selling such products;

- Y. Proceeds from products sold for resale:
1. Sales of goods, wares or merchandise 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 the dealer, manufacturer or contractor within the city, if the subsequent sale is subject to the city sales tax. The product must be an item that is sold as part of the reseller's primary business and must be of such nature that it can be purchased by the general public in a transaction that is not dependent upon the purchase of another product or service,
 2. 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,
 3. 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 sales tax exemption. Proof of certification must be available upon request;
- Z. Proceeds from services for resale: Services that are provided by a subcontractor to a contractor for a third party is considered services for resale and is exempt from taxation;
- AA. Sales of real property. Rentals of real property are not exempt from taxation by the city.
- AB. Commissions or fees in excess of Five Thousand Dollars earned by brokers or agents in real estate sales transactions.
- AC. Home heating oil purchased for use in a dwelling, as defined in [Section 18.08.190], for use at that location conditioned on the following:
1. That no more than fifty percent of the floorspace of the building(s) considered as dwellings be used as nonresidential use, including business activities.
 2. That the dwelling be operated in compliance with all other regulations and laws.
 3. If a fuel tank is used to supply more than one structure or area then no more than fifty percent of the floorspace and area supplied shall be nondwelling and nonresidential including business activities.
- AD. Proceeds from air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation.

5.40.031 Exemption application and exemption authorization card.

Any person, corporation, or other organization claiming an exemption under Section 5.40.030 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 City Hall 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 5.40.030(Y) 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.

5.40.032 Revocation of exemption status.

- A. The city manager or his designee 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 or his designee that an exemption holder has misused or permitted another to misuse the sales tax exemption authorization issued to the holder, the city manager or his designee 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 or his designee 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 or his designee 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 or his designee may revoke the sales tax exemption authorization of the holder.
- C. The revocation shall be permanent unless the city manager or his designee provides for a shorter period in the revocation order.
- D. The order and period of revocation may be appealed to the city council if an appeal is filed in writing with the city clerk within ten days of the receipt of the written order. The decision of the city manager or his designee is final and may be appealed only to the city council.

5.40.040 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 Section 5.40.042 and a refund for taxes paid by a benevolent and civic organization as set forth in Section 5.40.043.

- B. A claim for refund of payment or a protest of assessment shall be made by filing with the city manager or his designee 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 or his designee shall respond in writing within thirty days. If the city manager or his designee does not respond within thirty days, the claim of refund or protest shall be deemed to be approved. The decision of the city manager or his 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 designee 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.

5.40.041 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 twenty 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.

5.40.042 Refund for construction materials and services.

A purchaser seeking a refund for construction materials 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 purchaser shall attach a copy of the building permit issued for the project for which the refund is sought, and receipts for all purchases of construction materials and services within the city for each project for which the purchaser seeks a refund. If a project is not completed within one year, the purchaser shall submit an affidavit with the sales tax refund form stating that the work on the same project is continuing in order to obtain a refund for the following year. The total time period for sales tax refunds on any one project cannot exceed four years. The project may be reviewed annually by the municipal assessor or the city manager or his designee. Subsections 5.40.040(B) and 5.40.040(C) of this chapter shall apply to refunds for construction materials and services.

5.40.043 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.

5.40.044 Rebate of tax on sales of home heating oil.

- A. The city shall rebate to the buyer sales tax on purchases of home heating oil delivered to a dwelling, as defined in Section 18.08.190, occupied by the buyer for use at that location, subject to the remainder of this section. To be eligible to receive the rebate, a buyer must be a member of a household with adjusted gross income for federal income tax purposes that is not greater than specified under the Federal Health and Human Services Poverty Guidelines for 2008 as follows:

People in Household	Income Level
1	\$13,000
2	17,500

3	22,000
4	26,500
5	31,000
6	35,500
7	40,000
8	44,500
Add \$4,500 for each additional member of the household.	

- B. The buyer shall apply for a rebate under this section to the city manager or designee on a form approved by the city manager. The application shall be accompanied by a receipt showing payment of the sales tax for which the rebate is sought, and a copy of the buyer's most recent federal income tax form 1040 as proof that the income of the buyer's household does not exceed the maximum specified in this section. The buyer must submit the application within thirty days after the date of the purchase of the home heating oil.
- C. The rebate authorized by subsection A of this section shall apply only to home heating oil purchases occurring before July 1, 2009 unless extended by resolution of the city council.

5.40.050 Bracket collection schedule.

Sellers shall add the tax levied under this chapter to the selling price, service charge or rent collected in accordance with a schedule prepared by the manager in such a manner as to provide an effective tax collection equal to the applicable rate levied by Section 5.40.010.

5.40.060 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 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 therefor to the city.

5.40.070 Disposition of proceeds.

- A. The revenue received by the city under this chapter shall be first applied by the city treasurer 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.

5.40.080 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 or his designee, 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 city treasurer. 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.
- C. The city manager or his designee 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 twelve 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.

5.40.090 Reserved.

Editor's note(s)—Ord. No. 1160, § 1, adopted November 1, 2017, effective January 1, 2018, repealed § 5.40.090, which pertained to compensatory collection discount and derived from Ord. 948, 2004: Ord. 865 (part), 2000.

5.40.100 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 Section 5.40.030(C), 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 city treasurer, 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 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.

5.40.110 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.

- 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.

5.40.120 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 5.40.080.

5.40.125 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).

5.40.130 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.
- 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.

5.40.135 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.

5.40.140 Additional regulations enacted when.

The 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.

5.40.150 Delinquent sales tax roll confidentiality.

- A. During the third week of June of each year, the City Manager or their designee 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 manager or his designee 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 5.40.120(B) 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.

- B.
 - 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.
- C. 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.

**CITY OF CORDOVA, ALASKA
ORDINANCE 1222**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA, ENACTING
TITLE 7 “CITY PROPERTY” AND RELOCATING AND RENUMBERING CMC CHAPTERS 5.12,
5.14, 5.16, 5.22, 5.23, 5.24, 5.28, AND 5.29 TO CHAPTERS 7.10 THROUGH 7.80 OF TITLE 7 OF
THE CORDOVA MUNICIPAL CODE**

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

WHEREAS, the inclusion of provisions governing City-owned property in CMC Title 5, which is
entitled “Revenue and Finance,” creates confusion and results in a lengthy and broad title within the Code;
and

WHEREAS, it is in the City’s best interest to simplify and update the Code to make it easier for
members of the public to navigate and comply with its provisions; and

WHEREAS, the relocation of provisions governing City property and related obligations and laws into
a separate title in the Cordova Municipal Code makes it easier for Council and the public to review and
update those provisions at a later time; and

WHEREAS, while provisions regarding City property previously located in Title 5 “Revenue and
Finance” are best relocated to Title 7, the moved provisions were not reviewed or updated as part of the
relocation,

NOW, THEREFORE, be it ordained by the Council of the City of Cordova, Alaska,

Section 1. That the Cordova Code of Ordinances of Cordova, Alaska, is hereby amended by adding a title,
to be numbered Title 7, which said title reads 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**

Chapter 7.10 PURCHASES

7.10.010 Definitions.

As used in this chapter:

"City manager" means the city manager or any person designated in writing by the city manager to perform the duties of the city manager under this chapter.

"Construction" means the process of building, altering, repairing, maintaining, improving or demolishing a public highway, structure, building or other public improvement of any kind to real property, and includes services related to planning and design required for the construction.

"Contract" means all types of city agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

"Contract amendment" means any change in the terms of a contract accomplished by agreement of the parties, including change orders.

"Services" means the furnishing of labor, time or effort by a contractor, not involving the delivery of a tangible end product other than reports that are incidental to the required performance; however, employment agreements and collective bargaining agreements are not contracts for services.

"Supplies" means any tangible personal property.

7.10.020 Contracting and procurement authority.

The city may, pursuant to an award in accordance with this chapter, contract with any person to acquire any supplies, services or construction required by the city. The city manager shall conduct all procurements of supplies, services and construction for the city under this chapter. All contracts for supplies, services and construction shall be awarded by the city manager, subject to council approval where required under this chapter.

7.10.030 Execution of contracts.

All city contracts for supplies, services and construction, and any amendments thereto, shall be signed by the city manager.

7.10.040 Council approval of contracts.

No contract for supplies, services or construction which obligates the city to pay more than twenty-five thousand dollars may be executed unless the council has approved a memorandum setting forth the following essential terms of the contract:

- A. The identity of the contractor;
- B. The contract price;
- C. The nature and quantity of the performance that the city shall receive under the contract; and
- D. The time for performance under the contract.

7.10.050 Contract amendments.

- A. All amendments to contracts for supplies, services and construction, including change orders, shall be approved in writing by the city manager, subject to council approval where required under this section. Contract amendments shall not be used to avoid procurement by the competitive procedures established under this chapter.
- B. No contract amendment which will cause the total price of the contract, as amended, to exceed the greater of twenty-five thousand dollars or one hundred ten percent of the original contract price may

be executed unless the council has approved a memorandum setting forth any modifications to the essential terms of the contract.

7.10.060 Contracts enforceable against city.

No contract for supplies, services or construction, or any amendment thereto, may be enforced against the city unless its terms have been approved in accordance with this chapter and unless the contract or amendment has been set forth in a writing executed on behalf of the city in accordance with this chapter.

7.10.070 Availability of funds.

No contract for supplies, services or construction may be approved or executed unless funds are available for the city's performance under the contract. No contract amendment that will increase the contract price may be approved or executed unless funds are available for the city's performance under the contract as amended.

7.10.080 Limitation on contract duration.

No contract for supplies, services or construction which by its terms will not be fully executed within five years, and which cannot be terminated by the city upon not more than one month's notice without penalty, may be approved except in the manner prescribed in Section 5-17 of the Charter.

7.10.100 Competitive sealed bidding.

Unless otherwise authorized under this chapter or another provision of law, all city contracts for supplies, services and construction shall be awarded by competitive sealed bidding.

7.10.110 Solicitation and acceptance of bids.

- A. The City Manager shall initiate competitive sealed bidding by issuing an invitation for bids. The invitation for bids shall state, or incorporate by reference, all specifications and contractual terms and conditions applicable to the procurement.
- B. Public notice of the invitation for bids shall be published at least once not less than fourteen days before the last day on which bids will be accepted. The notice also shall be posted at the Cordova post office or such other place in the city designated by the council that is accessible to the public. The contents of the notice shall be sufficient to inform interested readers of the general nature of the supplies, services or construction being procured and the procedure for submitting a bid. The City Manager shall mail or otherwise deliver notices to prospective bidders that have registered their names and addresses on a current bidders' mailing list maintained by the City. The City Manager shall keep a written record of the name of each person receiving notice and of the date and manner of delivery. The failure of any person to receive notice under this subsection shall not affect the validity of any award or contract.
- C. The terms of an invitation for bids may be modified or interpreted only by written addendum issued by the City Manager. Addenda to bids shall be sent to each recipient of the original bid documents. A bid may be considered responsive only if it acknowledges receipt of all addenda except for any addendum that the City Manager determines in writing would have no material effect on the terms of the bid.
- D. Sealed bids shall be submitted by mail, delivery service or in person at the place and no later than the time specified in the invitation for bids. Bids not submitted at the proper place or within the time specified shall not be opened or considered.
- E. Bids shall be opened at the time and place designated in the invitation for bids. All bid openings shall be open to the public. Bids are not open to public inspection until after the notice of intent to award a

contract is issued. The City Manager shall tabulate the amount of each bid and shall record such other information as may be necessary or desirable for evaluation together with the name of each bidder. The tabulation shall be open to public inspection, and a copy of the tabulation shall be furnished to each bidder. To the extent the bidder designates in writing and other provisions of law permit, trade secrets and other proprietary data contained in a bid document shall be withheld from public inspection.

- F. Bids shall be accepted unconditionally without alteration or correction. No criteria except those set forth in the invitation for bids, including all specifications and addenda, may be used in determining the low bidder and the responsiveness of bids.

7.10.120 Procedure for award.

- A. Contracts shall be awarded by written notice issued by the city manager to the lowest responsive and responsible bidder.
- B. If the lowest responsive and responsible bid exceeds the amount of funds available for the procurement, and if sufficient additional funds are not made available, the city manager may:
 - 1. Issue a new invitation for bids that reduces the scope of the procurement so that its estimated cost does not exceed the amount of available funds; or
 - 2. Upon finding that the efficient operation of the city requires that the contract be awarded without delay, negotiate a reduced procurement with the lowest responsive and responsible bidder or not more than three of the lowest responsive and responsible bidders, and award the reduced procurement based upon the best negotiated price and terms.

7.10.130 Competitive sealed proposals.

- A. If the city manager determines in writing that use of competitive sealed bidding is not practicable, the city may procure supplies, services or construction by competitive sealed proposals under this section.
- B. The city manager shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all specifications and contractual terms and conditions to which a proposal must respond, and shall state the factors to be considered in evaluating proposals and the relative importance of those factors. Public notice of a request for proposals shall be given in accordance with Section 7.10.110(B). A request for proposals may be modified or interpreted only in the manner provided in Section 7.10.110(C).
- C. Sealed proposals shall be submitted by mail, delivery service or in person at the place and no later than the time specified in the request for proposals. Proposals not submitted at the place or within the time so specified shall not be opened or considered.
- D. Proposals shall be opened so as to avoid disclosing their contents to competing proposers before notice of intent to award a contract is issued. Proposals, tabulations and evaluations thereof shall be open to public inspection only after notice of intent to award a contract is issued. To the extent the proposer designates in writing and other provisions of law permit, trade secrets and other proprietary data contained in a proposal document shall be withheld from public inspection.
- E. In the manner provided in the request for proposals, the city manager may negotiate with those responsible proposers whose proposals are determined by the city manager to be reasonably responsive to the request for proposals. Negotiations shall be used to clarify and ensure full understanding of the requirements of the request for proposals. The city manager may permit proposers to revise their proposals after submission and prior to award to obtain best and final offers. Proposers deemed eligible for negotiations shall be treated equally regarding any opportunity to discuss and revise proposals. In conducting negotiations or requesting revisions, the city shall not disclose any information derived from proposals of competing proposers.

- F. Award shall be made by written notice to the proposer whose final proposal is determined to be the most advantageous to the city. No criteria other than those set forth in the request for proposals, including all specifications and addenda, may be used in proposal evaluation.

7.10.135 Innovative procurement process.

- A. If the city manager determines in writing that competitive sealed bidding or proposals are not in the best interests of the city, the city may procure supplies, services or construction by innovative procurement procedures under this section.
- B. Conditions for Use of Innovative Procurement.
1. A request to use an innovative procurement procedure shall be submitted to the council in writing by the city manager. The written request must include an explanation of the proposed innovative procurement procedure, how this procedure will achieve the best value, or why it is advantageous to the city due to new city needs, unique city needs, changed industry practice or new technologies.
 2. Following approval under subsection (1) of this section, the city manager shall submit a detailed procurement plan to the city attorney for review and approval before issuing public notice as required under Section 7.10.110(B). The plan shall, at a minimum, address the method of solicitation, scope, method of award, protest procedures, and proposed contract provisions. If the plan is submitted for a construction contract, the plan may address the use of a bonus in lieu of preferences.
- C. Procurement Methods. Innovative procurement process would include, but not be limited to, such procurement methods as "design/build" and "General Contractor/Construction Manager" ("GC/GM").

7.10.140 Open market procedure.

- A. The city manager may procure all supplies, services and construction having an estimated value of not more than twenty-five thousand dollars on the open market without formal advertising or other formal bid procedures. The city manager shall keep a written record of all bids received and awards made under this section.
- B. Whenever practicable, at least three informal bids or quotations shall be solicited for any procurement under this section. The solicitation may be either oral or written, and shall be in a form reasonably calculated to yield the lowest responsive bid by a responsible bidder. Whenever practicable, the contract shall be awarded to the lowest responsive and responsible bidder.

7.10.150 Sole source procurements.

- A. The city may procure supplies, services or construction without competition where the city manager determines in writing that one of the following circumstances applies:
1. Supplies, services or construction that reasonably meet the city's requirements are available from only one vendor;
 2. The supplies, services or construction have a uniform price wherever purchased;
 3. The supplies, services or construction may be purchased from or through another governmental unit at a price lower than that obtainable from private vendors;
 4. The price of the supplies, services or construction is fixed by a regulatory authority; or
 5. The contract is for professional services that the council by resolution determines to procure without formal competition.
- B. The award of any contract under this section shall be subject to prior council approval in accordance with Section 7.10.040.

7.10.160 Emergency procurements.

The city may procure supplies, services or construction without competition, formal advertising or other formal procedure where the city manager determines in writing that an emergency threatening the public health, safety or welfare requires that the contract be awarded without delay. The award of any contract under this section shall be subject to prior council approval in accordance with Section 7.10.040.

7.10.170 Award to responsible bidder or proposer.

A contract award under this chapter shall be made only to a responsible bidder or proposer. The city manager shall determine whether a bidder is responsible on the basis of the following criteria:

- A. The skill and experience demonstrated by the bidder in performing contracts of a similar nature;
- B. The bidder's record for honesty and integrity;
- C. The bidder's capacity to perform in terms of facilities, equipment, personnel and financing;
- D. The past and present compliance by the bidder with laws and ordinances related to its performance under the contract; and
- E. The bidder's past performance under city contracts. If the bidder has failed in any material way to perform its obligations under any contract with the city, the city manager may consider the bidder to be not responsible.
- F. The bidder's past performance of financial obligations to the city. If at the time of award the bidder is delinquent, overdue or in default on the payment of any money, debt or liability to the city, the city manager shall consider the bidder to be not responsible.

7.10.180 Rejection of bids or proposals.

If the city manager determines that it is in the best interest of the city to do so, the city may reject all bids or proposals submitted for a procurement.

7.10.190 Waiver of irregularities.

The city manager may waive irregularities in any and all bids or proposals, except that timeliness and manual signature requirements shall not be waived.

7.10.200 Local bidder preference.

All evaluations of bids or proposals based on price shall be made after a local bidder preference of fifteen percent has been applied. In this section, "local bidder" means a person who:

- A. Holds a current city business license;
- B. Submits a bid or proposal for supplies, services or construction under the name that appears on the person's current city business license;
- C. Has maintained a place of business within the city staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;
- D. Is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, or is a partnership and all partners are residents of the state; and
- E. If a joint venture, is composed entirely of ventures that qualify under subsections A through D of this section.

Chapter 7.20 SALE OF CITY PERSONAL PROPERTY

7.20.010 Disposal authority.

The council may by motion authorize the disposal of any property or equipment the estimated market value of which is one thousand dollars or less.

7.20.020 Procedure.

Sales of property, material or equipment the estimated value of which is over one thousand dollars shall be as follows:

- A. By publishing a notice of sale for a period not less than fourteen days prior to date of sale. The notice of sale shall also be posted on the bulletin board in the City Hall and in one other public place.
- B. Bids shall be sealed bids and accompanied by a deposit of not less than ten percent of the amount bid.
- C. No conditions of sale shall be considered except payment in full within seventy-two hours after acceptance of bid. Deposits of the three highest bidders will be held seventy-two hours or until the balance is paid on the bid of first successful bidder. If bid is not completed, sale shall be made to next highest bid or if otherwise acceptable.
- D. No bid may be withdrawn subsequent to the opening of bids, and in the event a successful bidder does not complete the purchase, the deposit shall become the property of the city as liquidated damages.

7.20.030 Advertisement.

All advertisements shall contain the following information:

- A. Reference to this chapter;
- B. Object offered for sale;
- C. Reference to sealing of bids;
- D. Deadline for submission of sealed bids;
- E. Amount of deposit on bid;
- F. Date and place of opening.

Such shall be in substantially the following form:

Pursuant to Title 5, Chapter 7.20 of the Code of the City of Cordova, the City of Cordova offers for sale and will accept sealed bids on (object) until 5: P.M. on (date) at the office of the City Clerk. All bids must be accompanied by a deposit of at least 10% of the total amount bid. Bids shall be publicly opened and read at P.M. on (date) in City Hall. Final acceptance of the successful bid shall be at such time as the Council shall determine on the above date or later.

(Signed)

City Manager or City Clerk

7.20.040 One bid per bidder.

No bidder may submit more than one bid on any object to be sold.

7.20.050 Basis on which property is sold.

All property, material, or equipment are sold on an "as is-where is" basis, and no guarantee of any sort, express or implied, by a city official or employee of the city shall be binding upon the city. Bidder shall inspect the offered object in his own manner, and the submitting of the bid shall be conclusive that he has satisfied himself as to the condition and location of the object bid on.

7.20.060 Acceptance or rejection of bids.

The city reserves the right to reject any and all bids and to accept the bid which in its opinion is most advantageous to the city even though such bid is not among the three highest. The council shall at the time of bid award determine those bids which are acceptable and on which deposits will be held seventy-two hours and authorize the return of deposits to the other bidders.

7.20.070 Sale when no bid received.

Any material, equipment or property that has been put up for bid in the manner set forth in this chapter at least twice and which has received no bid acceptable to the council, may be sold thereafter by the city manager with approval of the city council.

7.20.080 Reference to chapter—Familiarity with provisions required.

All advertisements and sales agreements shall refer to this chapter, and it shall be the obligation of the bidder to familiarize himself with the provisions of the rules set forth in this chapter.

Chapter 7.30 TIDELANDS

7.30.010 Adoption of provisions—Statutory authority.

These regulations are adopted by the city council pursuant to authority vested in that body by the Charter of the city and by AS 38.05.320 as amended.

7.30.020 Purpose.

These regulations implement, interpret and apply the provision of the Alaska Land Act concerning use and disposal of tidelands and related matters and extend to and include the applicable provisions of Section 6 of Public Law 85—508 (71 Stat. 330), admitting the state to statehood in the United States of America and applicable provisions of the Act of March 3, 1899, pertaining especially to establishment of harbor lines, as well as applicable provisions of Public Law 85—303 (31 Stat. 623).

7.30.030 Applicability.

These regulations apply to all tide and contiguous submerged lands within or seaward of the boundaries of the city (except those provided for hereafter) from the meander line as established on ATS 220 and seaward to a line agreed upon by the city and the state and shown on ATS 220. These regulations pertain to the use and disposal of city-owned tide and contiguous submerged land. The regulations may be referred to as the Cordova tideland regulations.

7.30.040 Definitions.

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

1. "Accretion" means the gradual and imperceptible addition of new land to old by the natural deposition of sediments, i.e., sedimentation.
2. "Act" means the Alaska Land Act as now constituted or as hereafter amended.
3. "Apportionment survey cost" means that cost prorated to each subdivided tide and submerged land tract.
4. "Class I Preference Right." A Class I preference right shall be extended to persons who occupied and developed tide and contiguous submerged lands seaward of the city on and prior to September 7, 1957, after executing a waiver to the state and the city of all rights such occupancy may have had pursuant to Public Law 85-303. Upon execution of the waivers, such persons, or their successors in interest, have the right to acquire such occupied and developed tide and contiguous

- submerged land from the city for a consideration not in excess of the cost of survey, transferring and conveying title.
5. "Class II preference right." A Class II preference right shall be accorded to Class I preference right claimants who refuse to execute a waiver to the state and city of any rights such occupants may have acquired pursuant to Public Law 85-303. It shall be mandatory for the city to honor the application from the occupant after the Secretary of the Army has submitted to the Secretary of the Interior, the Governor of the state and the city manager, maps showing the pierhead line established by the Corps of Engineers with respect to the tract granted.
 6. "Class III preference right" means the preference right extended to persons who occupied and developed tide lands after September 7, 1957, and who continued to occupy the same on January 3, 1959. Such persons, or their successors in interest, have the right to acquire such occupied and developed tidelands for a consideration not in excess of the cost of appraisal, administering and transferring, plus the appraised fair market value thereof, exclusive of any value occurring from improvements or development, such as fill material, building or structures thereon.
 7. "Coastline" means the line of ordinary low water along any portion of city limits and is the line marking the seaward limit of inland waters.
 8. "Commissioner" means the Commissioner of the Department of Natural Resources of Alaska.
 9. "Director" means the Director of the Division of Lands of the Department of Natural Resources.
 10. "Division" means the Division of Lands within the Department of Natural Resources.
 11. "Fair market value" means the highest price, described in terms of money, which the property would bring if exposed for sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.
 12. "Fill" means earth, gravel, rock, sand or other similar materials placed upon tide or contiguous submerged lands for the purpose of elevating the lands above the high water line for a specific useful purpose. The placement of earth, gravel, rock, sand or other similar materials on tide or contiguous submerged land solely for the purpose of spoils disposal and thereafter abandoned and not used for any beneficial purpose shall not be considered fill.
 13. "Final tideland plat" means that survey plat compiled of the tide and submerged lands under the direction and authority of the Division of Lands and the city that shows the subdivision of the tide and submerged lands and upon which each subdivided tract is identified by a letter and a number.
 14. "Harbor line" is defined as that line fixed by the Secretary of the Army which is the limit to which piers, wharves, bulkheads or other work may be extended in navigable waters without further authorization.
 15. "Improvements" means buildings, wharves, piers, drydocks and other similar types of structures permanently fixed to the tide or contiguous submerged lands that were constructed and/or maintained by the applicant for business, commercial, recreation, residential or other beneficial uses or purposes. In no event shall fill be considered a permanent improvement when placed on the tidelands solely for the purposes of disposing of waste or spoils; however, fill material actually utilized for beneficial purposes by the applicant shall be considered a permanent improvement.
 16. "Land" means all tide and submerged lands under the jurisdiction of the city.
 17. "Mean high tide" means the tidal datum plane of the average of all the high tides as may be or has been established by the United States Coast and Geodetic Survey. "Mean high water line" means the intersection of the datum plane of mean high water with the shore.
 18. "Mean lower low water" means the tidal datum plane of the average of the lower of the two low waters of each day as has or may be established by the United States Coast and Geodetic Survey.

19. "Mean low water" means the tide datum plane of the average of the low tides as has or may be established by the United States Coast and Geodetic Survey.
20. "Natural resources" means and includes, without limiting the generality thereof, oil, gas and all other minerals, but does not include fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp and other marine, animal and plant life, or water power, or the use of water for the production of power.
21. "Occupant" means any person as defined in this section, or his successor in interest, who actually occupied for any business, residential or other beneficial purpose, tidelands or tidelands and submerged lands contiguous thereto, within the corporate boundaries of the city on or prior to January 3, 1959, with substantial, permanent improvements. The holder of a permit of clearance in respect to interference with navigation, or of a special use permit from a government agency will not qualify as an occupant unless such entry on the land had, through exercise of reasonable diligence, resulted in actual occupancy and substantial permanent improvements, as hereinafter mentioned. No person shall be considered an occupant by reason of having:
 - a. Placed a fish trap in position for operation or storage upon the tide, shore or submerged land;
 - b. Placed a setnet or piling therefor, or any other device or facility for the taking of fish;
 - c. Placed piling or dolphins for log storage or other moorage;
 - d. Placed floats or vessels upon the tide, shore or submerged land;
 - e. Placed telephone, power or other transmission facilities, roads, trails or other improvements not requiring exclusive use or possession of tide or contiguous or submerged land; or,
 - f. Claimed the land by virtue of some form of constructive occupancy. Where land is occupied by a person other than the owner of the improvements thereon, the owner of the improvements shall, for the purposes of these regulations, be considered the occupant of such lands.
22. "Occupied" or "developed" means the actual use, control or occupancy, but not necessarily residence, of the tide and contiguous submerged land by the establishment thereon of substantial permanent improvements.
23. "Permit preference" means that privilege of the upland owner to acquire first choice over other nonpreference right claimants to a permit for like use and enjoyment of the city-owned tide or contiguous submerged lands abutting his property.
24. "Person" means any person, firm, corporation, cooperative association, partnership or other entity, legally capable of owning land or an interest therein.
25. "Pierhead line" means a line fixed by the Corps of Engineers of the Department of the Army that is parallel to existing line of mean low tide at such distance offshore from the line of mean low tide that said pierhead line shall encompass, to the landward, all stationary, manmade structures (but shall not encompass any part of breakwaters, bridges, or piers used for vessel dockage which part extends beyond such a parallel line marking the seaward extremity of other manmade structures) which were in existence as of February 1, 1957, to seaward of the city.
26. "Preference right," subject to the classifications thereof established in this section, means and includes the right of an occupant to acquire, by grant, purchase or otherwise, at the election of the occupant, except as otherwise limited or prescribed in these regulations, any tract or tracts of tideland, or tideland and submerged land contiguous thereto, occupied or developed by such occupancy on and prior to January 3, 1959.
27. "Reclaimed or constructed tide or contiguous submerged lands" means those lands resulting by purposeful filling of tide or contiguous submerged lands.

28. "Shore lands" means all lands which are covered by nontidal waters that are navigable under the laws of the United States up to ordinary high water mark as heretofore or hereafter modified by natural accretion, erosion or reliction.
29. "Submerged lands" means those lands covered by tidal waters between the line of mean low water and seaward to a distance of three geographical miles, or as may hereafter be properly claimed by the city.
30. "Substantial permanent improvement" shall for these regulations have the same meaning as improvements as defined in subsection 15 of this section.
31. "Tideland review committee" means that committee appointed by the city council to decide on matters pertaining to the administration, adjudication and disposal of tideland preference right applications.
32. "Tidelands" means those lands which are periodically covered by tidal waters between the elevation of mean high and mean low tides.
33. "Upland owner" means that owner whose upland property abuts the line of mean high tide.

7.30.050 Declaration of ownership.

Except as otherwise provided in this chapter, the city, by virtue of Section 47-2B-35 (3) ACLA, 1959 Supp., and Tideland Patent No. 120 issued June 15, 1964 recorded in Cordova Recording District under Number 64-233 and any other patents hereafter issued to it, reserves and has succeeded to all right, title and interest of the state in tide and submerged lands lying seaward of the city, including lands, improvements, reclaimed lands or natural resources in all lands up to the original GLO meander line of town site survey number 449 and all additions thereto and seaward to the Director's Line as defined in said Tidelands Patent No. 120 or on any succeeding patents; provided, however, that those lands and rights therein lawfully vested in others by Acts of Congress prior to January 3, 1959, shall not be infringed upon and; provided further, that title to natural resources therein shall be reserved to the state until such time as the state may convey such title to the city.

7.30.060 Exceptions—Federal priority.

The following tidelands and tide and contiguous submerged lands are reserved pursuant to Section 3, Public Law 85-303, (71 Stat. 623) 1957:

All tracts or parcels of land, together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from the state or from any part in whom title has vested under the laws applicable to the state or the law of the United States, all lands expressly retained by or ceded to the United States, all land acquired by the United States by gift or by proceedings under eminent domain, all lands filled in, built up, or otherwise reclaimed by the United States for its own use as long as so used, and any rights that the United States has in lands presently and actually occupied by the United States under claim or rights.

7.30.070 Authority to grant leases or permits.

When in the best interest of the city, the city council may grant leases or permits for the use of city-owned tidelands.

7.30.080 Permit—Issuance preference.

The city council may issue permits for the use and/or improvement of city-owned tidelands. Council shall give such preference to the use of the land as will be of greatest economic benefit to the city; provided, that first preference shall be granted to the upland owner over other nonpreference applicants for the use of

tideland and contiguous submerged land seaward of the upland property and which is needed by such owner for the purpose or purposes for which it may be granted.

7.30.090 Permit—Application.

Application for a tideland permit shall be submitted to the city manager. The city manager shall submit the application to the city council for their approval or disapproval, whereupon council may, with or without a public hearing or posted notice, grant or reject the requested permit.

7.30.100 Permit—State approval required when.

Prior to any construction or development by any persons or governmental agency that will use, divert, obstruct, pollute or utilize any of the waters of the state or materials from such water areas, the Commissioner of the Alaska Department of Fish and Game shall be notified and a letter of approval obtained by the applicant pursuant to Chapter 94, Article I, Section 31, SLA 1959, as amended.

7.30.110 Permit—Term—Revocation—Removal of improvements.

- A. Permits issued shall not exceed five years in duration, but are renewable at the option of the city council. All permits shall be revocable when used contrary to the conditions under which they are granted, or when council in its judgment determines that the best interests of the city would be served by revocation. If any permit expires or is revoked, all improvements placed on the tide or contiguous lands shall be removed by the permittee within sixty days; provided, however, that the city manager may extend this time for removing such improvements in cases where hardship is shown. A permittee may, with the consent of the city manager, sell his improvements to any succeeding permittee.
- B. Any improvements or chattels having an appraised value in excess of ten thousand dollars which are not removed within the time allowed shall be sold at public sale and the net proceeds thereof, if any, paid to the permittee after paying all expenses of the sale and charges due to the city. If there are no other bidders, the city may bid on the property for the total amount of permittee's indebtedness to the city. Any improvements having a value of less than ten thousand dollars which are not removed within the time allowed shall revert to and become the absolute property of the city.

7.30.120 Permit—Rights-of-way and easements.

Permits may be issued by the city manager and after approval by city council for utility lines and services of all types and for necessary rights—of—way. Such permits shall be revocable at the option of the city.

7.30.130 Disposal of material—Applications.

Applications for the free use or the purchase of material on city-owned tideland or contiguous submerged lands shall be submitted to the city manager and he shall present his recommendations to the city council and the city council shall determine the conditions of disposal; provided, that when such disposals are deemed not in the best interest of the city, the city council shall reject the applications.

7.30.140 Leases and sales—Development plan submission.

City-owned tide and submerged land shall be leased or sold in accordance with the Charter and the code of the city. In addition to any requirements therein set forth, the applicant shall submit a development plan that shall state:

- A. The purpose of the proposed construction improvement, if any;
- B. The type of construction;
- C. The date construction will begin and the estimated date of completion;

D. Any other data, survey plats or information deemed necessary by the city manager.

7.30.150 Leases and sales—Appraisal—Deposit.

The city manager may require applicants to deposit with the city clerk a sum sufficient to cover all, or any portion of, anticipated costs of appraisal and/or advertisement. Such deposit shall be made within thirty calendar days after request for deposit. Failure to comply shall result in cancellation of the application. Any sum above the actual cost shall be returned to the applicant. In the event the land applied for is disposed of to other than the applicant within thirty days after offering, the successful applicant shall be required to pay any survey, appraisal or advertising cost and the original deposit will be returned to the depositor. If the depositor cancels his application, or fails to accept the contract or title when offered by the city, the deposited money shall be forfeited, but if the city does not grant the application, all sums in excess of costs incurred shall be refunded. It shall be the responsibility of the city following the receipt of any deposit required to perform or have performed any appraisal, and/or advertisement required or deemed necessary.

7.30.160 Leases and sales—Appraisal—Performance.

Appraisal of the tract shall be made by a qualified appraiser to be appointed by the tideland review committee. Such appraisal is to be made on the basis of fair market value of the tidelands exclusive of any value resulting from improvements or developments, such as fill material, building or structures thereon.

7.30.170 Leases and sales—Appraisal—Costs.

The cost of the appraisal shall be borne by the applicant with the fee to be determined by the tideland review committee.

7.30.180 Preference right—Application—Required.

All persons claiming a preference right to any tideland tract shown on the final tideland plat ATS 220 shall submit an application to the city clerk on a form to be supplied by the city and approved by the tideland review committee.

7.30.190 Preference right—Application—Time limit.

An occupant claiming a Class I, Class II, or Class III preference right may make, and the city will accept, applications for preference rights at any time during normal working hours within two years from the effective date of the ordinance adopting these regulations. Any preference right for which an application is not filed within this period shall be lost.

7.30.200 Preference right—Final tideland plat—Survey costs—Disposal notice.

- A. The final tideland survey plat showing completed subdivision and monumentation and signed by the city manager and the director shall be known as "Final Tidelands Plat ATS 220." The final plat shall serve as the basis upon which all tideland preference right disposals shall be made.
- B. The survey cost of each preference right tract shall be computed by multiplying the total square feet of the preference right tract by a square foot cost factor to be established by the city council with concurrence of the Director of the Division of Lands.
- C. Tideland and contiguous submerged lands as well as any material therefrom owned by the city shall be sold, granted, leased or otherwise disposed of only through action of the city council. No land or material in the tidelands shall be sold, granted, leased or otherwise disposed of until council has received a recommendation thereon from the city manager. Before such lands or any interest therein is disposed of, the city clerk shall post a notice for three consecutive weeks preceding the time of disposal as stated in the notice, in at least two common posting places; provided, the sale, lease or

disposal of lands shall be held not less than one week nor more than three weeks following the last date of the posted notice. The notice shall set forth the following:

1. The name and address of person, persons, corporation or agencies requesting the sale, grant, lease or interest therein;
2. The location and description of the lands or interest therein and the improvements thereon;
3. The preference or preference right claims, if any, and the length of time including dates the claimant occupied the land;
4. The date, time and place, and the general terms, including the minimum bid, if any, of the sale, lease, or other disposal;
5. The dates of the advertisement of posting.

7.30.210 Preference right—Application—Approval or disapproval.

- A. Each complete preference right application submitted to the city clerk shall be forwarded to the tideland review committee. The tideland review committee through its chairman may request the applicant to submit additional information or proof of ownership as deemed necessary.
- B. The tideland review committee shall, within sixty days from the date the application is received by the city clerk, notify the city manager of their approval or disapproval of the application.
- C. If the application is approved, the tideland review committee shall notify the city manager of all moneys owed the city by the applicant which pertains to the tideland application, and he shall then recommend that a resolution be passed conveying said tract to the applicant.
- D. If the application is not approved, or if it is determined that the applicant possesses a different preference right than that claimed, the tideland review committee shall so notify the applicant by registered mail and state their reasons for disapproval. The tideland review committee shall then advise the city manager.

7.30.220 Preference right—Application—Additional land to be considered.

In approving any application for a preference right, the city shall include as part of the tract conveyed, and in addition to the occupied or developed lands, such additional tide and contiguous submerged lands as shall be reasonably necessary in the opinion of the tidelands review committee for the occupant's use and enjoyment of the occupied or developed land; provided, however, that any such conveyance shall not include an area which would unjustly deprive any other applicant from reasonable use and enjoyment of the lands for which he applies or any area which would interfere with navigation.

7.30.230 Preference right—Appraisal deposit.

Each Class III preference right claimant shall deposit with the city clerk the sum of fifty dollars to cover the cost of appraisal. Any amount exceeding this shall be charged to the applicant and any surplus shall be returned to him.

7.30.240 Preference right—Class I cost payment.

Upon approval of each Class I preference right application, the tideland review committee shall notify the applicant of all moneys owed the city pertaining to the tideland application, including, but not limited to, the applicant's proportionate share of the survey cost. The proportionment of the survey cost shall be computed as stipulated in Section 7.30.200. Upon receipt of notice from the tideland review committee, the applicant shall have thirty days to make payment or enter into a purchase agreement as set forth in Section 7.30.270. If payment is not made, or a purchase agreement is not entered into within the thirty-day period, the application shall be voidable at the city's option.

7.30.250 Preference right—Class III cost payment.

Upon approval of each Class III preference right application, the tideland review committee shall notify the applicant of all moneys owed the city pertaining to the tideland application including, but not limited to, the fair market value of the tideland tract and the applicant's proportionate share of the survey cost. The proportionment of the survey cost shall be computed as stipulated in Section 7.30.200. If payment is not made, or a purchase agreement is not entered into within the thirty-day period, the application shall be voidable at the city's option.

7.30.260 Preference right—Independent survey required for boundary relocation.

If two or more qualified preference right claimants agree to a boundary relocation, approval of the tideland review committee and concurrence of the Director of the Division of Lands must be obtained by letter. All independent surveys shall be performed by a registered engineer or surveyor and the total cost shall be borne by the claimants. The final plat shall conform to the requirements of the State of Alaska Tideland Regulations and shall not be considered final until approved by the tideland review committee and concurred in by the Director of the Division of Lands.

7.30.270 Purchase agreement—Terms.

Persons eligible to receive tideland conveyance from the city may enter into a purchase agreement. Purchase agreements shall require the applicant to pay to the city according to a payment schedule that shall be agreed upon between the purchaser and the city; however, in no event shall the final payment under said agreement be made beyond April 5, 1967.

7.30.280 Purchase agreement—Limitations.

Purchase agreements shall be allowed for only the payment of the fair market value of the tideland tract and for the proportionment cost of survey.

7.30.290 Appeal—Permitted—Time limit for decision.

Any action taken by the tideland review committee may be appealed to the city council. The city council shall render their decision within sixty days from the date the appeal is submitted. Any person shall have the right to appeal in person before the city council or present his views in writing or be represented.

7.30.300 Appeal—Form.

Any appeal submitted to the city council must:

- A. Be filed within thirty days after receipt of notice of the action by the tideland review committee;
- B. Be filed at the office of the city clerk;
- C. Specify the action or actions to be reviewed by the city council;
- D. Specify the grounds urged for the reversal or modification of the action.

7.30.310 Appeal—Finality of decision.

The city council shall, within sixty calendar days after receipt of the notice of appeal, render their decision which shall be final so far as the city is concerned, but without prejudice to any other remedy or remedies the applicant may have.

7.30.320 Protest—Time limit for filing.

Anyone may file a protest with respect to the grant, sale, lease or other disposal of tidelands or materials thereon or therein. Such protest shall be in writing and contain a statement as to the nature and reason for the protest. Each protest so made shall be filed with the city clerk during but not later than the last date

provided in the past notice. The party protesting shall be required to notify by registered or certified mail the party whose action he is protesting. The postmark date of the addressee's post office will govern. Failure to protest shall constitute a waiver.

7.30.330 Protest—Review.

The city clerk shall, upon receiving a protest, indicate upon it the time and date received, then submit it to the city manager, who shall review the protest. The city manager shall upon review submit his findings to the city council. The city council shall notify the protestant of their findings within thirty days of the date the protest was received by the city clerk.

7.30.340 Reservations.

Each and every contract for the sale, lease or grant of, and each deed to city tide and contiguous submerged land, properties or interest therein, made under the provisions of this chapter, shall be subject to a reservation to the city or to the state, whichever shall be entitled thereto, which shall be substantially in the following form: "The party of the first part, City, hereby expressly saves, excepts and reserves out of the grant hereby made unto itself (or to the State of Alaska) its lessees, successors, and assigns forever, all oils, gasses, coal, ore, minerals, fissionable materials, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gasses, coal, ores, minerals, fissionable materials, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, (or to the State of Alaska), its lessees, successors, and assigns forever the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gasses, coal, ores, minerals, fissionable materials and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as foresaid, generally all rights and power in to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved."

7.30.350 Herring spawn covenant.

The lease or sale of any city tide and submerged lands shall contain a restrictive covenant pursuant to Section 2, Chapter 34, SLA 1959, as now or as hereafter amended.

7.30.360 Conveyance of title.

When all requirements have been satisfied by the applicant, the city council shall direct the city clerk to convey title. 7.30.370 Right of entry for investigation.

The city through its authorized representative shall have the right to enter upon any city-held tidelands that are leased, or upon which a permit was granted, to make any and all examinations or investigations that are deemed necessary.

7.30.380 City authority over structures affecting navigation.

The city shall have authority pertaining to the construction and placement by itself or by others of solid fill and/or open pile structures that will extend to the harbor line as established by the U.S. Army, Corps of

Engineers, except as provided in Sections 10 and 11 of the River and Harbor Act of 1899 (39 Stat. 1151; 33 U.S.C. 403 and 404).

7.30.390 Payment of damages.

No rights shall be exercised under the reservation set forth in Section 7.30.340 by the city or the state or their lessees, successors or assigns until provision has been made by the city or the state or their lessees, successors or assigns, to pay to the owner of the land, upon which the rights, herein reserved to the city or the state or their lessees, successors or assigns, are sought to be exercised, full payment for all damages sustained by said owner by reason of entering upon said land; provided, that if said owner for any cause whatsoever refuses or neglects to settle said damages, the city or the state or their lessees, successors, assigns or any applicant for a lease or contract from the city or the state for the purpose of prospecting for valuable minerals or option contract or lease for mining coal, or lease for extracting petroleum or natural gas, shall have the right, after posting a surety bond with the city council or the director, as the case may be, in a company qualified to do business in Alaska and in a form as determined by the city council, or the director, as the case may be, after due notice and opportunity to be heard, to be sufficient in amount and security to secure said owner full payment for all such damages, to enter upon the land in the exercise of said reserved rights, and shall have the right to institute such legal proceedings in a court of competent jurisdiction wherein the land is situated, as may be necessary to determine the damages which the surface lessee of such lands may suffer.

7.30.400 Waste or injury to land prohibited—Penalty for violation.

It shall be unlawful for any person to commit waste or other injury upon city-owned tide and contiguous submerged land and the person so offending shall, in addition to being civilly liable for any damages caused, upon conviction be punished in accordance with Chapter 1.28 of this code.

Chapter 7.40 DISPOSAL OF REAL PROPERTY

7.40.010 Disposal authority.

Except where state statute, the Charter or this code establishes a specific mandatory procedure for disposing of city real property, the city may dispose of city real property by resolution of the council.

7.40.020 Documentation of conveyance.

Every document conveying an interest in city real property under this chapter shall include the terms that are required by this chapter and any additional terms that the council or city manager requires, and shall be executed by the city manager, attested by the clerk, and approved as to form by the city attorney.

7.40.030 Land disposal map.

- A. The City shall maintain and update annually a map of city owned real property. The following designations shall be applied to the land disposal map:
 - 1. Available: These properties are available to purchase or lease.
 - 2. Available—Subdivision Required: These properties are available to purchase or lease, but a subdivision of the land may be required.
 - 3. Tidelands: Tidelands are considered as "Available" designation but shall require review and recommendation from the Harbor Commission. Disposal of tidelands shall follow the procedures set forth in CMC 7.30.
 - 4. Not Available: These properties are currently in use for city uses and operations but can be the subject of a letter of interest per the procedures set forth in this chapter.

5. Leased: These properties are currently under lease and not considered available but can be the subject of a letter of interest during the final year of the lease term.
- B. Once per year, the City Planner shall review, with the Planning and Zoning Commission, the land disposal map to consider possible changes to the current designations or to add or remove properties to accurately reflect the status of City real property. The Planning and Zoning Commission shall then forward a recommendation to the City Council for adoption.
- C. The land disposal map may be modified throughout the year at the request of the public through the submission of a letter of interest, under the procedures set forth in this chapter.
- D. The City Planner shall provide public notice when real property is added to the land disposal map, or when the "Not Available" designation is proposed to be removed from an existing property. The notice shall:
 1. Include the name of the proponent, the location of the property, the proposed use and project description, and information on how the public can comment on the proposal.
 2. Be posted on the property in a location visible and legible from the right-of-way, beginning thirty days prior to the Planning Commission delivering its recommendation to the City Council.
 3. Be posted at City Hall, Cordova Public Library, and the Post Office beginning thirty days prior to the Planning Commission delivering its recommendation to the City Council.
 4. Be mailed to all property owners within three hundred feet of the perimeter of the subject property thirty days prior to the Planning Commission delivering its recommendation to the City Council.

7.40.040 Letter of interest to lease or purchase.

- A. A person may submit a letter of interest to the city raising an interest in the purchase or lease of city property. Except as otherwise provided in this chapter, a letter of interest shall be submitted to the city manager and must include the following information:
 1. The name of the interested party and any other names under which the party does business;
 2. The interested party's mailing address and the address of the interested party's registered office in the state, if applicable;
 3. The use or purpose for which the interested party proposes to lease or purchase the property, and any additional information required by the city manager, school board, city planner or the planning commission.
- B. The city manager shall refer a letter of interest from a qualified interested party to the city planner. If the city planner finds that the real property is available for lease or purchase, the city planner shall schedule the letter of interest for review by the planning commission.
- C. The planning commission shall review the letter of interest and recommend to the city council whether to offer the real property interest for disposal by one of the methods as described in Section 7.40.060(B).
- D. The city council shall review the letter of interest and the planning commission's recommendation, and determine, in the city council's sole discretion, whether to offer the real property interest for disposal by one of the methods as described in Section 7.40.060(B).

7.40.050 Letter of interest to lease or purchase school building property.

- A. A letter of interest to lease or purchase an interest in a school building shall be submitted directly to the school board and shall include all the information required in Section 7.40.040.
- B. Upon receipt of a letter of interest, the school board shall have authority to draft a resolution recommending action on the letter of interest and including recommended terms and conditions for any sale or lease of city owned real property with a school located on it.

- C. The city council shall review the letter of interest and school board's recommendation, and determine, in the city council's sole discretion, whether to offer the real property interest for disposal by one of the methods described in Section 7.40.060(B).

7.40.060 Methods of disposal.

- A. Except as this chapter provides otherwise, all disposals of interests in city real property shall be for no less than fair market value. The city may accept in exchange for an interest in city real property any consideration of sufficient value not prohibited by law.
- B. In approving a disposal of an interest in city real property, the city council shall select the method by which the city manager will conduct the disposal from among the following:
 - 1. Negotiate an agreement with the party who submitted a letter of interest to lease or purchase the property;
 - 2. Invite sealed bids to lease or purchase the property;
 - 3. Offer the property for lease or purchase at public auction;
 - 4. Request sealed proposals to lease or purchase the property.
- C. If the city elects to dispose of an interest in city real property under one of the competitive methods described in subsections (B)(2) through (B)(4), notice of the disposal shall be published in the manner which the city manager deems most likely to inform the public of the proposed disposal for a period of at least thirty days. At a minimum, the notice shall describe the interest in city real property to be disposed of, the method of disposal, and the time and place for submitting bids or proposals.
- D. An invitation for bids to lease or purchase city real property shall specify any minimum price requirement and any required terms.
- E. A request for proposals to lease or purchase city real property shall specify the criteria upon which proposals will be evaluated and the minimum rent or purchase price. All proposals submitted in response to a request for proposals shall be reviewed by the planning commission, which shall make a recommendation to the city council to accept or decline any or all of the proposals. The city council shall review the proposals and the planning commission's recommendation and accept or decline any of the proposals.

7.40.070 Disposal for less than fair market value.

- A. The city may dispose of an interest in city real property for less than fair market value to the United States, the state of Alaska or any political subdivision thereof, or a nonprofit or tribal corporation or association, upon a finding by the council that the disposal will allow the use of the real property for a purpose beneficial to the city.
- B. The city may lease city real property for less than fair market value where a commercial or industrial facility or use will be established and maintained on a continuous, year-round basis under the lease, if the council finds each of the following:
 - 1. The reduction in rent below fair market value substantially increases the likelihood that the facility or use will be located in Cordova; and
 - 2. The operation of the facility or use in the city will confer an economic benefit on the city and no equivalent benefit could be obtained by leasing the real property at its fair market value.
- C. The city shall publish notice of a proposed disposal of an interest in city real property for less than fair market value at least one week before the date on which the council will consider the agreement for the disposal. At a minimum, the notice shall describe the real property, summarize the terms on which it may be disposed of, identify the proposed lessee or purchaser, and state the date and time of the meeting at which the council will consider the proposal.

7.40.090 Disposal by lease.

In addition to the other requirements in this chapter, a lease of city real property shall conform to the following requirements:

- A. The lease may not be assigned without the approval of the city, which may be granted at the sole discretion of the city council.
- B. The term of the lease may not exceed thirty years, including renewals, unless the city council approves a longer term upon finding that the longer term will be beneficial to the city or the citizens of Cordova in light of the purpose of the lease, the use of the premises and the nature of any improvements to be constructed thereon.
- C. A lease having a term longer than two years may be subject to a rental adjustment at intervals no less frequent than every two years, but no such adjustment shall cause a reduction in the rent under the lease.
- D. A lease may grant the lessee one or more options to renew, provided that:
 1. The term, including all available renewal terms, does not exceed the term permitted under subsection (B); and
 2. Upon each renewal, the lease shall be subject to all provisions of this code in effect at the time of the renewal.
- E. The lease shall reserve to the city the right to designate or grant rights-of-way or utility easements across the leased premises without compensation; provided, that the lessee shall be compensated for any resulting, taking or destruction of improvements owned by the lessee, and provided further that the rent shall be adjusted to reflect any resulting reduction in the fair market value of the leased premises.
- F. The lessee's performance under a lease shall be secured in the manner that the city council may require, including without limitation, a security deposit, surety bond or guaranty.
- G. Unless the council provides otherwise in authorizing the lease, the lessee shall pay rent to the city on an annual basis, in advance, with payments due upon commencement of the term and on each anniversary thereof during the term.
- H. The lease shall provide for payment of interest or a late fee for rent past due, and provide for recovery by the city of attorneys' fees and costs to the maximum extent allowed by law in the event the city is required to enforce the lease in court, and such additional provisions pertaining to defaults and remedies as the city manager may determine to be in the city's interest.
- I. A lease of space within a city school building shall provide that payments received for rent shall be made payable to the school district and assigned to a special revenue fund designated by the city council in consultation with the school board.

7.40.100 Deposit—Disposal costs.

- A. When disposal of an interest in city real property is by the method in Section 7.40.060(B)(1), the interested party shall deposit the sum of one thousand dollars, and shall deposit such additional sums as the city manager may from time to time require to cover ongoing expenses incurred by the city in connection with the transaction, including without limitation staff time, appraisal costs, attorney's fees and costs, surveying and platting fees and costs, closing costs and escrow fees. The interested party shall reimburse the city in full at or before the closing of a sale or exchange, or the execution by the city of the lease or other document conveying the property interest, for all fees and costs the city incurred to third-parties in the transaction. Any unexpended deposit shall be applied to this reimbursement obligation. If negotiations with the interested party are terminated by either the city or the interested party and the disposal is not executed the city will keep the deposit to cover expenses incurred by the city in connection with the negotiation. The city will refund any unexpended part of

the deposit to the interested party no later than ten days after consummation or termination of the transaction.

- B. Proposals and bids submitted to the city for disposal of city real property under Section 7.40.060(B)(2) or 7.40.060(B)(4) shall include a deposit less than or equal to ten percent of the minimum purchase price to cover costs associated with the disposal process. The amount of the required deposit shall be indicated in the bidding or proposal documents. The deposit will be put toward the fees and costs the city incurs, including without limitation city staff time, appraisal costs, attorney's fees and costs, and platting fees. In the event that the city notifies an interested party that its proposal or bid has been selected and the interested party subsequently withdraws its proposal or bid, the city will retain the interested party's entire deposit. The city will refund in full an interested party's deposit if the interested party's proposal or bid is not selected by the city or the city withdraws the invitation or request for proposal after selection. Any unexpended portion of a winning bidder's deposit shall be applied toward the property's purchase price or rental rate.

7.40.110 Valuation—Consideration.

Prior to the disposal of any interest in city real property, the city will determine the fair market value of the interest by using a qualified appraisal, tax assessment values, comparable property values or any other method the city determines, in its sole discretion, calculates the fair market value of the interest.

- A. Where the disposal is by lease at fair market value, the minimum annual rent shall be the fair market value as determined by the city.
- B. Where the disposal is by sale or other disposition at fair market value, the minimum purchase price shall be the fair market value of the city's interest.
- C. Where the disposal is to accommodate a structure that encroaches on city property or fails to conform to code requirements in Title 18, the purchase price of the property shall be three times the property's fair market value, which value is determined by the city according to this section.
- D. Where the disposal is for less than fair market value, the city council will determine the rent, purchase price or other consideration owed to the city for the property interest.

7.40.120 Effect of city actions.

No action or inaction by the city council, city manager or any other officer, agent or employee of the city relating to or in furtherance of the development, preparation for disposal or disposal of city real property or any interest therein shall be deemed to constitute an express or implied representation or warranty that such real property, or any interest therein, is suitable or usable for any specific purpose whatsoever. Any such action or inaction shall be deemed to be and constitute performance of a discretionary policy and planning function only and shall be immune and give no right of action as provided in AS [Section] 9.65.070, or any amendment thereto.

Chapter 7.50 ACQUISITION OF REAL PROPERTY

7.50.010 Acquisition authority.

- A. The city may acquire real property for any public purpose, or as otherwise authorized by law.
- B. In accordance with the procedures established by this chapter for acquiring real property, the city may acquire real property in any manner not prohibited by law, including without limitation, by purchase, exchange, trade, bequest and donation.

7.50.020 Approval by council.

In addition to any other council action that may be required by law to authorize the city to acquire real property, the following shall require council approval by resolution after public hearing:

- A. Acquisitions of real property, except:
 - 1. Acquisitions of real property that is specifically located in and authorized for purchase under an approved capital improvement budget.
 - 2. Acquisitions of rights-of-way incidental to a construction project that has been approved by the council.
 - 3. Acquisitions by foreclosure, deed in lieu of foreclosure, or through litigation or settlement of litigation, other than proceedings in eminent domain.
 - 4. Dedications of an interest in real property in connection with city approval of a subdivision plat.
- B. The institution of eminent domain proceedings on behalf of the city.

7.50.030 Acquisition by conveyance.

Any instrument conveying real property to the city pursuant to an acquisition which is subject to council approval by resolution after public hearing under Section 7.50.020, and which requires execution by the city, shall be signed by the city manager and attested by the clerk.

7.50.040 Exemption from competitive bidding.

Because of the unique nature of real property, the city need not acquire real property by competitive bidding.

Chapter 7.60 ABANDONED PROPERTY

7.60.010 Impoundment of personal property.

- A. Except as this section provides otherwise, any personal property, abandoned by its owner inside the city and subsequently unclaimed by the owner or his agent, shall be impounded by the duly authorized agent of the city and disposed of as provided by this chapter.
- B. Abandoned vehicles found inside the city shall be impounded and disposed of pursuant to Alaska Statutes Sections 28.11.010 through 28.11.110, inclusive.
- C. Junk deposited on city property, including rights-of-way, shall be deemed abandoned, and may be disposed of by the city immediately and without following the procedure in Sections 7.60.020 through 7.60.080 of this chapter. For this purpose "junk" means any abandoned, used, worn out, wrecked, scrapped, partially or fully dismantled or discarded tangible material, or any combination of materials or items including appliances, chemicals, building materials, equipment or parts thereof, fiber, fishing gear, machinery, metal, scrap metal, rags, rubber, paper, plastics, lumber or wood, that cannot be used for its original purpose without repair, alteration or reconditioning.
- D. For the purposes of this chapter, "abandoned" means any non-emergency deposition of material on city or private property without prior authorization.

7.60.020 Holding period.

Abandoned property that is impounded under Section 7.60.010(A) of this chapter shall be held for a period of not less than thirty days for recovery by its owner upon payment to the city of storage and service charges incurred by the city.

7.60.030 Sale permitted—Disposition of proceeds.

If property impounded under Section 7.60.010(A) of this chapter or in accordance with any other chapter of this code authorizing impoundment remains unclaimed by the owner or an authorized agent thereof for a period of thirty days, such property may (upon notice as provided in this chapter) be sold as provided in this chapter by the city manager or his representative and the proceeds of such sale shall be first applied to costs of impoundment, storage and sale and the balance to the general fund of the city.

7.60.040 Notice of sale-Required.

Notice of sale of impounded property shall be given all persons known to claim an interest in such property by the City Manager no less than fifteen days preceding such sale. The City Manager shall exercise reasonable diligence in providing actual notice in writing to known owners by certified mail or personal delivery. Notice by certified mail shall be deemed effective from the date of the posting by the City Manager. In any case, notice shall be deemed sufficient upon

1. Publication of notice of sale three times during three consecutive calendar weeks, one in each week,
2. Posting the notice of sale on the bulletin board in the City Hall, and
3. Posting the notice of sale in one other public place.

7.60.050 Notice of sale—Contents.

All notices required to be delivered or published by the city manager shall accurately describe the property offered, state the date and place impounded, the amount owing for impoundment and other costs, the date and place of sale, and the name of the owner, if known; provided, however, property determined by the city manager to have a cash value not exceeding twenty-five dollars may be described generally and according to general classification only.

7.60.060 Method of conducting sale.

Sale of impounded property shall be either at public auction or by sealed bid, at the discretion of the city manager. All sales shall be final and for cash. In the event the city manager elects to offer property on sealed bid, the sale shall be governed by the provisions of Chapter 5.20 of this code appertaining to the sale of city property of a value exceeding five hundred dollars.

7.60.070 Certificate of sale.

The city manager shall deliver to the purchase of any impounded property sold under this chapter or any other provision in this code, a certificate of sale which shall be in substantially the following form:

**"CERTIFICATE OF SALE OF
IMPOUNDED PROPERTY**

For value received, the City of Cordova pursuant to the provisions of Chapter XIII, Article VI, Cordova Code of Ordinances, which provisions are, by this reference incorporated herein, sells, sets over, transfers and assigns to (Purchaser) without warranty, all its interest, if any it may have, in the following described personal property:

(here insert description as
published in notice.)

Date: _____

By: _____ City Manager

Attest: _____ City Clerk

7.60.080 Sales to be final—City responsibility.

All sales under this chapter shall be final. The city, its agents and employees shall not, in any way, be deemed to make any representation to any person respecting the total value, use, or merchantability of any property in the conduct of any sale hereunder or otherwise and purchasers of impounded property shall take such property without recourse against the city, its agents and employees.

Chapter 7.70 USE OF CITY EQUIPMENT

7.70.010 Equipment and vehicles defined.

For the purposes of this chapter, the terms "equipment" and "vehicles" means those that are owned, leased, rented or otherwise in the use, care, custody or possession of the city.

7.70.020 Operation by other than city personnel prohibited.

No city equipment or vehicle shall be operated by any person or persons who are not employees or officials of the city.

CHAPTER 7.80 LOCAL HIRE FOR PUBLIC IMPROVEMENTS

7.80.010 Local hire required on public improvements.

Contracts for the construction, repair or alteration of public improvements funded in whole or in part by city funds, or funds which, in accordance with a federal grant, state grant or otherwise, the city expends or administers, and to which the city is a signatory to the construction contract, the workers hours shall be performed at least fifty percent by bona fide residents of the city of Cordova. To the extent there are not sufficient city resident workers qualified and available for work, a contractor shall be exempt from the provision of this section to the extent of such unavailability.

7.80.020 Resident defined.

For the purposes of this chapter, a bona fide resident is a person who maintains, and has maintained for at least thirty days, a domicile in the Cordova and/or Eyak Election Precincts. Domicile is the true and permanent home of a person from which that person has no present intention of removing and to which that person intends to return whenever away from that home.

Section 2. City Council authorizes the City Clerk or her designee to update Title 7 “City Property” to relocate any and all footnotes, notes, and references currently included in the renumbered chapters and to update any and all formatting and grammar in the renumbered chapters that are necessary to comply with updated conventions in the Cordova Municipal Code.

Section 3. Cordova Municipal Code Chapter 5.12 “Purchases” is renumbered to CMC Title 7 Chapter 7.10.

Section 4. Cordova Municipal Code Chapter 5.14 “Sale of City Personal Property” is renumbered to CMC Title 7 Chapter 7.20.

Section 5. Cordova Municipal Code Chapter 5.16 “Tidelands” is renumbered to CMC Title 7 Chapter 7.30.

Section 6. Cordova Municipal Code Chapter 5.22 “Disposal of Real Property” is renumbered to CMC Title 7 Chapter 7.40.

Section 7. Cordova Municipal Code Chapter 5.23 “Acquisition of Real Property” is renumbered to CMC Title 7 Chapter 7.50.

Section 8. Cordova Municipal Code Chapter 5.24 “Abandoned Property” is renumbered to CMC Title 7 Chapter 7.60.

Section 9. Cordova Municipal Code Chapter 5.28 “Use of City Equipment” is renumbered to CMC Title 7 Chapter 7.70.

Section 10. Cordova Municipal Code Chapter 5.29 “Local Hire for Public Improvements” is renumbered to CMC Title 7 Chapter 7.80.

Section 11. This ordinance shall be effective January 1, 2025, and in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska.

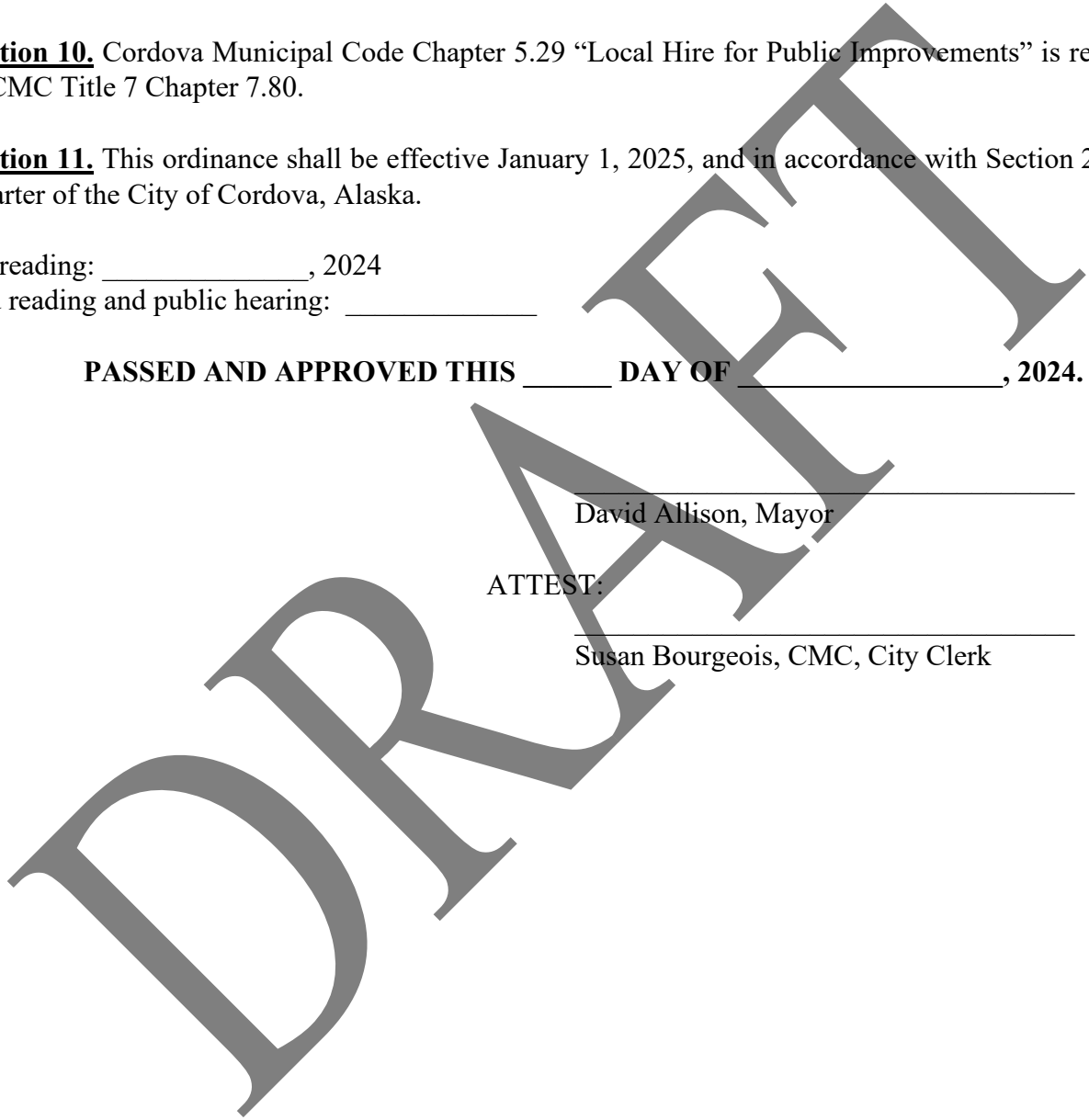
1st reading: _____, 2024
2nd reading and public hearing: _____

PASSED AND APPROVED THIS _____ DAY OF _____, 2024.

David Allison, Mayor

ATTEST:

Susan Bourgeois, CMC, City Clerk





CORDOVA DISTRICT
FISHERMEN
— UNITED —

Board of Directors

Ezekiel Brown
President
F/V Lucid Dream

Dennis Zadra
Vice-President
F/V Raging Bull

Michael Hand
Vice-President
F/V Bounty

Hayley Hoover
Treasurer
F/V Nellie Juan

Jeff Bailey
F/V Odyssey

Ron Blake
F/V Ace

Marc Carrel
F/V Silver Moon

Darin Gilman
F/V Redline

Forest Jenkins
Eshamy Setnet

Makena O'Toole
F/V Freyja Dawn

Phyllis Shirron
F/V Cape Fear

Steven Swartzbart
F/V Alpine

Executive Director

Jess Rude

September 25, 2024

Mayor David Allison
City of Cordova
PO Box 1210
Cordova, AK 99574

RE: 2024 Fishery Disaster Declaration Support

Mayor Allison and the Cordova City Council,

The 2024 season for Prince William Sound pink and chum salmon presented historically low stock and commercial catch, bringing devastating economic impacts that ripple through the fleet, industry and community.

CDFU would like to formally request that the City of Cordova adopt the attached resolution, and support a declaration of a fishery resource disaster for the 2024 Prince William Sound pink and chum salmon, as well as an economic disaster for the community. A resolution issued to the Governor's Office along with CDFU's formal disaster request letter outlining the context and scope offers the strongest case for the Governor to declare a disaster, which begins the formal evaluation that leads to the Secretary of Commerce determining a federal fishery disaster - the first step in a path that awards direct financial relief for fishermen. On behalf of seine fishermen of Prince William Sound, we have prepared and gathered relevant information from local ADFG management and hatcheries to assist in the process and provide background for analysis and evaluation.

Our goal is to work with the City of Cordova to submit a strong request to the State of Alaska and the Secretary of Commerce. We are here to support this endeavor in any capacity, so please reach out with questions or for support in gathering data for this disaster declaration request.

Sincerely,

Jess Rude
Executive Director

**CITY OF CORDOVA, ALASKA
RESOLUTION 10-24-31**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA,
ENCOURAGING THE STATE OF ALASKA AND THE US SECRETARY OF COMMERCE
TO DECLARE FISHERIES DISASTER AS FOLLOWS: 2024 PRINCE WILLIAM SOUND
PINK AND CHUM SALMON; AND TO ENCOURAGE THE SAME TO DECLARE A
CONDITION OF ECONOMIC DISASTER IN CORDOVA AS A RESULT**

WHEREAS, the average total common property harvest of Prince William Sound Pink Salmon for even-years without federal disaster determinations between 2010-2022, hereafter defined as “5-year average”, is 34.75 million Pink Salmon; and

WHEREAS, NOAA Fisheries examines 12-month revenue loss experienced the year of a fishery resource disaster compared to the previous 5-year average in which no disaster occurred, and considers positive determinations at a revenue loss threshold of greater than 80 percent; and

WHEREAS, the 2024 Prince William Sound Pink Salmon total common property harvest of 5,066,411 fish was 85.4% less than the recent 5-year average total common property harvest of Pink Salmon, and the lowest harvest in the last 30 years; and

WHEREAS, the 2024 Prince William Sound Purse Seine fishery harvest of 4,896,007 Pink Salmon was 85.3% less than the prior 5-year average harvest of 33.26 million fish; and

WHEREAS, the 2024 Prince William Sound Drift Gillnet fishery harvest of 151,917 Pink Salmon was 89.6% less than the prior 5-year average harvest of 1,461,281 fish; and

WHEREAS, the 2024 Prince William Sound Set Gillnet fishery harvest of 18,487 Pink Salmon was 43.6% less than the prior 5-year average harvest of 32,807 fish; and

WHEREAS, the 2024 Prince William Sound Chum Salmon harvest of 1,160,586 fish was 57.1% less than the recent 5-year average harvest of 2.7 million Chum Salmon, and the lowest harvest in the last 5 years; and

WHEREAS, the 2024 Prince William Sound Pink and Chum Salmon runs are among the lowest on record; and

WHEREAS, the 2024 Prince William Sound Pink Salmon fisheries total ex-vessel value of \$4,290,856 across fisheries compared to the 5-year average ex-vessel value of \$44,841,922 represents a loss of 90.4% of average revenues, or more than \$40 million dollars; and

WHEREAS, multiple years of lower ex-vessel prices across Copper River and Prince William Sound fisheries, and lasting financial impacts from the Covid-19 pandemic compound and

continue to impact the fishing community significantly, further compounding economic hardship within the community.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Cordova, Alaska encourages the State of Alaska and the United States Secretary of Commerce to declare fisheries disasters based on the considerably low returns and harvests as follows: 2024 Prince William Sound Pink and Chum Salmon.

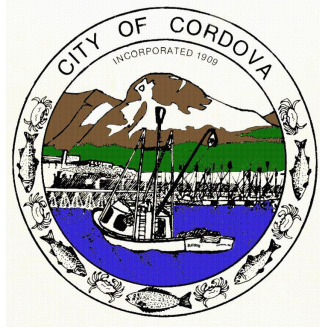
PASSED AND APPROVED THIS 2nd DAY OF OCTOBER 2024.

David Allison, Mayor

Attest:

Susan Bourgeois, City Clerk

DRAFT



AGENDA ITEM 15
City Council Meeting Date: 10/2/24
CITY COUNCIL COMMUNICATION FORM

FROM: Susan Bourgeois, City Clerk
DATE: 09/18/24
ITEM: Resolution 10-24-32 Disband Fish Advisory and Fish Development Committees and create CFC (Cordova Fisheries Committee)
NEXT STEP: Majority voice vote

ORDINANCE RESOLUTION
 MOTION INFORMATION

I. REQUEST OR ISSUE: Approval of Resolution 10-24-32 establishing the new Cordova Fisheries Committee to replace Fisheries Advisory and Fisheries Development per Council direction at Pending Agenda of the September 4, 2024 meeting.

II. RECOMMENDED ACTION / NEXT STEP: Suggested motion, approval of Resolution 10-24-32. After approval or amendment and approval, clear direction to the Mayor and staff on how/when to fill the committee with members should be given to Mayor and staff.

III. BACKGROUND INFORMATION: Clerk’s report from 9/4/24 Regular Meeting is attached behind this memo for an explanation of where we were and where we are going. The whereas clauses of the resolution also clearly lay out the details of what is occurring.

IV. LEGAL ISSUES: The pertinent section of the Cordova Municipal Code is Chapter 3.50, also attached here.

V. SUMMARY AND ALTERNATIVES: Majority voice vote to approve the resolution. Council may wish to amend by adding other tasks to this committee and may want to amend regarding the membership.

**CITY OF CORDOVA, ALASKA
RESOLUTION 10-24-32**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA,
DISBANDING THE FISHERIES ADVISORY COMMITTEE AND THE FISHERIES
DEVELOPMENT COMMITTEE, CONSOLIDATING THE ROLES OF THOSE TWO
COMMITTEES, AUTHORIZING ESTABLISHMENT OF THE CORDOVA FISHERIES
COMMITTEE (CFC) AND TASKING THE CFC WITH THE CONSOLIDATED ROLES**

WHEREAS, the Fisheries Advisory Committee and the Fisheries Development Committee have not been actively meeting for several years; and

WHEREAS, The Cordova City Council discussed, then directed the consolidation of the two committees into one committee; and

WHEREAS, the Fisheries Advisory Committee that was most recently re-authorized via Resolution 01-20-04 and the Fisheries Development Committee that was most recently re-authorized via Resolution 11-19-51 are hereby disbanded; and

WHEREAS, The City Council of the City of Cordova, Alaska does hereby authorize establishment of the Cordova Fisheries Committee (CFC); and

WHEREAS, one role of the CFC is to advise City Council on fisheries related issues in the Prince William Sound area or elsewhere if pertinent to Cordova or Cordovans; and

WHEREAS, another role of the CFC is to work with State and Federal agencies towards the development of new commercial fisheries in the Prince William Sound area and to support expansion of existing commercial fisheries in the Prince William Sound area; and

WHEREAS, the CFC is now authorized to have a membership of seven with preference given to Area E Commercial Fishing Permit holders and also to attempt to maintain membership including representation from some or all of the following agencies, organizations, and/or job titles: ADF&G, a Fisherman's Union, the Aquaculture Industry, the Processing Industry, Marine Transportation Industry, a Fisheries Education Professional; and

WHEREAS, in accordance with Cordova Municipal Code Chapter 3.50 – Advisory Boards and Committees, a member shall be nominated by the Mayor and confirmed by the Council and a member shall be a resident of the greater Cordova area and be a registered voter with the state of Alaska; and

WHEREAS, the CFC shall remain in force until such time Cordova City Council deems the Committee is no longer needed.

NOW, THEREFORE BE IT RESOLVED THAT the Council of the City of Cordova, Alaska, hereby determines that the Fisheries Advisory Committee and the Fisheries Development Committee are no longer needed and therefore, are disbanded; and

BE IT FURTHER RESOLVED THAT the Council of the City of Cordova, Alaska hereby authorizes establishment of the Cordova Fisheries Committee (CFC) to consolidate the roles of the aforementioned disbanded committees.

PASSED AND APPROVED THIS 2nd DAY OF OCTOBER 2024.

David Allison, Mayor

ATTEST:

Susan Bourgeois, CMC, City Clerk

DRAFT

As you may recall, Jess Rude Executive Director of CDFU sent this email to Mayor Allison on August 2:

From: Jess Rude <jess@cdfu.org>
Sent: Friday, August 2, 2024 9:57 AM
To: David Allison <mayor@cityofcordova.net>
Subject: CDFU Q on Fisheries Committees

Hi Mayor Allison,

I've learned that there are two city Fisheries Committees, Advisory and Development, neither which has been recently active. Forgive me as I don't know the current makeup of these committees, or how they are appointed. What are your thoughts on revitalizing these two committees and merging them into one?

Thinking over a question you asked recently about octopus farming, and also the Halibut ABM request that urgently went through city council, I can see value in one fisheries committee, with dedicated seats held by fisheries organizations. These orgs could manage filling their seats with representatives who are either their own paid professionals or volunteers they appoint. Backend we are already working together, but perhaps not doing a great job connecting to city and council issues.

Obviously CDFU would be interested in a seat(s), and helping keep the committee active.

Independently of this, I just want to open a direct channel together! Feel free to reach out when industry topics or questions do come up. I plan on being in Cordova around Labor Day, it would be great to connect in person then.

Cheers,
Jess



Cordova District Fishermen United
Jess Rude
Executive Director

(907) 424-3447
(907) 424-5228
PO BOX 939 Cordova, AK 99574
CDFU.org

Recent-ish History of Cordova's Fisheries Committees:

The Fisheries **Advisory** Committee was formed on 4/16/2003 by Resolution 04-03-15.
Meetings held over the years: 2003–4, 2004–2, 2005–3, 2006–1, 2008–1, 2011–1, 2014–3

In 2020, Mayor Koplín asked to reauthorize the Fisheries Advisory Committee and Resolution 01-20-04 was approved on 1/15/2020.

In the minutes of that meeting, Mayor Koplín stated: this is a positive thing, this committee is being revived because ADFG Commercial Fisheries Director *Rabung* has asked for recommendations on any management gaps that exist in Area E fisheries so that the department can focus on those as they are under budget constraints; they are reaching out to solicit our input.

At about that time – Covid hit, and all City efforts went toward the pandemic – the committee never met in 2020 and has not met since 2014.

The Fisheries ***Development*** Committee was formed on 12/23/2016 by Resolution 12-16-43.
Meetings held over the years: 2017–4, 2018–5, 2019–10
In 2019 the committee was re-authorized to increase the membership and Resolution 11-19-51 was approved on 11/20/2019.
Meetings held in 2020 – 8
The committee has not met since 2020.

Next steps: Council may direct staff to bring a resolution to authorize creation of a “new” committee – also that committee will need a name. I would suggest that 2 whereas clauses in that resolution would be to deem each of the other existing committees no longer necessary so we cleanly are rid of those. After a resolution is approved the Council will need to fill the seats as it so chooses. The resolution should prescribe membership number and if the seats are delineated as representative of any specific entities (if representing an entity Council may allow that entity to appoint a member, if not then Council may want to advertise/solicit applications and then appoint in the same manner that board and commission appointments are made). The resolution should also lay out the purpose(s) of the committee.

Council should not discuss this item during the City Clerk’s report but instead a Council member may choose to suggest an item (such as the aforementioned resolution) for a future agenda - during the pending agenda item of tonight’s meeting.

Following this report, the 4 resolutions that were approved over the years authorizing and re-authorizing the two different fisheries committees.

**CITY OF CORDOVA, ALASKA
RESOLUTION 01-20-04**

A RESOLUTION OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA, RE-AUTHORIZING THE CORDOVA FISHERIES ADVISORY COMMITTEE THAT HAD BEEN CREATED BY RESOLUTION 04-03-45 ON APRIL 16, 2003 AND FURTHER DEFINING THE COMMITTEE MEMBERSHIP

WHEREAS, the purpose of the Cordova Fisheries Advisory Committee is to advise Council on fisheries related issues in the Prince William Sound area; and

WHEREAS, the initial authorization of this committee called for six members appointed by the Mayor and confirmed by Council, but at this time, Council has determined it is best to delineate the membership under specific categories; and

WHEREAS, the Cordova Fisheries Advisory Committee is now re-authorized to have a membership of six members as follows:

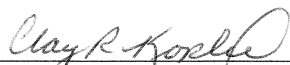
- 1) an ADF&G representative
 - 2) a fisherman/fisherman's union representative
 - 3) an aquaculture industry representative
 - 4) a processing industry representative
 - 5) a marine transportation industry representative
 - 6) a fisheries education representative (e.g. Marine Advisory Program)
- ; and

WHEREAS, the Cordova Fisheries Advisory Committee shall remain in force until such time Council deems the Committee is no longer needed.


NOW, THEREFORE BE IT RESOLVED THAT the City Council of the City of Cordova, Alaska, hereby re-authorizes the Cordova Fisheries Advisory Committee and further defines the membership thereof.

PASSED AND APPROVED THIS 15th DAY OF JANUARY 2020.





Clay R. Koplín, Mayor

ATTEST:


Susan Bourgeois, CMC, City Clerk

**CITY OF CORDOVA, ALASKA
RESOLUTION 04-03-45**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,
AUTHORIZING CREATION OF A FISHERIES ADVISORY COMMITTEE**

WHEREAS, the City Council desires to establish a Fisheries Advisory Committee; and,

WHEREAS, the purpose of the Fisheries Advisory Committee is to advise Council on fisheries related issues in the Prince William Sound area; and,

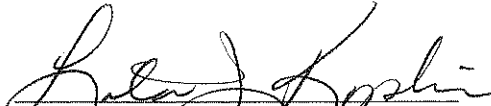
WHEREAS, the Fisheries Advisory Committee will consist of six members appointed by the Mayor and confirmed by Council; and,

WHEREAS, the Fisheries Advisory Committee shall remain in force until such time Council deems the Committee is no longer needed.

NOW, THEREFORE BE IT RESOLVED THAT the City Council of the City of Cordova, Alaska, hereby authorizes the creation of a Fisheries Advisory Committee to advise Council on fisheries related issues in the Prince William Sound area.

PASSED AND APPROVED THIS 16TH DAY OF APRIL, 2003.


Timothy L. Joyce, Mayor


Lila J. Koplin, City Clerk

**CITY OF CORDOVA, ALASKA
RESOLUTION 11-19-51**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,
RE-AUTHORIZING THE CORDOVA FISHERIES DEVELOPMENT COMMITTEE
THAT HAD BEEN CREATED BY RESOLUTION 12-16-43 ON DECEMBER 23, 2016
AND INCREASING THE COMMITTEE MEMBERSHIP**

WHEREAS, the City Council of the City of Cordova, Alaska recognizes the valuable work being done by the Cordova Fisheries Development Committee; and

WHEREAS, the purpose of the Cordova Fisheries Development Committee is to develop fisheries and mariculture, etc. and advise Council on related issues in the Prince William Sound area; and

WHEREAS, the Cordova Fisheries Development Committee collaborates on developing such fisheries with the State of Alaska Department of Fish and Game, the local Cordova processors and the Cordova fishing fleet; and

WHEREAS, the initial authorization of this committee called for six members appointed by the Mayor and confirmed by Council, but at this time, other frequent and engaged meeting participants are interested in committee membership; and

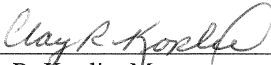
WHEREAS, the Cordova Fisheries Development Committee is now reauthorized to have a membership of up to eleven members that are appointed by the Mayor and confirmed by Council; and

WHEREAS, the Cordova Fisheries Development Committee shall remain in force until such time Council deems the Committee is no longer needed.

NOW, THEREFORE BE IT RESOLVED THAT the City Council of the City of Cordova, Alaska, hereby re-authorizes the Cordova Fisheries Development Committee and increases its membership from 6 members to up to eleven members.


PASSED AND APPROVED THIS 20th DAY OF NOVEMBER 2019.





Clay R. Koplín, Mayor

ATTEST:



Susan Bourgeois, CMC, City Clerk

**CITY OF CORDOVA, ALASKA
RESOLUTION 12-16-43**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,
AUTHORIZING CREATION OF A FISHERIES DEVELOPMENT COMMITTEE**

WHEREAS, the City Council desires to establish a Fisheries Development Committee;
and

WHEREAS, the purpose of the Fisheries Development Committee is to develop fisheries
and mariculture, etc. and advise Council on related issues in the Prince William Sound area; and

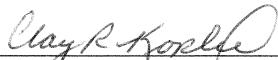
WHEREAS, the Fisheries Development Committee will consist of six members appointed
by the Mayor and confirmed by Council; and

WHEREAS, the Fisheries Development Committee shall remain in force until such time
Council deems the Committee is no longer needed.


NOW, THEREFORE BE IT RESOLVED THAT the City Council of the City of
Cordova, Alaska, hereby authorizes the creation of a Fisheries Development Committee to develop
fisheries, mariculture, etc. in the Prince William Sound area.

PASSED AND APPROVED THIS 23rd DAY OF DECEMBER 2016.





Clay R. Koplin, Mayor

ATTEST:


Susan Bourgeois, CMC, City Clerk

Chapter 3.50 ADVISORY BOARDS AND COMMITTEES

3.50.010 Authority.

- A. The city council may establish advisory boards or committees of the council by resolution as the council may from time to time deem necessary. The resolution authorizing creation of an advisory board or committee shall specify its name, purpose or charge, number of seats and such other matters as the council deems appropriate. The resolution may also specify a date certain for when the board or committee shall expire. If the authorizing resolution does not so specify, the board or committee shall expire in accordance with Section 3.50.060 of this chapter.
- B. Except as otherwise provided, this chapter shall not apply to appointed commissions or other bodies established by charter or separate ordinance.

(Ord. 678 (part), 1990).

3.50.020 Appointments.

- A. A member of an advisory board or committee created under this chapter or a member of any appointed commission or committee established by other ordinance or charter shall be nominated by the mayor and confirmed by the council. A member shall be a resident of the greater Cordova area and be a registered voter with the state of Alaska. Members shall serve without compensation.

(Ord. 678 (part), 1990).

3.50.030 Attendance.

Members of advisory boards or committees established under this chapter shall be charged with the duty to attend all regularly scheduled meetings of the board or committee on which they sit.

(Ord. 678 (part), 1990).

3.50.040 Vacancies.

A seat on a board or committee established under this chapter shall be declared vacant by the mayor if any of the following conditions occur:

1. A member submits his written resignation;
2. A member misses two or more regularly scheduled meetings without prior excuse from the presiding officer;
3. A member dies or is incapacitated;
4. A member is removed from his seat by the city council.

Any member of an advisory board or committee established under this chapter may be removed from his seat with or without cause by the city council at any time. A vacancy shall be filled in accordance with Section 3.50.020 of this chapter, provided, however, the appointment to a seat vacated during a member's term shall only be for the unexpired term of the vacant seat.

(Ord. 678 (part), 1990).

3.50.050 Procedures.

- A. A majority of all members of a board or committee established under this chapter shall constitute a quorum, but a smaller number may recess from day to day. Every member shall vote on every question unless excused from voting by the presiding officer.
- B. If a member fails or refuses to vote, that member's vote shall be recorded as an affirmative vote on the question. In the case of a tie vote, the question or motion shall be declared defeated.
- C. The presiding officer shall ensure that written minutes of every meeting are kept and provide copies of the minutes to the city clerk. All meetings shall be conducted in accordance with Roberts Rules of Order.

(Ord. 678 (part), 1990).

3.50.060 Expiration.

- A. Unless the council in its authorizing resolution provides otherwise, an advisory board or committee of the council established under this chapter shall expire as a matter of law six months from the effective date of its authorizing resolution without further action by the council.
- B. All advisory boards or committees of the council in existence as of the effective date of the ordinance repealing and reenacting this chapter are hereby abolished, provided, however, that the ferry advisory committee, the parks and recreation advisory committee and the overall economic development plan advisory committee are each authorized to continue in existence and their respective members may retain their seats for no more than one year from the effective date of the ordinance repealing and reenacting this chapter, at which time those committees will be abolished as a matter of law.

(Ord. 678 (part), 1990).



City Council of the City of Cordova, Alaska
Pending Agenda
October 2, 2024 Regular Council Meeting

A. Future agenda items - topics put on PA with no specific date for inclusion on an agenda initially put on or revisited

- | | |
|--|-----------|
| 1) Public Safety Resources - discussion | 1/20/2021 |
| 2) Ordinance change (Title 4) to ensure Council has a role in CBA approval process | 9/6/2023 |
| 3) Council discussion about incentives for investment in Cordova | 11/3/2021 |
| 4) Facility condition assessments part 2 work session (did P&R on 4-19-23) - Oct '23 | 9/6/2023 |
| 5) City Code re: procurement, Manager spending limit trigger in a code provision | 4/19/2023 |
| 6) Discuss/create a policy for established timeframes for review of City ongoing contracts | 9/6/2023 |
| 7) Explore methods to capture tourism dollars by requiring arriving RVs to use paid facilities | 9/6/2023 |
| 8) Strategic planning work session (goal setting), to include Permanent Fund and other priorities | 2/21/2024 |
| 9) Bonding for City streets - explore for when asphalt plants will be in town during other projects | 4/3/2024 |
| 10) Charter change discussion, resolution to put on ballot - remote finance director | 9/18/2024 |
| 11) Code change to land disposal maps when a status change (time-frame for disposal post status chg) | 9/18/2024 |

B. Resolutions, Ordinances, other items that have been referred to staff date referred

- | | |
|---|------------|
| 1) Disposal of PWSSC Bldg - referred until more of a plan for north harbor so the term of RFP would be known | 1/19/2022 |
| 2) Res 12-18-36 re E-911, will be back when a plan has been made | 12/19/2018 |

C. Upcoming Meetings, agenda items and/or events: with specific dates

- 1) Capital Priorities List, Resolution 01-24-01, is in each packet - if 2 council members want to revisit the resolution they should mention that at Pending Agenda and it can be included in the next packet for action
- 2) Staff quarterly reports will be in the following packets:

10/23/2024	1/15/2025	4/16/2025	7/16/2025
------------	-----------	-----------	-----------
- 3) Joint City Council and School Board Meetings - twice per year, May & October
 before Council mtg in **May** 6pm @ CHS before Sch Bd mtg **Oct. or Nov.**
- 4) Clerk's evaluation - each year in **Feb** (before Council changeover after Mar election) - next **Feb '25**
- 5) Manager's evaluation - each year in **Jan** - next one **Jan '25**
- 6) In **May** each year City will provide public outreach regarding beginning of bear season photo by Wendy Ranney
- 7) Each year in **June** Council will approve by Resolution, the School's budget and City's contribution



D. Council adds items to Pending Agenda in this way:

item for action	tasking which staff: Manager/Clerk?	proposed date
1) ...		
2) ...		
3) ...		

Mayor Allison or the City Manager can either agree to such an item and that will automatically place it on an agenda, or a second Council member can concur with the sponsoring Council member.



City Council of the City of Cordova, Alaska
Pending Agenda
October 2, 2024 Regular Council Meeting

E. Membership of existing advisory committees of Council formed by resolution:

- | | | |
|---|---|--|
| <p>1) Fisheries Advisory Committee:
 re-auth res 01-20-04 approved Jan 15, 2020
 auth res 04-03-45 approved Apr 16, 2003</p> | <p>1-John Williams (fisheries educ/Mar Adv Prgm)
 3-vacant (processor rep)
 5-Chelsea Haisman (fish union/CDFU)</p> | <p>2-Jeremy Botz (ADF&G)
 4-Jim Holley (marine transportation/AML)
 6-Tommy Sheridan (aquaculture)</p> |
| <p>2) Cordova Trails Committee:
 re-auth res 11-18-29 app 11/7/18
 auth res 11-09-65 app 12/2/09</p> | <p>1-Elizabeth Senear
 3-Dave Zastrow
 5-Stormy Haught</p> | <p>2-Toni Godes
 4-Ryan Schuetze
 6-Michelle Hahn</p> |
| <p>3) Fisheries Development Committee:
 authorizing resolution 12-16-43
 reauthortrization via Res 11-19-51
 approved 11/20/2019</p> | <p>1-Warren Chappell
 4-Gus Linville
 7- Ron Blake</p> | <p>2-Andy Craig
 5-vacant
 8- John Whissel
 3-Bobby Linville
 6-Bob Smith</p> |

F. City of Cordova appointed reps to various non-City Boards/Councils/Committees:

- | | | |
|--|--|------------------------------------|
| <p>1) Prince William Sound Regional Citizens Advisory Council</p> | <p>David Janka appointed March 2024</p> | <p>2 year term until May 2026</p> |
| <p>2) Prince William Sound Aquaculture Corporation Board of Directors</p> | <p>Tommy Sheridan appointed June 2024</p> | <p>3 year term until Sept 2024</p> |
| <p>3) Alaska Mariculture Alliance</p> | <p>Sean Den Adel appointed March 2024</p> | <p>no specific term</p> |

**CITY OF CORDOVA, ALASKA
RESOLUTION 01-24-01**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA,
DESIGNATING CAPITAL IMPROVEMENT PROJECTS**

WHEREAS, the Cordova City Council has identified several Capital Improvement projects that will benefit the citizens of Cordova, and in several cases the entirety of Prince William Sound; and

WHEREAS, the Council of the City of Cordova has identified the following Capital Improvement projects as being critical to the future well-being and economy of Cordova and the surrounding area:

Port and Harbor

North Harbor Efficiency and Safety

Stabilize Breakwater Ave through sheet piling to create usable uplands for industrial, commercial, Harbor and associated uses.

Improve pedestrian safety by creating a sidewalk and boardwalk system to navigate between the north and south harbors.

Provide additional cranes, laydown areas, and in-harbor fuel services.

Waste Oil/Maintenance Building

Shipyard Expansion

Harbor Basin Expansion

Water Upgrades

Improve water delivery during peak water usage.

Booster station at Murchison tank to improve water delivery during peak flow.

Permanent siphon at Crater Lake to improve water delivery during peak flow.

Upgrade Pipe Infrastructure.

Upgrade pump stations and equipment.

Feasibility Study services and Fire Protection (hydrants) to Outlying Areas

Water distribution upgrades

Sewer Upgrades

Replacement/upgrade of Wastewater plant and Scada.

Replacement/Upgrades of Lift Stations.

Replacement of Force main in Odiak Slough.

Upgrade Pipe Infrastructure.

Streets Infrastructure and Equipment

6th and 7th Streets Upgrades

Chase Avenue Upgrades

Replace/Upgrade pedestrian walkways (4th and Adams) (Council Street), and (2nd Street to Main)

Wheeled Loader

Road Grader

Backhoe

Water Services and Fire Protection (hydrants) to Outlying Areas – Feasibility Study

Public Safety

E-911 Implementation

Acquire and integrate new hardware to fully utilize the new E-911 addressing.

Replace Failing RMS

Replace Dispatch Console

Replace Radio Structure on Ski Hill

Engineering and Preliminary Design of Public Safety Building

Prep Site

Recreational Safety and Development

- Pool Infrastructure
 - Door and Siding Replacements and CMU Joint Repairs
 - Pool Cover Replacement
 - Pool Roof Replacement
 - Ventilations Remodel/Replacement
 - Electrical Distribution System Replacement
 - ADA Compliance and Parking Area re-grade.

- Bidarki Recreation Center
 - Structural Repair
 - Code and Ada Compliance
 - Facility Improvements

- Eyak Lake Skater’s Cabin
 - Demolish and replace.

- Playground Renovations
 - Replacement of swing set at Noel Pallas Children’s Memorial Playground

- Parks Restrooms/Buildings/Structures
 - Ballfield/Cordova Municipal Park Restroom/Concession Stand – Code and ADA Compliance
 - Fleming Spit Restroom Replacement
 - Odiak Pond Boardwalk and Gazebo – Code and ADA Compliance
 - Odiak Camper Park Restrooms/Facility Improvements – Code and ADA Compliance.
 - Parks Maintenance Shop Facility Improvements – Code Compliance

- Ski Hill Improvements

Land Development

- Housing
- Cold Storage
- Harbor Basin Expansion

and;

WHEREAS, some or all of these projects will be submitted to State or Federal legislators and/or agencies as Capital Improvement projects for the City of Cordova, Alaska.

NOW, THEREFORE, BE IT RESOLVED THAT the Council of the City of Cordova, Alaska, hereby designates and prioritizes the above listed projects as Capital Improvement projects.

PASSED AND APPROVED THIS 17th DAY OF JANUARY 2024



[Handwritten Signature]

David Allison, Mayor

ATTEST:

[Handwritten Signature]

Susan Bourgeois, CMC, City Clerk

October 2024

CALENDAR MONTH **OCTOBER**
 CALENDAR YEAR **2024**
 1ST DAY OF WEEK **SUNDAY**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
29	30	1 6:00 Work Session 7:00 Council reg mtg CCAB	2 Rosh Hashanah Oct. 2-4 Pioneers of Alaska Grand Igloo		4	5 2024 ASAA/FIRST NATIONAL BANK ALASKA CROSS COUNTRY RUNNING STATE CHAMPIC October 5, 2024 at Bartlett High School Trails in Anchorage Pioneers of AK Covention in Cordova Oct 2-6
6	7	8 6:30 P&Z CCAB	9 Alaska HISTORICAL SOCIETY 2024 AHS Conference 6:00 Harbor Cms CCAB 7:00 Sch Bd HSL	10 Cordova October 9- 12, 2024	11	12 Yom Kippur
13	14 INDIGENOUS PEOPLES DAY CSD Holiday	15 5:30 CTC Board Meeting CCER	16	17	18 Alaska Day Holiday City Offices closed	19
20	21	22	23 time tba Work Session 6:45 Public Hearing 7:00 Council reg mtg CCAB 6:00 CEC Board Mtg CCER	24	25	26
27	28	29 6:00 P&R CCM	30	31 BOO! 12:00 Hosp Svc Bd HCR	1	2

Notes

Legend:
 CCAB-Community Rms A&B
 HSL-High School Library
 CCA-Community Rm A

CCB-Community Rm B
 CCM-Mayor's Conf Rm
 CCER-Education Room



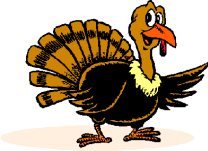
LN-Library Fireplace Nook
 CRG-Copper River Gallery
 HCR-CCMC Conference Room

Cncl - 1st & 3rd Wed
 P&Z - 2nd Tues
 SchBd, Hrb Cms - 2nd Wed
 CTC - 3rd Tues

P&R - last Tues
 CEC - 4th Wed
 Hosp Svcs Bd - last Thurs

November 2024

CALENDAR MONTH **NOVEMBER**
 CALENDAR YEAR **2024**
 1ST DAY OF WEEK **SUNDAY**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
27	28	29	30	31	1	2
3	4	5	6	7	8	9
		6:30 P&Z CCAB	time tba Work Session 7:00 Council reg mtg CCAB			
10	11	12	13	14	15	16
	 Veteran's Day Holiday City Offices closed		6:00 Harbor Cms CCAB 7:00 Sch Bd HSL			
17	18	19	20	21	22	23
		5:30 CTC Board Meeting CCER	time tba Work Session 7:00 Council reg mtg CCAB			
24	25	26	27	28	29	30
		6:00 P&R CCM	6:00 CEC Board Mtg CCER	 12:00 Hosp Svc Bd HCR	Thanksgiving Holiday City Offices closed 11/28 & 11/29	

1 2

Notes

Legend:
 CCAB-Community Rms A&B
 HSL-High School Library
 CCA-Community Rm A

CCB-Community Rm B
 CCM-Mayor's Conf Rm
 CCER-Education Room

LN-Library Fireplace Nook
 CRG-Copper River Gallery
 HCR-CCMC Conference Room

Cncl - 1st & 3rd Wed
 P&Z - 2nd Tues
 SchBd, Hrb Cms - 2nd Wed
 CTC - 3rd Tues

P&R - last Tues
 CEC - 4th Wed
 Hosp Svcs Bd - last Thurs

City of Cordova, Alaska Elected Officials & Appointed Members of City Boards and Commissions

Mayor and City Council - Elected

seat/length of term	email	Date Elected	Term Expires
Mayor: 3 years	David Allison Mayor@cityofcordova.net	March 1, 2022	March-25
Council members:			
Seat A: 3 years	Tom Bailer CouncilSeatA@cityofcordova.net	March 1, 2022 March 5, 2019	March-25
Seat B: 3 years	Cathy Sherman CouncilSeatB@cityofcordova.net	March 7, 2023 March 3, 2020	March-26
Seat C: 3 years	Kasey Kinsman, Vice Mayor CouncilSeatC@cityofcordova.net	March 7, 2023	March-26
Seat D: 3 years	Wendy Ranney CouncilSeatD@cityofcordova.net	March 5, 2024 July 5, 2023	March-27
Seat E: 3 years	David Zastrow CouncilSeatE@cityofcordova.net	March 5, 2024	March-27
Seat F: 3 years	Kristin Carpenter CouncilSeatF@cityofcordova.net	March 1, 2022	March-25
Seat G: 3 years	Ken Jones CouncilSeatG@cityofcordova.net	March 1, 2022	March-25

elected by cncl

Cordova School District School Board of Education - Elected

length of term		Date Elected	Term Expires
3 years	Barb Jewell, president bjewell@cordovasd.org	Mar 1, 2022, Mar 5, 2019, Mar 1, 2016, Mar 5, 2013	March-25
3 years	Henk Kruithof hkruithof@cordovasd.org	March 5, 2024 March 2, 2021	March-27
3 years	Terri Stavig tstavig@cordovasd.org	March 1, 2022	March-25
3 years	Peter Hoepfner phoepfner@cordovasd.org	Mar 5, 2024, Mar 2, 2021, Mar 6, 2018, Mar 3, 2015, Mar 6, 2012, Mar 3, 2009, Mar 7, 2006	March-27
3 years	David Glasen	March 7, 2023	March-26

seat up for re-election in Mar '25	vacant
board/commission chair/vice	
seat up for re-appt in Nov '24	

(updated 07-29-24)

City of Cordova, Alaska Elected Officials & Appointed Members of City Boards and Commissions

Hospital Services - Board of Directors - Elected

length of term		Date Elected	Term Expires
3 years	Diane Ujioka CCMCBoardSeatC@cdvcmc.com	March 5, 2024 December 19, 2023	March-27
3 years	Ann Linville CCMCBoardSeatA@cdvcmc.com	March 1, 2022	March-25
3 years	Shelly Kocan CCMCBoardSeatB@cdvcmc.com	July 25, 2023	March-25
3 years	Liz Senear CCMCBoardSeatD@cdvcmc.com	March 5, 2024 March 2, 2021	March-27
3 years	Kelsey Appleton Hayden, Chair CCMCBoardSeatE@cdvcmc.com	March 7, 2023 March 3, 2020	March-26

Library Board - Appointed

length of term		Date Appointed	Term Expires
3 years	Mary Anne Bishop, Chair	Nov '06, '10, '13, '16, '19, Dec '22	November-25
3 years	Debra Adams	Dec '21	November-24
3 years	Sherman Powell	June '18, Feb '20, Jan '23	November-25
3 years	Mark Donachy	Dec '23	November-26
3 years	Krysta Williams	Feb '18, Dec '20, Dec '23	November-26

Planning Commission - Appointed

length of term		Date Appointed	Term Expires
3 years	Kris Ranney	Dec '22	November-25
3 years	Mark Hall, Vice Chair	Nov '19, Dec '22	November-25
3 years	Sarah Trumblee	Dec '20, Dec '23	November-26
3 years	Tania Harrison, Chair	Mar '22	November-24
3 years	Gail Foode	Dec '23	November-26
3 years	Chris Bolin	Sep '17, Nov '18 Dec '21	November-24
3 years	Sean Den Adel	Dec '23	November-26

seat up for re-election in Mar '25	vacant
board/commission chair	
seat up for re-appt in Nov '24	

(updated 07-29-24)

City of Cordova, Alaska Elected Officials & Appointed Members of City Boards and Commissions

Harbor Commission - Appointed

length of term		Date Appointed	Term Expires
3 years	Ryan Schuetze	Dec '23	November-26
3 years	Andy Craig, Chair	Nov '16, '19 & Dec '22	November-25
3 years	Garrett Collins	Dec '23	November-26
3 years	Ken Jones	Feb '13, Nov '16, Nov '19, Dec '22	November-25
3 years	Christa Hoover	Dec '21	November-24
3 years	Hein Kruithof	Dec '23	November-26
3 years	Tommy Sheridan	Sept '22	November-24

Parks and Recreation Commission - Appointed

length of term		Date Appointed	Term Expires
3 years	Jim Fritsch	May '24	November-24
3 years	Henk Kruithof	Nov '19, Dec '22	November-25
3 years	Aaron Hansen, Chair	Dec '21	November-24
3 years	Kara Rodrigues	Dec '23	November-26
3 years	Marvin VanDenBroek	Feb '14, Nov '16, Nov '19, Dec '22	November-25
3 years	Jason Ellingson	Mar '23	November-25
3 years	Erin Cole	May '24	November-26

Historic Preservation Commission - Appointed

length of term		Date Appointed		Term Expires
3 years	Kris Ranney, PC member	Mar '23	appt'd by PC	November-25
3 years	Heather Hall, professional member	Aug '16, Feb '20, Mar '23		November-25
3 years	Sylvia Lange, NVE member	Nov '22, Nov '19	appt'd by NVE	November-25
3 years	Christy Mog, professional member	Dec '23		November-26
3 years	Ashley Bivin, historical society member	Dec '23		November-24
3 years	Nancy Bird, professional member	Nov '17, Nov '18		November-24
		Dec '21		
3 years	Jim Casement, public member	Dec '23		November-26

seat up for re-election in Mar '24	vacant
board/commission chair	
seat up for re-appt in Nov '24	

(updated 07-29-24)