

TITLE 5
REVENUE AND FINANCE^{1/}

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- 5.20 **Sales Tax**
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- 5.30 **Special Assessments**
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^{1/} See AS 29.35.010 (6) as to general power of a municipality to levy a tax or special assessment and impose a lien for its enforcement. See AS 29.45 as to municipal taxation generally. See AS 29.35.170(b) as to state provisions requiring the borough to collect and remit taxes to the city. See AS 29.35.010(11) as to authority to borrow money and issue evidences of indebtedness. See AS 29.20.640 as to state provisions requiring a municipality to file a copy of the annual audit, tax assessment and levy figures as requested, a copy of the annual budget, and a summary of property tax exemptions and associated lost revenues with the Department of Community and Regional Affairs.

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Chapter 5.05 -- General Provisions

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Article 1. General Provisions

5.05.110 Fiscal year. The fiscal year of the municipality shall begin on the first day of July and end on the last day of June in the following calendar year. (Ord. 77-01 (part), 1977)

5.05.115 Appropriations; Bonding. A. General obligation debt issued for capital improvements requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made by ordinance and approved by the voters; provided, however, that the restrictions of this paragraph shall not apply to revenue bonds issued for capital improvements.

B. The council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred unless an appropriation has been made by ordinance.

C. The council may authorize contracts for construction improvements to be financed wholly or partly by the issuance of bonds. (Ord. 77-01 (part), 1977; Ord. 92-14 § 2, 1992; Ord. 99-02 § 1, 1998)

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5.05.120 Audit.^{1/} Prior to the end of each fiscal year the council shall designate a qualified individual who, as of the end of the fiscal year, shall make an independent audit. Such person shall have no personal interest, direct or indirect, in the financial affairs of the city or of any of its officers. A copy of the audit shall be filed with the State Department of Community and Regional Affairs. (Ord. 77-01 (part), 1977)

5.05.125 Treasurer. A. The treasurer shall be responsible for the collection, custody and disbursement of all moneys from whatever source.

B. Operating cash shall be kept in one financial institution to be designated by resolution.

C. The treasurer shall invest city money upon directive of the council in any of the following types of investments:

1. bonds, notes or other obligations;
2. certificates of deposit or saving accounts of any bank. (Ord. 77-01 (part), 1977)

5.05.130 Accounting, reports. A. All accounting functions for all city departments and offices, are the responsibility of the treasurer.

B. The treasurer shall provide on a monthly basis to the council the following statements:

1. summary statement of cash receipts and disbursements;
2. reconciliation statement--banks--investments--funds;
3. statement of expenditures compared with appropriations. (Ord. 77-01 (part), 1977)

5.05.135 Checks. All checks drawn on the treasury of the city shall be signed by the treasurer and mayor or other authorized signature as designated by the council. All checks prior to issuance shall be approved to be within budget allowances by the council. (Ord. 77-01 (part), 1977)

5.05.140 Insufficient funds. No city check may be written at any time when funds are insufficient. Willful violation of this provision and conviction shall result in a fine of not more than five hundred dollars (\$500). (Ord. 77-01 (part), 1977)

5.05.145 Accounts receivable--Interest. A. Any obligations, debts or outstanding monies owed to the city that are not paid by the due date, or if no due date, not paid by 30

^{1/} See AS 29.35.120 as to state provision requiring an annual independent audit.

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days of being incurred, shall accrue interest of .875% per month (10.5% per year) on the unpaid balance, except for assessments which shall accrue interest at the rate stated in the resolution establishing the assessment district, and except for amounts owed the clinic which are exempt from this section.

B. Any delinquent obligations, debts or outstanding monies due the city upon which payments are being made on a monthly basis pursuant to a city-approved payment plan and upon which all new charges are kept current will not be subject to further interest charges. If the monthly minimum payment required by the payment plan is not paid on a timely basis, the .875% per month interest charge, plus a \$25.00 penalty, will be retroactively assessed to the delinquent account or debt as of the date interest charges were suspended. (Ord. 85-06 § 4, 1985; Ord. 92-2 § 3, 1991; Ord. 95-6, 1996)

Article 2. Designated Accounts^{1/}

5.05.210 Funds designated. Funds designated for the city:

- General Fund
- Boat Harbor Fund
- Sewer and Water Fund
- Federal Reserve Sharing Fund
- Electric Fund
- Solid Waste
- Port Fund

Other funds may be created as needed by resolution. (Ord. 77-01 (part), 1977; Ord. 86-10 § 4, 1986; Ord. 88-12 § 4, 1987; Ord. 94-1 § 1, 1994)

5.05.225 General Fund. A. **Application.** There is hereby established a Capital Reserve Account in the General Fund. It is the city's intent in establishing this fund that it be used to purchase new equipment, replace existing equipment, or make major repairs to existing equipment or facilities so the city has adequate capital facilities and equipment to provide the public services it delivers. In addition, the fund can be used for the public safety and welfare of residents of the city if emergency needs exist.

B. **Jurisdiction.** Management of the Capital Reserve Account shall be by and through the city council.

^{1/} Prior codification referenced 5.05.215, Permanent Fund Reserve Account (Ord. 86-10) and 5.05.220, Capital Reserve Account (Ord. 88-12). These sections were repealed with the enactment of Ord. 94-1.

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C. **Disbursements.** The city council shall be the only authority authorized to make disbursements of funds from the Capital Reserve Account. Prior to making a disbursement, the city council shall make a finding that use of these funds is necessary to make capital expenditures, purchase new equipment or replace or make major repairs to existing equipment or facilities. Any such disbursement shall be authorized only by an ordinance appropriating funds for the particular need determined by the city council.

D. **Contributions.** Contributions to the Capital Reserve Account may occur from each of the following sources:

1. Revenues the city receives from the lease of rental of city facilities or equipment shall be deposited in the account on a quarterly basis unless the city council acts by ordinance not to deposit specific funds received from equipment leases or rentals.

2. A percentage of the revenues the city receives from providing public services that involve the use of facilities or special equipment that will periodically need to be replaced shall be deposited in the account on a quarterly basis. The mayor will confer with the city council on the percentage of the above revenues that shall be deposited in the account.

3. The city council may, from time to time, make contributions to the account as it deems appropriate by city council ordinance appropriating the same.

E. **Investment of the Fund.** The city council shall have the full responsibility and authority for the investment of funds in the account. The city council shall, by city council resolution or action where a quorum is duly constituted, establish and direct the investment portfolio of all funds appropriated to the Capital Reserve Account.

F. **Interfund Loans.** If the city council determines that funds in the Capital Reserve Account are not immediately needed for Capital Reserve Account purposes, then the city council may, by resolution, authorize loans from the Capital Reserve Account in the general fund to other accounts or funds of the city for such purposes and upon such terms as the council shall establish by resolution. (Ord. 88-12 § 4, 1987; Ord. 94-1 § 3, 1994; Ord. 97-2, 1996; Ord. 98-08 § 4, 1998; Ord. 2003-03, 2002; Ord. 07-06 § 3, 2007)

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5.05.230 Boat Harbor Fund. A. **Application.** There is hereby established a Boat Harbor Fund Capital Reserve Account. It is the city's intent in establishing this fund that it be used for capital expenditures or to purchase new equipment, replace existing equipment, or make major repairs to existing equipment or facilities so the King Cove Boat Harbor has adequate capital facilities and equipment to provide the public services it delivers. In addition, the fund can be used for the public safety and welfare of residents of the city if emergency needs exist.

B. **Jurisdiction.** Management of the Capital Reserve Account shall be by and through the city council.

C. **Disbursements.** The city council shall be the only authority authorized to make disbursements of funds from the Capital Reserve Account. Prior to making a disbursement, the city council shall make a finding that use of these funds is necessary to make capital expenditures, purchase new equipment or replace or make major repairs to existing equipment or facilities in the boat harbor. Any such disbursement shall be authorized only by an ordinance appropriating funds for the particular need established by the city council.

D. **Contributions.** Contributions to the Capital Reserve Account may occur from each of the following sources:

1. Revenues the city receives from the lease of rental of boat harbor facilities or equipment shall be deposited in the account on a quarterly basis unless the city council acts by ordinance not to deposit specific funds received from equipment leases or rentals; provided, however, that mooring rentals and other fees for harbor services received in the normal course of operation of the boat harbor shall be deposited in the King Cove Harbor Fund pursuant to § 11.10.310.

2. A percentage of the revenues the city receives from providing public services involving the use of facilities or special equipment that will periodically need to be replaced will be deposited in the account on a quarterly basis. The mayor will confer with the city council on the percentage of the above revenues that shall be deposited in the account.

3. The city council may, from time to time, make contributions to the account as it deems appropriate by city council ordinance appropriating the same.

E. **Investment of the Fund.** The city council shall have the full responsibility and authority for the investment of funds in the account. The city council shall, by city council resolution or action where a quorum is duly constituted, establish and direct the investment portfolio of all funds appropriated to the account. (Ord. 88-12 § 4, 1987; Ord. 94-1 § 4, 1994; Ord. 07-06 § 3, 2007)

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5.05.235 Sewer and Water Fund. A. Application. There is hereby established a Capital Reserve Account in the Sewer and Water Fund. It is the city's intent in establishing this fund that it be used for capital expenditures, to purchase new equipment, replace existing equipment, or make major repairs to existing equipment or facilities so the sewer and water utilities have adequate capital facilities and equipment to provide the public services it delivers. In addition, the

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can be used for the public safety and welfare of residents of the

city if emergency needs exist.

B. **Jurisdiction.** Management of the Capital Reserve Account shall be by and through the city council.

C. **Disbursements.** The city council shall be the only authority authorized to make disbursements of funds from the Capital Reserve Account. Prior to making a disbursement, the city council shall make a finding that use of these funds is necessary to make capital expenditures, purchase new equipment, replace or make major repairs to existing equipment in sewer and water utilities. Any such disbursement shall be authorized only by an ordinance appropriating funds for the particular need determined by the city council.

D. **Contributions.** Contributions to the Capital Reserve Account may occur from each of the following sources:

1. A percentage of the revenues the city receives from providing sewer and water utility services shall be deposited in the account on a quarterly basis. The mayor will confer with the city council on the percentage of the above revenues that shall be deposited in the account.

2. The city council may, from time to time, make contributions to the account as it deems appropriate by city council ordinance appropriating the same.

E. **Investment of the Fund.** The city council shall have the full responsibility and authority for the investment of funds in the account. The city council shall, by city council resolution or action where a quorum is duly constituted, establish and direct the investment portfolio of all funds appropriated to the account. (Ord. 88-12 § 4, 1987; Ord. 94-1 § 5, 1994; Ord. 07-06 § 3, 2007)

5.05.240 Electric Fund. A. **Application.** There is hereby established a Capital Reserve Account in the Electric Fund. It is the city's intent in establishing this fund that it be used for capital expenditures, to purchase new equipment, replace existing equipment, or make major repairs to existing equipment or facilities so the electric utility has adequate capital facilities and equipment to provide the public services it delivers. In addition, the fund can be used for the public safety and welfare of residents of the city if emergency needs exist.

B. **Jurisdiction.** Management of the Capital Reserve Account shall be by and through the city council.

C. **Disbursements.** The city council shall be the only authority authorized to approve disbursements of funds from the Capital Reserve Account. Prior to making a disbursement, the city council shall make a finding that use of these funds is necessary to make capital expenditures, purchase new equipment or replace or make major repairs to existing equipment in the electric utility. Any such disbursement shall be authorized only by an

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ordinance appropriating funds for the particular need determined by the city council.

D. **Contributions.** Contributions to the Capital Reserve Account may occur from each of the following sources:

1. A percentage of the revenues the city receives from providing electric utility services shall be deposited in the account on a quarterly basis. The mayor will confer with the city council on the percentage of the above revenues that shall be deposited in the account.

2. The city council may, from time to time, make contributions to the account as it deems appropriate by city council ordinance appropriating the same.

E. **Investment of the Fund.** The city council shall have the full responsibility and authority for the investment of funds in the account. The city council shall, by city council resolution or action where a quorum is duly constituted, establish and direct the investment portfolio of all funds appropriated to the account. (Ord. 88-12 § 4, 1987; Ord. 94-1 § 6, 1994; Ord. 07-06 § 3, 2007)

5.05.245 Solid Waste Fund. A. **Application.** There is hereby established a Capital Reserve Account in the Solid Waste Fund. It is the city's intent in establishing this fund that it be used to purchase new equipment, replace existing equipment, or make major repairs to existing equipment or facilities so the solid waste utility has adequate capital facilities and equipment to provide the public services it delivers. In addition, the fund can be used for the public safety and welfare of residents of the city if emergency needs exist.

B. **Jurisdiction.** Management of the Capital Reserve Account shall be by and through the city council.

C. **Disbursements.** The city council shall be the only authority authorized to approve disbursements of funds from the Capital Reserve Account. Prior to making a disbursement, the city council shall make a finding that use of these funds is necessary to make capital expenditures, purchase new equipment or replace or make major repairs to existing equipment or facilities. Any such disbursement shall be authorized only by an ordinance appropriating funds for the particular need determined by the city council.

D. **Contributions.** Contributions to the Capital Reserve Account may occur from each of the following sources:

1. A percentage of the revenues the city receives from providing solid waste services shall be deposited in the account on a quarterly basis. The mayor will confer with the city council on the percentage of the above revenues that will be deposited in the account.

2. The city council may, from time to time, make contributions to the account as it deems appropriate by city council ordinance appropriating the same.

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E. **Investment of the Fund.** The city council shall have the full responsibility and authority for the investment of funds in the account. The city council shall, by city council resolution or action where a quorum is duly constituted, establish and direct the investment portfolio of all funds appropriated to the account. (Ord. 88-12 § 4, 1987; Ord. 94-1 § 7, 1994; Ord. 07-06 § 3, 2007)

5.05.250 Port Fund. A. **Application.** There is hereby established a Capital Reserve Account in the Port Fund. It is the city's intent in establishing this fund that it be used for capital expenditures, purchase new equipment, replace existing equipment, or make major repairs to existing equipment or facilities so the port has adequate capital facilities and equipment to provide the public services it delivers. In addition, the fund can be used for the public safety and welfare of residents of the city if emergency needs exist.

B. **Jurisdiction.** Management of the Capital Reserve Account shall be by and through the city council.

C. **Disbursements.** The city council shall be the only authority authorized to make disbursements of funds from the Capital Reserve Account. Prior to making a disbursement, the city council shall make a finding that use of these funds is necessary to make capital expenditures, purchase new equipment or replace or make major repairs to existing equipment or facilities in the port. Any such disbursement shall be authorized only by an ordinance appropriating funds for the particular need determined by the city council.

D. **Contributions.** Contributions to the Capital Reserve Account may occur from each of the following sources:

1. A percentage of the revenues the city receives from providing port services shall be deposited in the account on a quarterly basis. The mayor will confer with the city council on the percentage of the above revenues that shall be deposited in the account.

2. The city council may, from time to time, make contributions to the account as it deems appropriate by city council ordinance appropriating the same.

E. **Investment of the Fund.** The city council shall have the full responsibility and authority for the investment of funds in the account. The city council shall, by resolution or action where a quorum is duly constituted, establish and direct the investment portfolio of all funds appropriated to the account. (Ord. 88-12 § 4, 1987; Ord. 94-1 § 8, 1994; Ord. 07-06 § 3, 2007)

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Chapter 5.10 -- Budget^{1/}

Sections:

- 5.10.010 Budget and construction program.
- 5.10.015 Scope of budget.

- 5.10.020 Anticipated revenues.
- 5.10.025 Anticipated revenues compared with other years.
- 5.10.030 Proposed expenditures.
- 5.10.035 Proposed expenditures compared with other years.
- 5.10.040 Budget summary.
- 5.10.045 Budget public record.
- 5.10.050 Publication of notice of public hearing.
- 5.10.055 Public hearing on budget.
- 5.10.060 Further consideration of budget.
- 5.10.065 Adoption of budget--Vote required.
- 5.10.070 Effective date of budget--Certification--Copies made available.

5.10.010 Budget and construction program. A. The mayor shall arrange for the preparation of a budget and construction program. The budget and construction spending proposals shall be submitted as an ordinance.

B. After public hearing, the council may approve budgets with or without amendments and shall appropriate the funds required. (Ord. 77-01 (part), 1977)

^{1/} See AS 29.35.100 as to state provisions requiring the governing body to establish a manner for preparation and submittal of the budget and capital program, and the appropriation of funds.

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5.10.015 Scope of budget. A. The budget shall be a complete financial plan for all the operations of the municipality, showing dollar reserves, anticipated revenues, and proposed expenditures.

B. The budget shall include a comparative statement of actual expenditures and actual revenues for the preceding fiscal year and the budgeted current fiscal year.

C. Proposed expenditures shall not exceed total anticipated revenues and reserves. (Ord. 77-01 (part), 1977)

5.10.020 Anticipated revenues. Anticipated revenues shall be composed of "taxes", "licenses and permits", "intergovernmental revenue", "charges for services", "fines and forfeits", "miscellaneous revenue", and "cash reserves", and any other category deemed appropriate. (Ord. 77-01 (part), 1977)

5.10.025 Anticipated revenues compared with other years. In the anticipated column opposite the items of anticipated revenues there shall be placed the amount of each such item actually received in the preceding fiscal year. (Ord. 77-01 (part), 1977)

5.10.030 Proposed expenditures. Proposed expenditures shall be itemized. Separate provision shall be included in the budget for at least:

1. interest, amortization of principal and redemption charges on the public debt for which the faith and credit of the municipality is pledged;

2. administration, operation and maintenance of each office, department or agency of the municipality;

3. council's budgetary reserve;

4. expenditures proposed for construction projects including provisions for down payments on capital projects. (Ord. 77-01 (part), 1977)

5.10.035 Proposed expenditures compared with other years. In a parallel column opposite the several items of proposed expenditures, there shall be placed the amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year. (Ord. 77-01 (part), 1977)

5.10.040 Budget summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized. Principal sources of anticipated revenues, and kinds of expenditures by department, shall be stated in such a manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget. (Ord. 77-01 (part), 1977)

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5.10.045 Budget public record. The budget, the budget message, the construction improvement program, and all supporting schedules shall be a public record in the office of the clerk, open to public inspection by anyone. The mayor shall cause to be prepared for distribution to interested persons, copies of the budget and budget message. (Ord. 77-01 (part), 1977)

5.10.050 Publication of notice of public hearing. The council shall determine the place and time of the public hearing on the budget, and shall post such notice in three places in the city. The council shall include in the notice a summary of the budget and capital improvement program and a statement setting out the time and place for a public hearing. This notice shall be posted at least two weeks prior to the hearing. (Ord. 77-01 (part), 1977)

5.10.055 Public hearing on budget. At the time and place so advertised, the council shall hold a public hearing on the budget as submitted at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof. (Ord. 77-01 (part), 1977)

5.10.060 Further consideration of budget. After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget except items in proposed expenditures fixed by law. The council may not vary the titles, descriptions, or conditions of administration specified in the budget. (Ord. 77-01 (part), 1977)

5.10.065 Adoption of budget--Vote required. The budget shall be adopted by favorable votes of at least a majority of all the members of the council, preferably by May 1 and not later than May 31. (Ord. 77-01 (part), 1977)

5.10.070 Effective date of budget--Certification--Copies made available. Upon adoption of the budget, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be certified by the mayor and the clerk and filed in the office of the clerk. The budget so certified shall be printed, mimeographed or otherwise reproduced, and sufficient copies shall be made available for the use of all officers, departments and agencies and for interested persons and civic organizations through the clerk's office. (Ord. 77-01 (part), 1977)

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Chapter 5.15 -- Purchasing^{1/}

Reserved

^{1/} See §§ 2.20.510 and 2.20.515 as to the creation of the position of a purchasing agent and his authority.

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Chapter 5.20 -- Sales and Use Tax^{1/}

Sections:

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- 5.20.320 Accelerated returns.
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- 5.20.335 Criminal penalties.

^{1/} See AS 29.45.700 as to state provisions regarding the power of a municipality to levy a sales tax.

Article 1. Levy; General Provisions

5.20.110 Definitions. When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meaning:

Buyer: Includes persons who are purchasers of personal property, rental space or services.

City: Means the City of King Cove.

Coin-operated Machine: Means slot machine, marble machine, juke box, merchandise vending machine, laundry, dry cleaning and any other services-dispensing machine or amusement device of any kind which requires the insertion of a coin to make it operative.

Collector: Means all persons who are required to collect the tax levied under this chapter, whether a buyer of raw seafood products or a seller as defined in this section.

Mayor: Means the mayor of the City of King Cove, Alaska, or his designee.

Person: Includes individuals and every person recognized in law and every group of persons who act as a unit.

Raw Seafood Products or Raw Fish Products: Includes all raw seafood products including, but not limited to, clams, crab, shrimp, and other shellfish, salmon, herring, bottomfish and salmon roe.

Sale: Shall include:

1. Every sale of services;
2. Every rental of real or personal property;
3. Every sale of the use or play of a coin-operated machine;
4. Every sale of tangible personal property, regardless of quantity or price, whether sold by coin-operated machine or otherwise, except the sale of personal property, other than raw seafood products, as a raw material to a person engaged in manufacturing for sale, when the property becomes an ingredient or component part of the manufactured product or a container thereof or is consumed in the manufacturing process.
5. Every sale or exchange of services, use or title in property. Installment credit and conditional sales are included in the term.
6. Every sale of raw seafood products including an event that occurs when a person within the city becomes directly or indirectly obligated for the payment for raw seafood products without regard to whether delivery of the raw seafood products occurred inside or outside the city if the raw seafood products are purchased for delivery or are delivered to a location inside the city; except "sale" does not include a transaction under this sentence if the initial delivery occurs in a city other than the City of King Cove or outside the Aleutians East Borough prior to delivery in the

City of King Cove. The place of the sale is the business location of the buyer inside the city. A sale in the city occurs if the raw seafood products are purchased by a buyer and delivered to the buyer inside the city even if transported outside the city prior to

delivery to the buyer's location inside the city.

Sales Price: Means consideration paid by the buyer in terms of money and, in the case of a sale involving an exchange of property, the fair market value of the property exchanged, including delivery or installation costs, taxes, or any other expenses whatsoever, measured by the gross sales of the seller. In the case of seafood products, sales price includes any indirect considerations such as fuel or supplies furnished by the processor or offsets to the cash value for gear furnished.

Seller: Includes persons who are vendors of property, persons furnishing services, the lessor of rental space or goods, and all persons making sales.

Services: Includes all services of every manner and description which are performed or furnished for compensation, except services rendered to an employer by an employee, including but not limited to:

1. professional services;
2. services in which a product or sale of property, including personal property made to order;
3. utilities and utility services not constituting a sale of personal property, including sewer, water, electrical and telephone services and repair;
4. the sale of transportation services;
5. services rendered for compensation by any person who furnishes any such services in the course of his business or occupation;
6. services wherein labor and materials are used to accomplish a specified result;
7. any other services including advertising, maintenance, recreation, amusement, and craftsmen services.

Taxpayer: Means all persons who are required to pay the tax levied by this chapter, whether a seller of raw seafood products or a buyer as defined in this section. (Ord. 77-01 (part), 1977; Ord. 80-05 §§ 5, 6, 1980; Ord. 81-04 § 1 (part), 1981; Ord. 88-11 § 6, 1988; Ord. 89-02 §§ 6, 7, 1989)

5.20.115 Sales tax levied. A. Except as provided in subsection B there is levied a sales tax of four percent on all sales in the City of King Cove and on all rents, and on all services made or rendered within the city, measured by the gross sales price of the seller.

B. This tax increase does not apply to the existing two percent raw seafood products delivered by the seller to a buyer in the city including raw seafood products delivered by means of a tender to a processor of raw seafood products for processing in the city. (Ord. 77-01 (part), 1977; Ord. 80-05 § 1, 1980; Ord. 81-04 § 1 (part), 1981; Ord. 88-11 § 2, 1988; Ord. 98-08 § 1, 1998; Ord. 2003-02 § 1, 2003)

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5.20.120 Use tax levied. A. There is levied and shall be collected a use tax of four percent on the processing, storage, consumption or other use of property within the city if such property has not been the subject of a transaction otherwise taxable under this chapter. The tax shall be levied and collected in an amount equal to four percent of the value of the property used.

B. A credit shall be allowed against the tax imposed by this section in an amount that the present user, the user's agent, bailor or donor has paid a sales tax with respect to such property

in any other state or political subdivision prior to the use of the property in the city. The person who processes, stores, consumes or otherwise uses the property subject to taxation under this section is liable for the payment of the tax to the city, and shall file a return, obtain a certificate of registration, and remit the taxes due in the same manner and subject to the same requirements for reporting, payment, interest, penalties, inspection of records, enforcement, administration and other applicable provisions of this chapter as are set out for the taxation of sales. The State of Alaska fisheries business license tax (AS 43.75) shall not be considered a tax for purposes of establishing an entitlement to a credit under this section. (Ord. 88-11 § 7, 1988; Ord. 89-02 § 18, 1989; Ord. 98-08 § 2, 1998; Ord. 2003-02 § 2, 2003)

5.20.125 Administration. A. The mayor may take any action necessary or appropriate to implement this chapter by promulgating regulations, which may include the adoption of forms. Such regulations or any procedures adopted by the mayor are effective at the time indicated by him, but are subject to revision or repeal by the city council at the next meeting following their effective date or at any time that the council acts thereon.

B. Should a taxpayer under this chapter or a seller, or in the case of raw fish products, the buyer, obliged to collect the tax be in doubt as to the application of this chapter to an actual situation facing him or about to face him, he may apply to the mayor for an informal ruling on this issue. Rulings having general applications may, at the direction of the mayor, be promulgated as regulations. (Ord. 77-01 (part), 1977; Ord. 81-4 § 1 (part), 1981)

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5.20.130 Exemptions. The following shall be exempt from the sales tax imposed by the city:

1. Casual and isolated sales of property and services or the rental of personal or real property not in the regular course of business of the seller. In addition, all rental of private residences are exempt, except that the sale of business or commercial properties shall not be considered a casual sale.

2. Hospital services and medical services performed by licensed medical doctors, dentists, mid-level practitioners, osteopaths, optometrists, podiatrists and chiropractors; and sales of medicinal preparations, drugs or appliances under a written prescription from one of the foregoing.

3. Sales, services and rental to religious and charitable organizations in the conduct of their regular religious and charitable functions and activities as defined by the revenue laws of the United States.

4. Sales of food in college and school cafeterias which are operated primarily for teachers and students and which are not operated for profit.

5. Subscriptions to newspapers and periodicals.

6. Sales, services and rentals to the United States, the State of Alaska, or any instrumentality or political subdivision of either.

7. Dues or fees to clubs, labor unions and fraternal organizations.

8. Sales or rent which the city is prohibited from taxing by the constitution or the laws of the United States or the State of Alaska. (Ord. 77-01 (part), 1977; Ord. 80-05 § 4, 1980; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 5, 1989)

5.20.135 Extensions. For good cause shown, the city may grant extensions on any time limitation described in this chapter. Any application for an extension must be filed before the date specified as the original time limitation. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981)

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Article 2. Registration; Collection and Remittance; Records

5.20.210 Tax schedule. A. The tax to be added to the sales price of sales taxable at three percent pursuant to § 5.20.115(B) shall be in accordance with the following schedule:

<u>Price</u>	<u>Tax</u>
\$ 0.01 - \$0.32	\$0.00
\$ 0.33 - \$0.65	\$0.01
\$ 0.66 - \$0.99	\$0.02
\$ 1.00 - \$1.32	\$0.03

B. The tax to be added to the sales price, charge or rental of sales, rents and services taxable at the rate of four percent pursuant to § 5.20.115(A) and § 5.20.120(A) shall be in accordance with the following schedule:

<u>Price</u>	<u>Tax</u>
\$ 0.01 - \$0.24	\$0.00
\$ 0.25 - \$0.49	\$0.01
\$ 0.50 - \$0.74	\$0.02
\$ 0.75 - \$0.99	\$0.03
\$ 1.00 - \$1.24	\$0.04

C. The tax on amounts in excess of the schedules shall be computed in a manner consistent with the schedules.

D. The finance clerk is authorized to furnish each seller, or in the case of the sale of raw seafood products, each buyer, a schedule of tax payable on each taxable amount from one cent (\$.01) to one hundred dollars (\$100.00).

E. Any one sale of items separately priced shall be taxed upon the separate amount; provided, that a sale of seafood or fish by a commercial fisherman or other person to a fish processor or buyer shall be considered as a sale of the entire quantity of fish or seafood delivered at the transaction. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 84-02 § 4, 1983 (ratified by voters on 10/4/83; Ord. 98-08 § 3, 1998; Ord. 2003-02 § 3, 2003)

5.20.215 Obligation to pay tax. A. The obligation of the tax is upon the buyer, except that in the case of raw seafood products, the tax is upon the seller. Except for the sale of raw seafood products, the seller shall collect the tax on all sales at the time of the sale. With respect to the sale of raw seafood products, the buyer shall collect the tax at the time of sale by withholding from payment to seller the amount of the tax. If the payment for raw seafood products is not made at the time of sale or delivery, the buyer shall segregate from funds of the buyer an amount equal to the tax due on the sale. Funds required to be segregated under this section are taxes collected or required to be collected under this chapter.

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B. Collection is enforceable by the seller or, in the case of raw seafood products, by the buyer, as a certified tax collector of the city; provided, however, that this shall not limit the liability of the person liable for the tax. (Ord. 77-01 (part), 1977; Ord. 80-05 § 2, 1980; Ord. 81-04 § 1 (part), 1981; Ord. 88-11 § 3, 1988; Ord. 89-02 § 2, 1989)

5.20.220 Registration of sellers as tax collectors-- Certification of registration. A. All collectors shall file with the city an application for a certificate of registration on a form prescribed by the city, not more than 10 days after the date of commencing business or the opening of an additional place of business. The application must contain or be accompanied by:

1. the name and mailing address of the applicant;
2. the location at which the applicant will conduct its business or transactions subject to the tax under this chapter will occur; if the applicant's business is to be conducted from one or more vessels, the name of the vessels and the general location or areas in which each vessel will operate;
3. if the applicant is a buyer of raw seafood products:
 - a. the applicant's Alaska Fisheries Business License number;
 - b. a copy of the applicant's most recent Alaska Fisheries Business License Tax filing; and
 - c. a copy of the most recent statement provided the state of the amount of fisheries' products the person expects to produce during the applicant's license year;
4. A description and the location of real and personal property owned by the applicant in the city and other information with respect to the description, location and values of the property which the city may require.

B. Upon the receipt of a properly executed application, the mayor will issue without charge to the seller or, in the case of raw fish products, the buyer, a certificate of registration, stating the address of the place of business to which it is applicable and authorizing the seller to collect the tax. The certificate must be prominently displayed at the place of business named therein. A seller or buyer who has no regular place of business shall attach such certificate to his stand, truck or other merchandising devise.

C. The certificate of registration is non-assignable and non-transferable and must be surrendered to the mayor by the seller or buyer to whom it was issued upon his ceasing to do business at the location named therein. If the business is continued at the same location but there is a change in its form of organization such as from a single proprietorship to a partnership or corporation, the admission or withdrawal of a partner or any other change, the seller or buyer making such change shall surrender his old certificate to the mayor for cancellation. The successor seller or buyer is required to file a new application for a

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certificate of registration. Upon receipt of such application, properly executed, a new certificate will be issued to such successor seller or buyer.

D. When there is a change of location for the seller's or buyer's place of business, a new certificate of registration is required showing a new address.

E. Before issuing a certificate of registration, the mayor may require the applicant to post a bond, furnish a statement of net worth, or furnish additional security to insure the full and prompt payment of taxes to be collected under such certificate when in his or her judgment it is in the best interest of the city to do so.

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F. A seller or buyer who obtains or should obtain a certificate of registration in accordance with this chapter hereby consents to the inspection of his or her Alaska Fisheries Business Tax returns and other information, such as amended tax returns for prior or current years or other records filed by the registrant with the State of Alaska for the purpose of enforcement and administration of the provisions of this section. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 8, 1989; Ord. 05-02, 2005)

5.20.225 Registration of buyers and sellers entitled to exemption. A. The city may require by regulation that the seller, other than a seller of raw seafood products, collect the tax on sales from any class of buyer allegedly exempt under § 5.20.130 3., unless the buyer is registered under paragraph B. of this section. An unregistered buyer may file a certificate of protest under § 5.20.310. The provisions above also apply to buyers of raw seafood products.

B. The city may by regulation require that any class of buyer exempt under § 5.20.130 3. register with the city as an exempted buyer to avoid payment of tax. Registration shall be upon forms provided by the city and shall include a brief statement of the reason for exemption and such other information as the city may require. Upon registration, the buyer shall be issued a certificate or certificates of exemption which the buyer must show seller to avoid initial payment of the sales tax, or in the case of buyers of raw seafood products, which the buyer must show to avoid payment of the sales tax.
(Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981)

5.20.230 Custody, reporting, and remittance. A. All tax monies collected or segregated or required to be collected or segregated by a buyer or seller are funds of the city and shall be held in trust by the collector until paid over to the city. Interest earned on such funds while held by the collector may be retained by the collector.

B. Taxes required to be collected under this chapter during a calendar month are due and payable to the city on the 15th day of the month following the month in which they were collected, except for taxes collected by a buyer or seller who had less than \$2.5 million in gross sales in the previous calendar year, which shall be due and payable on the last day of each calendar quarter. Every buyer and seller liable for the collection of the tax shall file with the city on forms furnished by the city a return containing the following information:

1. gross sales;
2. non-taxable sales separately stating the amount of sales revenue attributable to each class of exemption;
3. taxable sales during each month;
4. taxes collected on taxable sales;

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5. interest, penalties and deductions;
6. with regard to raw seafood products purchased, the number of pounds of shellfish and finfish purchased, broken down by species;
7. such other information as may be required on the form.

C. The return shall be signed and its completeness and accuracy sworn to by the buyer or seller under penalty of perjury.

D. The complete return, together with the remittance of the tax required to be collected during the month, must be received by the city at the address designated on the return form on or before the 15th calendar day of the month following the end of the month for which the return is required. In the case of a buyer or seller who is required to remit taxes quarterly, the return and remittance of the tax must be received by the city on or before the last business day of the month following the end of the calendar quarter for which the return is required.

E. Any buyer or seller who was required to collect a tax during a month or calendar quarter shall file a return for the next following month or calendar quarter even though no tax may be due during the following month or quarter. A return filed for a month or quarter in which no tax was required to be collected must show why no tax was collected or is due.

F. If a complete return accompanied by the entire tax due is received by the city within the time allowed, the person collecting the tax may deduct and retain up to two percent of the tax due as compensation for its costs of administration of the tax; however, the amount deducted and retained may not exceed five hundred dollars (\$500.00) for any calendar quarter.

G. Amounts received with the return shall be applied in the following order:

1. penalties due, beginning with the oldest penalty;
2. interest due, beginning with the interest due on the oldest month; and
3. taxes due, beginning with the taxes due from the oldest month. (Ord. 77-01 (part), 1977; Ord. 80-05 § 3, 1980; Ord. 81-04 § 1 (part), 1981; Ord. 88-11 § 4, 1988; Ord. 89-02 § 3, 1989; Ord. 98-07, § 1, 4-7-98)

5.20.235 Seller not to assume tax. A seller may not advertise or hold out or state to the public or to any buyer, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the seller or that it will not be added to the sales price or that it will be refunded or assumed, in whole or in part. The collector shall, whenever feasible, separately state the tax to the taxpayer on each taxable transaction. When not feasible to state separately, the collector shall prominently display a sign provided by the city indicating the imposition of the tax. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 9, 1989)

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5.20.240 Installment sales. When a sale is made on an installment basis, the sales tax shall be collected from the down payment, or if none, from the first installment, or, if the installment or down payment is less than the tax, then from as many

installments as is necessary to pay the tax. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981)

5.20.245 Sale or transfer of business--Final return. If any buyer of raw seafood products, any seller or other person required to collect a tax under this chapter leases or in any other manner disposes of the business or if the business is transferred voluntarily or involuntarily, the person selling, leasing or otherwise transferring the business shall make or deliver to the city within 15 days of the date of the sale, lease or other transfer a final sales tax return. The purchaser, lessee or other successor or assign shall withhold a sufficient portion of the purchase or lease money to cover the amount of the tax required to be collected under this chapter, penalties and interest as may be due on unpaid taxes to the city until such time as the former owner has produced a receipt from the city showing that all tax obligations imposed by this chapter have been paid through the date of sale, lease or other transfer. The purchaser, lessee or other transferee or successor-in-interest of a business required to collect the tax under this chapter shall be liable for all taxes required to have been collected by the former owner but not paid over to the city and shall be liable for all penalties and interest on such unpaid taxes and on late or unfiled returns. (Ord. 89-02 § 4, 1989)

5.20.250 Refund of excess payment. A. A taxpayer or collector who, through a clerical or similar error, pays a tax under this chapter that exceeds the amount actually due may receive a refund of the excess payment upon meeting the conditions set out in this section.

B. A taxpayer who has made an excess sales or use tax payment as set out in subsection A. shall be given a refund of the excess by the collector if the taxpayer:

1. notifies the collector of the excess payment;
2. proves to the collector that an excess payment was made; and,
3. provides such notification and proof to the collector prior to the date the collector pays over to the city the taxes collected during the reporting period in which the claimed excess payment was made.

C. A taxpayer who has made an excess tax payment as set out in subsection A. who has been denied a refund by the collector or who did not meet the requirement of

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may file with the city for a refund of the excess payment. The taxpayer must file the request for the refund and satisfactory proof of entitlement with the city not later than the last business day of the sixth month following the month during which the claimed excess payment was made. The manager may establish a reasonable fee for processing refund requests under this subsection.

D. A collector who has made an excess tax payment as set out in subsection A. shall be given a refund of the excess if the city receives written notice from the collector of the amount claimed as an excess payment. The city must receive the notice and satisfactory proof of the excess payment, in the form required by the manager, not later than the last day of the sixth month following the month for which the claimed excess payment was made.

E. Upon approval of a refund to a collector, the city may pay the refund to the collector or authorize the collector to take the refund as a credit against future monthly or quarterly tax payments; provided, the amount taken as a credit in any one calendar quarter may not exceed 30 percent of the taxes otherwise due for the quarter. No interest may be paid on the excess payment.

F. A claim for a refund of an excess payment to which this section applies is forever barred if notice and proof of the excess payment are not given within the time required. (Ord. 90-02 § 2, 1990; Ord. 98-07, § 2, 4-7-98)

5.20.255 Duty to keep records. A. Every seller, or in the case of raw fish products, every buyer, engaged in activity subject to this chapter shall keep and preserve suitable records of all sales made by him and such other books or accounts as may be necessary to determine the amount of tax which he is obliged to collect. Every seller or in the case of raw seafood products, every buyer, shall preserve suitable records of sales for a period of three years from the date of the return reporting such sales, and shall preserve for a period of three years all invoices of goods, and merchandise purchased for resale, and all such other books, invoices, and records as may be necessary to accurately determine the amount of taxes which the seller was obliged to collect under this chapter or, in the case of buyers of raw seafood products, which the buyer was obliged to pay under 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 by any seller, or paid by a buyer of raw fish products, the mayor may hold investigations and hearings concerning any matters covered by this chapter and may examine any relevant books, papers,

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records, or memoranda of any seller and may require the attendance of any seller or buyer, or any officer or employee of a seller or buyer at the hearing. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981)

5.20.260 Tax records confidential; exceptions. Information in the possession of the city which was obtained by the city in the administration or enforcement of the provisions of this chapter and which discloses the particulars of the business or affairs of a collector, taxpayer or other person is not a matter of public record except for purposes of city, borough, state or United States investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items or prohibit the publication of tax lists showing the names of collectors or taxpayers who are delinquent and relevant information which may assist in the collection of delinquent taxes. Information otherwise protected by this section may be furnished on a reciprocal basis to other agencies of the city, borough, state or the United States concerned with the enforcement of tax laws. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 12, 1989)

Article 3. Protest; Enforcement

5.20.310 Protest of tax by taxpayer. A. A collector shall determine whether a sale is taxable under this chapter. If the collector fails to collect the tax due on a transaction because of an incorrect determination of taxability by the collector or for any other reason, the collector becomes liable to the city for the tax in the same manner as if the tax had been collected.

B. If a taxpayer believes that a transaction is exempt or otherwise not subject to the tax imposed under this chapter, but the collector has determined the transaction to be subject to the tax, the taxpayer shall pay the tax under protest to the collector. A tax is paid under protest by filing with the collector a statement of protest on a form provided to collectors by the city. The taxpayer shall clearly set out on the form the terms and conditions of the sale, the amount of the sale, the quantity and type of items, services, or rentals involved, the location of all parts of the sale or other transaction and all other information necessary to support the

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taxpayer's claim that the tax does not apply. The form shall include the names and mailing addresses of both the collector and the taxpayer and any other party involved in the transaction. If the taxpayer desires to have an oral hearing or to present supplemental statements or briefs, the taxpayer must set out such request on the protest form.

C. Upon receipt of a written protest, the collector shall forward the protest to the city along with any additional statements the collector believes may assist the city in determining the protest. The written protest must be forwarded to the city as promptly as possible, and in any case not later than 30 days after delivery of the protest to the collector.

D. If the written protest contains a request for a hearing or for the opportunity to submit additional statements or briefs, the mayor shall determine the date for any hearing requested and for the submission of supplemental statements or briefs and shall inform the taxpayer of such dates. The taxpayer has the burden of proof. The mayor may seek legal advice on any protest. The ruling must be in writing and must set forth the reason for the grant or denial of the protest. The ruling will be sent to the collector and the taxpayer at the addresses given on the protest. The ruling on a protest for which no hearing or supplemental statements or briefs were requested will be rendered within 30 days of receipt of the protest by the mayor unless the mayor determines that a longer period of time is required. If there is a hearing or a submission of supplemental statements or briefs, the mayor shall render a decision within a reasonable time as determined by the mayor.

E. If a protest is granted, the mayor shall determine whether the tax protested has been received by the city from the collector. If the tax has been received, the mayor shall refund directly to the taxpayer the amount of tax to be refunded with interest from the date received by the city at a rate equal to the average interest earned on investments of the city on its invested funds as last determined by the city. If the tax has not been received by the city, the collector shall be instructed to refund to the taxpayer the appropriate amount if the collector has actually collected the tax from the taxpayer. In the case of a collector who is a buyer of raw seafood products, if the collector has not yet paid for the raw seafood products, the collector shall make such adjustments as necessary to the accounts of the taxpayer to reflect the correct amount of the tax due. The collector and the taxpayer may make other arrangements for crediting to the taxpayer the amount of the refund if the collector and the taxpayer reach a mutual agreement as to such alternate procedure.

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F. In the event a protest is denied, the taxpayer may, within 15 days of the date of mailing of the notice of denial, request reconsideration of the matter and shall submit with the request such additional statements or briefs as are necessary to explain why the denial should be reversed in whole or in part. The decision of the mayor on a protest or on a request for reconsideration is final and is subject to appeal to the superior court under applicable rules of court. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 10, 1989)

5.20.315 Protest of tax by collector. A. If a collector believes that a transaction is exempt or otherwise not subject to the tax imposed under this chapter or believes that a penalty, interest or other charge is not owing but has been informed by the city that such transaction is subject to the tax imposed under this chapter or such charge is owing, the collector may protest the tax or charge by paying to the city the tax or charge claimed to be owing by the city and filing with the city at the time of payment a statement of protest setting out all relevant facts and clearly explaining why the transaction taxed or charge made is exempt, not otherwise subject to the tax levied under this chapter or not owing. The payment and statement of protest must be received by the city not later than 30 days following the date of the collection by the collector; or, if no tax was collected, the later of the occurrence of the challenged transaction or the date of the notice from the city that the transaction is taxable; or, if the protest is of a charge, disallowance or similar action by the city, the date of the notice to the collector of the city determination. Failure to file a statement of protest and to pay the amount claimed by the city as owing within the time permitted under this section constitutes a waiver of the right to protest the tax or the charge or other city determination under this chapter and is a waiver of the right to appeal the protest to the mayor or to appeal or otherwise challenge the tax, charge or determination in any judicial or other proceeding.

B. The mayor shall issue a written ruling on each collector protest within 30 days of receipt of the protest unless the mayor determines a longer period is required. The collector has the burden of proof. The mayor may permit or require the collector to provide additional information relevant to the protest. The mayor may seek legal advice on any protest. The ruling will be in writing and must set forth the reason for the grant or denial of the protest. The ruling will be sent to the collector at the address given on the protest.

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C. If a protest is granted, the mayor shall refund to the collector the charge levied or the tax collected and paid over to the city that was not exempt or otherwise subject to the tax levied under this chapter. The mayor shall also pay to the collector interest on the amount refunded at the rate equal to the average interest earned by the city on its invested funds as last determined by the city. The collector shall immediately refund to each taxpayer from whom the tax was collected the amount of the tax improperly collected with interest apportioned among the taxpayers; provided, if the collector has failed to directly or indirectly collect the tax but has paid the tax to the city from its own account, the collector may retain the tax and interest refunded.

D. In the event a protest is denied, the collector may, within 15 days of the date of the mailing of the notice of denial, request reconsideration of the matter and shall submit with the request such additional statements or briefs as are necessary to explain why the denial should be reversed in whole or in part. The decision of the mayor on a protest or on a request for reconsideration is final and is subject to appeal to the superior court under applicable rules of court. (Ord. 89-02 § 11, 1989)

5.20.320 Accelerated returns. A. A collector who is required to file a return and pay taxes to the city on a quarterly basis, who fails for more than 30 days to file a return or pay the taxes due or who has, within a 12-month period, filed or paid taxes late on two or more occasions, may be required by the mayor to file and pay on a monthly basis; provided, the mayor shall provide to the collector a hearing after reasonable notice of the mayor's intention to require more frequent filing and payment.

B. A collector who is required to file a return and pay taxes to the city and pay on a monthly basis who fails to file a return and pay the full amount due within 10 days of the date required for such filing and payment or such a collector who files late two or more times during a four month period may be required by the mayor to file on a weekly or more frequent basis; provided, the mayor shall provide the collector a hearing after written notice of the mayor's intent to require more frequent filing and payment. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 16, 1989; Ord. 98-07, § 3, 4-7-98)

5.20.325 Omissions and civil penalties. A. **Failure to obtain certificate.** A seller or, in the case of raw fish products, a buyer, who is obliged to obtain a certificate of registration but fails to do so after written notice within the time prescribed herein is subject to civil penalty of five times the amount of any tax due. A seller, or, in the case of raw fish products, a buyer, who, after notice, continues to conduct

business without obtaining a certificate is subject to a penalty of 10 times the amount of any tax due.

B. **Penalty and interest.** A collector who fails to file a return as required under this chapter or who fails to remit all the taxes due the city by the collector shall pay a penalty of five percent of the taxes due if no return is filed and five percent of the delinquency if a return is filed. The penalty shall be imposed for each month or part of a month during which the delinquency or failure to file exists up to a maximum of 25 percent. The filing of an incomplete return shall be treated as the filing of no return. Interest at the rate of 12 percent per annum shall be paid on all amounts due the city that are not received by the city as required under this chapter except, interest does not accrue on penalties.

C. **Falsification.** Falsification or knowing misrepresentation of any record required hereunder is a misdemeanor and subjects the person making such falsification or misrepresentation to a penalty of 100 times any tax due or lost because of such falsification or misrepresentation to a maximum of one thousand dollars (\$1,000.00).

D. **Failure to separately state the tax.** A seller who fails to separately state the tax due in any sales transaction shall be subject to a penalty equal to the amount collected as a tax.

E. **Inspection.** The failure of a seller, or, in the case of a buyer of raw fish products, a buyer, to allow the inspection at reasonable times of records required by this chapter to be kept subjects the seller, or in the case of raw fish products, the buyer, to a penalty of three times any deficiency found or estimated to have occurred by the city in the tax accounting of the seller, or in the case of raw fish products, the buyer.

F. **Forced filing.** If a collector under this chapter fails to file a complete and accurate return or to pay over all the taxes due as required by this chapter, the mayor may make an estimate of the taxes due based upon any information available. The mayor shall file a return for such collector and shall provide a copy of the return to the collector with a request that the collector file a correct return along with payment of the taxes due. The mayor may require the collector filing the return to provide sufficient information to support the corrected return. If the collector has not filed a corrected return satisfactory to the mayor, along with the taxes due, within 30 days of the date of mailing of the forced filing, the amount shown on the forced filing is presumed correct and becomes delinquent; provided, if upon a subsequent audit or inspection of the records of the collector it is determined that a greater amount was due, the collector shall be liable for

payment of such additional amount. A forced filing may be made if the city is unable to ascertain the tax due to be remitted by a collector by reason of the failure of the collector to keep accurate records or allow inspections or the falsification of records.

G. **Loss of records.** A seller or, in the case of raw fish products, the buyer, shall immediately notify the city of any fire, theft, or other casualty which would prevent his complying with this chapter. Such casualty constitutes a defense to any penalty provided in this chapter, but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense hereunder.

H. **Maintenance of suits.** Nothing in this section shall prevent the city from filing and maintaining an action to collect any taxes collected or which should have been collected in addition to any penalty assessed.

I. **Severability clause.** If any provision or provisions of this ordinance are declared invalid including, but not limited to, any provisions imposing a tax on a particular transaction or transactions, or exempting a particular transaction or transactions from a tax, the remainder of the ordinance shall continue in effect. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 §§ 13, 14, 1989)

5.20.330 Lien. The tax, penalty and interest imposed by this chapter shall constitute a lien in favor of the city upon all the collector's property within the city. The lien arises upon delinquency and continues until the liability for the amount is satisfied or the property is sold at foreclosure sale. When recorded, the sales tax lien has priority over all other liens except as provided in AS 29.45.650(e). (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 15, 1989)

5.20.335 Criminal penalties. A. A person who violates any of the provisions of this chapter commits a misdemeanor and, upon conviction, is punishable by a fine of up to five hundred dollars (\$500.00) in addition to any civil penalties assessed.

B. Each violation of a provision of this chapter constitutes a separate offense and each day upon which a violation continues constitutes a separate offense. (Ord. 77-01 (part), 1977; Ord. 81-04 § 1 (part), 1981; Ord. 89-02 § 17, 1989)

Chapter 5.25 -- Real and Personal Property Tax^{1/}

Sections:

- 5.25.010 Property subject to taxation; Dates to be fixed by city council.
- 5.25.015 Definitions.
- 5.25.020 Assessment--Method; Time; Listing; Returns; Investigation.
- 5.25.025 Content of assessment roll.
- 5.25.030 Notice, publication, correction of assessment roll.
- 5.25.035 Appeal to board of equalization; Notice of appeal; Hearing.
- 5.25.040 Entry of changes by assessor; Certification by clerk; Completion of assessment roll.
- 5.25.045 Appeal to superior court.
- 5.25.050 Supplementary assessment rolls.
- 5.25.055 Delivery of assessment roll to council; Validity.
- 5.25.060 Tax rate.
- 5.25.065 Dates when taxes are due and payable.
- 5.25.070 Delinquent tax roll--Notice and publication of foreclosure list; Payments prior to sale; Request notice.
- 5.25.075 Real property--Foreclosure, Redemption.
- 5.25.080 Personal property--Delinquency; Remedies.
- 5.25.085 Collection of personal property taxes.

5.25.010 Property subject to taxation; Dates to be fixed by city council. A. All real and personal property not expressly exempt by the City of King Cove shall be subject to annual taxation at its full and true value based upon the actual value of the property assessed.

B. The rate of levy of tax, the date of equalization of the tax and the date when taxes shall become delinquent, shall be fixed annually by resolution of the council and shall not exceed three percent of the assessed value of the property assessed. (Ord. 77-01 (part), 1977)

^{1/} See AS 47.60.080 as to state provision exempting certain multi-purpose senior citizen centers from municipal taxation.

5.25.015 Definitions.

Person: Includes an individual, a partnership, a corporation, an association, an organization, a fiduciary and any other entity.

Personal Property: Includes any other property not specifically listed under real property, including boats and gear.

Real Property: Includes not only the land itself, whether laid out in lots or otherwise, but also all buildings, structures, improvements, fixtures of whatsoever kind thereon, and all possessory rights and privileges belonging to or in anywise appertaining thereto, and the word "tract" shall include all lands, pieces or parcels of land which may be separately assessed together with fixtures and improvements thereon. (Ord. 77-01 (part), 1977)

5.25.020 Assessment--Method; Time; Listing; Returns; Investigation.

A. All taxable property must be assessed at its true and full value and all assessments shall be uniform and equal and based upon the actual value of the property assessed.

B. The city assessor shall annually assess and list on a tax roll all real and personal property in the name of the person by whom it is owned on the first day of January. If no owner or claimant to the property can be discovered, the property shall be assessed to the unknown owner.

C. The assessor shall complete the listing for the annual assessment roll of all real and personal property within the limits of the city before July 1 of each year. Provided, however, the assessor may list undiscovered omitted personal property to be included on a supplemental tax roll. The listing of all taxable property may be made upon permanent separate ledger cards which will be the combined assessment roll and tax ledger. Real property shall be assessed to the owner of record as shown in the records of the deputy magistrate for the State of Alaska; provided, however, that any other person having an interest in the property may be listed on the assessment records with the owner. The person in whose name any property is listed as owner thereof shall be conclusively presumed to be the legal owner of record. If the owner of the land is unknown, such land may be assessed to an "unknown owner" or "unknown owners". No assessment shall be invalidated by a mistake, omission or error in the name of the owner of the real property assessed, if the property is correctly described.

D. The assessor may list real property located in any subdivision by lot and block or tract description, and unsubdivided property according to the land office section and township survey description, or by giving the boundaries thereof, or by reference to the book and page of the records of

the deputy magistrate where the description of tax lot number referring to a public record kept by the assessor of descriptions of real property, or in such other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, fractions and exponents to designate the township, range, section or part of a section or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

E. Every person shall submit to the assessor a personal property return of any property owned by him, or in which he has an interest, and of the property held or controlled by him in a representative capacity, in the manner prescribed in this chapter, which return shall be based on property values existing as of January 1 of the year in which the return is made. The person making the return in every case shall state address to which all notices required to be given to him under this chapter may be mailed or delivered. The return shall show the nature, quantity, description, and amount and value of all personal property, the place where the property is located, and said return shall be in such form and include such additional information as the council may prescribe, and shall be signed and verified under oath by the person liable or his or its authorized agent or representative. Said return shall be billed on or before January 15 of each year. The assessor may, by notice in writing to any person by whom a return has been made, require from him further return containing additional details and more explicit particulars, and upon receipt of the notice, that person shall comply fully with its requirements within 30 days.

F. The assessor personally, or by any designated assistant, shall, after identifying themselves, have the right to enter upon and inspect the premises of any person at reasonable times for the purpose of making an examination, valuation or assessment of either or both real and personal property. He shall have access to and may examine all property records involved, and any person shall, upon request, furnish to the assessor or his assistant every facility and assistance for the purpose of such examination, valuation or assessment. The assessor shall not be bound to accept as correct the return made by any person, but if he thinks it necessary or expedient, or if he suspects that a person who has not made a return has property subject to taxation, he shall make an independent investigation as to the property of that person, and may make his own valuation and assessment of the taxable amount thereof, which shall be prima facie evidence for all legal purposes and proceedings.

G. The assessor may examine a person on oath or otherwise, and upon request of the assessor, the person shall present himself for examination by the assessor. (Ord. 77-01 (part), 1977)

5.25.025 Content of assessment roll. The assessor shall prepare an annual assessment roll in duplicate upon which he shall enter the following particulars:

1. the name and last known addresses of all persons with property liable to assessment taxation;
 2. a description of all taxable property;
 3. the assessed value, quantity, or amount of said property; and
 4. the arrears of taxes, if any, owing by any persons.
- (Ord. 77-01 (part), 1977)

5.25.030 Notice, publication, correction of assessment roll.
A. The assessor shall give to every person named in the assessment roll a notice of assessment, showing the assessed value of his property. On the back of each assessment notice shall be printed a brief summary for the information of the taxpayer, of the dates when the taxes are payable, delinquent, and subject to interest and penalty, dates when the board will sit for equalization purposes and any other particulars specified by the board. The assessment notice shall be directed to the person to whom it is to be given, and shall be sufficiently given if it is mailed by first-class mail addressed to, or is delivered at, his address as last known to the assessor; or, if the address is not known to the assessor, the notice may be addressed to the person at the post office nearest to the place where the property is situated. The date on which the notice is mailed or is delivered shall be deemed to be the date on which the notice is given for purposes of this chapter.

B. When valuation notices have been mailed, the assessor shall cause notice that the assessment rolls have been completed to be posted at two public places for a period of two weeks. Such notice shall also state when and where the equalization hearings shall be held and that an appeal may be taken to the board of equalization upon the filing of notice in writing with the board specifying the grounds of the appeal.

C. The assessor may correct any error or supply any omission made or arising in the preparation of the assessment roll at any time before the sitting of the board of equalization. It shall be the duty of every person receiving a notice of assessment to advise the assessor of any error or omission he may have observed in the assessment of his property, in order that the assessor may correct the same. (Ord. 77-01 (part), 1977)

5.25.035 Appeal to board of equalization; Notice of appeal; Hearing.

A. Any person who receives notice or whose name appears on the assessment roll may appeal to the board with respect to any alleged error in the valuation, overcharge, omission or neglect of the assessor not adjusted to the taxpayer's satisfaction. Whenever it appears to the board that there are overcharges or errors or invalidities in the assessment roll, or in any of the proceedings leading up to or subsequent to the preparation of the roll, and there is no appeal before the board by which the same may be dealt with, or where the name of any person is ordered by the board to be entered on the assessment roll, by way of addition or substitution, for the purpose of assessment, the board shall cause notice of assessment to be mailed to that person or his agent giving him at least 30 days from the date of such mailing within which to appeal to the board against the assessment.

B. Notice of appeal, in writing, specifying the grounds for the appeal, shall be filed with the board within 30 days after the date on which the assessor's notice of assessment was given to the person appealing. Such notice must contain a certification that a true copy thereof was mailed or delivered to the assessor. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the council, unless it is shown to the satisfaction of the council that the taxpayer was unable to appeal within the time so limited. A copy of the notice of appeal must be sent to the assessor as above indicated.

C. Upon receipt of the notice of appeal, the assessor shall make a record of the same in such form as the board may direct, which record shall contain all the information shown on the assessment roll in respect of the subject matter of the appeal, and the assessor shall place the same before the council from time to time as may be required by the council. The council shall cause a notice of the sitting at which the appeal is to be heard to be mailed by the assessor to the person by whom the notice of appeal was given, and to every other person in respect of whom the appeal is taken, to their respective addresses as last known to the assessor.

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

council shall from time to time enter in the appeal record its decision upon appeals brought before it, and shall certify to the same. (Ord. 77-01 (part), 1977)

5.25.040 Entry of changes by assessor; Certification by clerk; Completion of assessment roll. A. The assessor shall enter the changes, so certified, upon his records, and no assessed valuations shall thereafter be changed. After the hearings held by the board of equalization are concluded, the assessor shall complete the annual assessment roll, at a time to be determined by the council, which shall be based on values as of January 1 immediately preceding, and he shall certify the same. Such supplementary assessment rolls shall be prepared and certified as may be necessary or expedient.

B. The clerk shall be ex-officio clerk of the board of equalization and shall record in the minutes of the meeting all proceedings before the board, the names of all persons protesting assessments. All changes, revisions, corrections, and orders relating to claims or adjustments and final decisions shall be recorded in a record to be kept by the clerk and to be known as the appeal record. Within three days following the final hearings of the board, the clerk shall transmit to the assessor all corrections, revisions, or changes authorized and approved by the board and shall certify that the changes so reported are as approved by the board of equalization.

C. All taxes to be levied or collected, except as otherwise provided, shall be calculated, levied and collected upon the assessed values entered in the assessment roll and certified by the assessor as correct, subject to the taxpayer's right of appeal and to the corrections and amendments made in the rolls pursuant to this chapter. (Ord. 77-01 (part), 1977)

5.25.045 Appeal to superior court. Any person feeling aggrieved by any order of the board shall have the right to appeal on a de novo basis to the superior court for the third judicial district, State of Alaska; provided, however, that the person has first taken his appeal to the board of equalization. (Ord. 77-01 (part), 1977)

5.25.050 Supplementary assessment rolls. All the duties imposed upon the assessor and the clerk with respect to the annual assessment roll and all the provisions of this chapter relating to assessment rolls shall, as far as applicable, apply to supplementary assessment rolls. Provided further, however, that the delinquent date when taxes shall become delinquent, as determined by the council, shall also apply to property listed on the supplementary assessment rolls. (Ord. 77-01 (part), 1977)

5.25.055 Delivery of assessment roll to council; Validity.

A. When the final assessment records have been completed by the assessor as herein provided, the assessor shall deliver to the council a statement of the total assessed valuation of all real and personal property within the city.

B. Every assessment roll as completed and certified by the assessor, and as corrected and amended by him from time to time in conformity with this chapter and the decisions of the council, shall, except insofar as the same may be further amended as a result of an appeal to the court, as provided by this chapter, be valid and binding on all persons, notwithstanding any defect, error, omission or invalidity existing in the assessment roll or any part thereof, and notwithstanding any proceedings pertaining thereto. (Ord. 77-01 (part), 1977)

5.25.060 Tax rate. The council shall thereupon by resolution fix the rate of tax levy and designate the number of mills upon each dollar of assessed real and personal property that shall be levied and shall levy the tax in accordance therewith. The assessor shall then prepare and mail tax statements to the person or persons listed as the owner on the tax rolls. After the due date for the payment of taxes, a penalty of 10 percent shall be added to all delinquent taxes, and interest at the rate of eight percent per annum shall accrue, as herein provided, upon all unpaid taxes (not including penalty) from due date until paid in full. (Ord. 77-01 (part), 1977)

5.25.065 Dates when taxes are due and payable. A. The first payment of property taxes is due September 30. Should the first one-half (1/2) of the total amount due not be paid on or before September 30, the entire amount of taxes owed shall immediately become due and payable. A penalty of 10 percent per annum and interest of eight percent per annum shall accrue.

B. The second payment and final payment of property taxes is due and payable on or before December 1. Failure to make the final payment shall cause penalty and interest to accrue from the due date of the second payment. (Ord. 77-01 (part), 1977)

5.25.070 Delinquent tax roll--Notice and publication of foreclosure list; Payments prior to sale; Requested notice.

A. The clerk shall within such time as the council may direct, after such taxes have become delinquent and due, make up a roll in duplicate of all real property then subject to foreclosure. Such roll shall show therein the names of the persons appearing in the latest tax roll as the respective owners of the tax delinquent properties, a description of each

such property as it appears on the latest tax roll, the year or years for which taxes are delinquent, the amount of delinquent taxes for each year and penalty and interest thereon, and thereon shall be enforced under the hand of the clerk and corporate seal, a certificate to the effect that said roll is a true and correct roll of the delinquent taxes of the city for the years there shown. The roll so made up shall be known as the foreclosure list of the City of King Cove for the year in which the same is made up, the original of which shall be filed with the clerk and remain open to inspection of the public. After the completion of the foreclosure list, the clerk shall cause to be posted in three public places a notice, together with the foreclosure list, stating that on a certain date not less than 30 days after posting the said list will be presented to the superior court for the State of Alaska together with a petition for judgment and sale. The clerk shall within 10 days after such posting, mail to each person to whom a tract is assessed at his last known address, a notice describing the tract, the amount due as stated on the foreclosure list. The foreclosure list as presented to the court shall remain posted for four weeks before the sale.

B. During the time of posting of the foreclosure list and up to the time of sale, owner or authorized person may make payment on any piece or tract set forth therein, together with the penalty and interest, and proportionate share of the costs of foreclosure; the clerk shall make proper notation of such payment on both the original delinquent tax roll and foreclosure list. On receipt of the delinquent tax payments as to a particular property any time one week prior to the filing of the foreclosure list and petition, the clerk shall remove the property from both the list and the petition.

C. A mortgagee or other holder of a recorded lien on real property may file with the clerk a written request that notice of any foreclosure list including such real property be given to such mortgagee or lienholder. The request shall contain the name and address of the person filing it, the description of the property and the name of the owner or reputed owner thereof, and the date of expiration of the mortgage or lien. Notice need not be given after the expiration of the mortgage or lien unless a further request therefor is filed. If the mortgagee or lienholder furnished a duplicate form of request for the notice, the clerk shall certify thereon to the filing and return the duplicate described in the request for notice and shall include notice of lien in the foreclosure list. The clerk shall then send by registered mail written notice thereof to the mortgagee or other lienholder. At the time of mailing the notice, the clerk shall note that fact in ink in the latest tax roll. The notation in the tax roll is prima facie evidence that the notice

was mailed. Where the same mortgagee or lienholder has filed requests for notices on two or more properties included in a foreclosure list, one notice may be issued covering all such properties. (Ord. 77-01 (part), 1977)

5.25.075 Real property--Foreclosure; Redemption.

A. One general proceeding shall be brought on the part of the city to foreclose the tax liens against each of the properties included in the foreclosure list. Foreclosure proceedings shall be in accordance with law. A certified copy of the judgment of the superior court shall constitute a certificate of sale to the city of the several properties described in the judgment and decree.

B. **Period during which property held by the city; redemption; assessment during redemption period; redemption of part of property.** All real properties sold to the city pursuant to law shall be held by the city for the period of one year from and after the date of the judgment and decree of foreclosure, unless sooner redeemed. During the one-year period, any person having an interest in the property at the date of the judgment and decree of foreclosure, or any heir or designee of such person, or any person holding a lien of record on the property under the judgment and decree, may redeem the property, with interest thereon as provided by law, and any costs charged against such property. Property so redeemed shall be subject to assessment for taxation during the period of redemption as though it had continued in private ownership. Any person holding a mortgage or other lien of record covering a part only of a particular parcel of real property included in the judgment and decree of foreclosure may redeem such part by payment of the proportionate amount applicable thereto under the judgment and decree.

C. **Notice of expiration of redemption period.** Not less than 30 days prior to the expiration of the period of redemption of any real property ordered sold to the city under a judgment and decree as provided herein, the clerk shall post a general notice relative to the expiration of the period of redemption. The notice shall contain the date of the judgment and decree, the date of expiration of the period of redemption, and warning to the effect that all properties ordered sold under the judgment and decree, unless sooner redeemed, will be deeded to the city immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the city. The notice shall be posted in three public places for four weeks.

D. **Deed to city.** Upon filing proof of posting of notice of expiration of redemption period as a part of the foreclosure proceedings, the properties not redeemed with the one-year

period prescribed herein shall be deeded to the city by the clerk of the court. All right of redemption, with respect to the real properties therein described, shall terminate on the execution of the deed to the district as required.

E. **Title to the city; title of purchaser on resale.** When the city acquires real property under foreclosure procedures, the conveyance vests in the city title to the property, free from all liens and encumbrances except unpaid taxes and assessments duly levied for local improvements to the property, and liens of the United States and the State of Alaska. (Ord. 77-01 (part), 1977)

5.25.080 Personal property--Delinquency; Remedies. Owners of personal property assessed shall be personally liable for the amount of taxes assessed against their personal property and such tax, together with penalty and interest, may be collected after the same becomes due by a personal action brought in the name of the city against such owner in the courts of the state. (Ord. 77-01 (part), 1977)

5.25.085 Collection of personal property taxes. The city clerk shall make demand of the person owning the property assessed for the amount of the tax, penalty and interest. If not paid within 60 days, the clerk shall issue a warrant directing the chief of police or other police officer of the city to forthwith seize, levy upon, distraint, and sell such personal property of the person assessed as the tax may have been levied upon; and if the same is not sufficient to satisfy the tax penalty and interest and the costs and expenses of such a sale, the warrant may authorize the seizure, levy, distraint and sale of such other property of the person against whom the tax was assessed as may be sufficient to satisfy the tax, penalty, interest and costs of sale. The sale shall be a public auction and shall be held after at least 15 days notice given by posting notice of the sale in three public places within the city, one of such places being the city bulletin board. If the proceeds of the sale are insufficient to satisfy the tax, penalty, interest and costs of the sale, a supplemental warrant may be issued and executed as above set forth. The costs and expenses of the proceeding that may be satisfied from the proceeds of the property sold shall in no event exceed 20 percent of the proceeds received from the sale. (Ord. 77-01 (part), 1977)

Chapter 5.30 -- Special Assessments

Sections:

- 5.30.010 General intent.
- 5.30.020 Definitions.
- 5.30.030 Improvement districts; assessment of costs.
- 5.30.040 Initiation.
- 5.30.050 Initiation by petition.
- 5.30.060 Initiation by council or mayor.
- 5.30.070 Report and recommendation--Resolution.
- 5.30.080 Method of assessment.
- 5.30.090 Council action on proposed district.
- 5.30.100 Notice of hearing.
- 5.30.110 Improvement plan--Objections and revisions.
- 5.30.120 Hearing.
- 5.30.130 Recording resolution and proposed assessment roll.
- 5.30.140 Award of contract--Review of costs.
- 5.30.150 Assessment roll.
- 5.30.160 Hearing and certification of assessment roll.
- 5.30.170 Payment, interest and penalty.
- 5.30.180 Assessments to be liens; enforcement.
- 5.30.190 Reassessment.
- 5.30.200 Objection and appeal.
- 5.30.210 Sufficiency of notice.
- 5.30.220 Initiation by agreement.
- 5.30.230 Termination of district by request.
- 5.30.240 Financing.

5.30.010 General intent. It is the intent of this chapter to define the procedures for a local improvement district from its inception to conclusion, step-by-step, for public information as well as administrative guidance, and to supersede and replace to the fullest extent permitted under AS 29.46.020 all the procedures set out in AS 29.46.030 - AS 29.46.100. An improvement district that is established pursuant to this chapter shall constitute a legal and valid local improvement district. (Ord. 94-7 (part), 1994)

5.30.020 Definitions. In this chapter, unless otherwise provided or the context otherwise requires, the following words and phrases shall have the meanings set forth in this section:

A. "Assessable cost" means the cost or portion of the cost that will be assessed against the property within a local improvement district.

B. "Cost" means all expenses incurred by the city for making an improvement and includes, but is not limited to, advertising and mailing expenses; planning, engineering, surveying and architect fees and expenses; acquisition, installation and construction expenses; legal fees; expenses incurred in planning and forming a special assessment district; costs of interim financing and permanent financing of the improvement, including the issuance of bonds; and administrative overhead as established by the council of the city.

C. "Improvement" includes, but is not limited to, planning, acquiring, designing, constructing, erecting, building, establishing, installing, making, laying out, altering, opening, improving and repairing of sewer and water supply and distribution systems, electrical supply and distribution systems, street lighting, streets, avenues, sidewalks, alleys, bridges, squares, and other public ways and places within the city, including associated and other utilities or improvements of a similar or different nature, or both.

D. "Local improvement district", "improvement district" and "district" mean a local improvement district established pursuant to this chapter and includes all parcels and rights-of-way included within the boundaries being benefited by a specific improvement, whether the boundaries are described by metes and bounds, lot and block, township and range, or otherwise. The term "special assessment district" may be used interchangeably with "local improvement district".

E. "Record owner" means the person in whose name property is listed on the property roll and is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment may be made against "unknown owner". For purposes of this chapter, the city shall use the Aleutians East Borough property tax roll, if available, but if the Aleutians East Borough does not maintain a property tax roll, the property tax roll of the City of King Cove shall be used. If neither the Aleutians East Borough nor the city maintain a property tax roll, then the city shall use a roll of real property affected by the local improvement district that is prepared in compliance with subsections 5.25.020 C. and D. of this code. (Ord. 94-7 (part), 1994)

5.30.030 Improvement districts; assessment of costs. The city may create local improvement districts and assess the property of a state or federal governmental unit and private real property to be benefited by capital improvements for all or a portion of the cost of such improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under AS 29.46.020(b) and this chapter. If a governmental unit other than the state benefited by an improvement refuses to pay an assessment, it shall be denied the benefit of the improvement. (Ord. 94-7 (part), 1994)

5.30.040 Initiation. A. The establishment of an improvement district may be initiated by:

1. submission to the clerk of a petition meeting the requirements of subsection B of this section,
2. action of the mayor to prepare and present a report and recommendation under this chapter, or
3. a request of the council by motion, resolution or ordinance that the mayor prepare and present a report and recommendation under this chapter.

B. A petition to establish a local improvement district shall include a description of the improvement sought by the petition and a map showing the area proposed for the local improvement district. Petition forms may be obtained from the city clerk. The original or copies of the petition must be signed by the owners of property equal to 50 percent or more of the assessed value of the property within the proposed district. In the event two or more persons are shown as record owners of a parcel, the signature of any one of the owners shall be sufficient to count the entire parcel. The petition shall be filed with the city clerk. No property owner may withdraw a signature for three months after the petition has been filed with the city clerk unless authorized by the council. Withdrawal of a signature after the date of the mayor's report and recommendation shall not affect the validity of subsequent council action in the establishment of a district. (Ord. 94-7 (part), 1994)

5.30.050 Initiation by petition. A. Upon receipt of a petition for the formation of an improvement district the city clerk shall forward the petition to the council. The council shall by resolution:

1. determine whether the petition has sufficient and proper petitioners and signatures; and
2. make a preliminary determination whether the requested improvement appears to be necessary and should be made. The findings made by the council under this section are conclusive.

B. A resolution of the council containing affirmative determinations pursuant to subsection A shall constitute direction to the mayor to prepare a report and recommendation pursuant to § 5.30.070. (Ord. 94-7 (part), 1994)

5.30.060 Initiation by council or mayor. Upon direction by the council, or upon a determination by the mayor that a report and recommendation should be made on the establishment of a particular local improvement district, the mayor shall prepare a report and recommendation pursuant to § 5.30.070. (Ord. 94-7 (part), 1994)

5.30.070 Report and recommendation--Resolution. A. When required or authorized by §§ 5.30.050 or 5.30.060, the mayor shall prepare a report and recommendation on the establishment of a proposed local improvement district. If, during the investigation of the feasibility of the improvement, the mayor determines the boundaries of a district proposed by a petition or by the council should be modified, or that the type or scope of improvements should be changed, the report and recommendation prepared by the mayor shall be on the district and improvements determined by the mayor to be more appropriate; provided, the report shall contain the mayor's reasons for the deviation. The deletion by the mayor of property from a district proposed by petition does not affect the authority of the council to establish the district, even if the remaining properties on the petition do not represent 50 percent of the value of the property in the district proposed by the mayor.

B. As soon as is reasonably practicable, the mayor shall prepare and submit to the council the report and recommendation, which shall contain substantially the following:

1. A map of the district recommended by the mayor, noting any deviations from the boundaries requested in a petition or by the council.

2. A narrative description of the district, including where appropriate:

- a. number of parcels,
- b. assessed value of the real property, by each parcel and for the entire district,
- c. type and degree of existing development,
- d. existing improvements, and
- e. other relevant factors such as the zoning and comprehensive plan designations within the district, city and borough capital improvement plans affecting the district, and private development plans, if known.

3. A description of the type and location of improvements recommended by the mayor, noting any deviations from those requested by the petition or the council.

4. The estimated amount or proportion of the costs that will be borne by the city.

5. Estimated costs of the improvements.

6. Estimated date for the beginning and completion of the improvements.

7. The recommended method or formula for spreading the assessable costs among the properties within the district.

8. The source of funds to be used to pay the city's share of the improvements, including assessments against city property.

9. The ratio of the assessed value of all property in the district to the estimated costs that will be assessed against the property.

10. The recommended method and term of interim and permanent financing of the costs of the improvements.

11. The recommended number of years over which assessments may be paid.

12. A preliminary assessment roll showing all parcels within the improvement district identified by their property tax roll identification number, if any, and by such other description as may be convenient, the names and mailing addresses of the record owners of each parcel, and the estimated assessment against each parcel.

13. The mayor's recommendation on whether the council should proceed with the establishment of the proposed district

C. If the mayor determines a district that was initiated by petition or by council request should not be established because it is not necessary or feasible, or for other reasons, the mayor may provide to the council a narrative report containing a recommendation that no further action be taken to establish the district. The report must set out the reasons for the recommendation and need contain only so much information as may be necessary to support the reasons for the recommendation. If the council approves the recommendation, no further action shall be taken. If the council, by majority vote, rejects the recommendation, it shall require the mayor to prepare a report and recommendations pursuant to subsection B of this § 5.30.070.

D. If the mayor's recommendation under this section is to establish a district, the mayor shall include with the report and recommendation a proposed resolution to establish the district. The resolution must contain the following:

1. A section establishing the local improvement district.

2. The boundaries of the district described by metes and bounds, lot and block, township and range, or other means by which the property included within the district can be made certain. District boundaries may, but need not, follow existing property lines.

3. A summary description of the improvements to be made, approval of the improvements, and authorization to proceed with the improvements.

4. A finding that the improvements are necessary and will benefit the property within the district and that the benefit will exceed the assessment.

5. The amount or the method of computing the amount of city or other funds to be used to pay the costs not assessed against the parcels in the district.

6. The method of spreading assessable costs among the property in the district. (Ord. 94-7 (part), 1994)

5.30.080 Method of assessment. In determining the method of spreading assessable costs, the mayor and council shall be guided by the policy that assessments should be substantially in proportion to the benefit received. Methods of spreading assessments include, but are not limited to:

1. per lot,
2. per front foot,
3. per square foot, including per square foot of developable area,
4. per assessment unit based on any reasonable measure,
5. value of property,
6. zone and termini,
7. extent of use or potential use, and
8. other methods or a combination of methods.

(Ord. 94-7 (part), 1994)

5.30.090 Council action on proposed district. Upon receipt of the report and recommendation of the mayor and a resolution proposing the establishment of a local improvement district, the council may introduce the resolution and set a time for a public hearing on the resolution. The hearing shall be for the purpose of hearing objections to the improvement and formation of the district. (Ord. 94-7 (part), 1994)

5.30.100 Notice of hearing. A. Notice of the hearing required by § 5.30.090 shall be published at least once a week for four consecutive weeks in a newspaper of general circulation if distributed within the city. Notice shall also be posted in at least three public places in the city for not less than four weeks prior to the hearing. Notices shall also be sent by first class mail to every record owner of property within the improvement district, to the last known address, not less than 28 days prior to the hearing.

B. The posted and published notice required by subsection A shall contain:

1. A statement that the council proposes to establish a local improvement district, including the type of improvements to be constructed.
2. The general location of the proposed district and either a summary or detailed description of the boundaries or property within the district.
3. The total estimated cost of the improvement.
4. The proportion or estimated amount of the costs that will be assessed against the property.
5. The place where interested persons may review the report and recommendation of the mayor on the proposed district.

6. The date, time and place where the public hearing on the improvement and the formation of the district will be held.

7. The date by which written objections to the district or the improvement must be received by the city clerk.

C. The mailed notice to record owners required by subsection A shall contain:

1. All information required by subsection B.

2. The name of the record owner or owners.

3. A description of the parcel, either by property roll identification number, by a legal description, or by other means by which the parcel's identity can be made reasonably certain.

4. The estimated assessment against the parcel.

5. A map showing the proposed boundaries of the district.

6. A summary of the right of the property owner to object, and the necessity of filing a written objection.

7. A statement that the council may proceed with the formation of the district unless the owners of the property that would bear 50 percent or more of the costs of the improvement object in writing or unless the council makes changes that produce a net increase of more than 15 percent to the estimated assessment on any parcel; except, that the council may proceed over the objections of property owners upon the approval of not fewer than three-fourths of the council. (Ord. 94-7 (part), 1994)

5.30.110 Improvement plan--Objections and revisions.

A. The record owner of property to be assessed may file a written objection to the plan no later than the close of business on the day before the public hearing required in Section 5.30.090. If the record owners of property that will bear 50 percent or more of the estimated total cost of the improvement file timely written objections, the council may not proceed with the establishment of the district or the improvement until the plan is revised and the objections are reduced to less than 50 percent; except, the council may proceed with the establishment of the district and the improvement over such objections upon approval of not fewer than three-fourths of the council.

B. A plan revised to meet property owner objections shall be treated as a plan provided by the mayor and shall be subject to the notice, hearing and objection procedures of §§ 5.30.100 through 5.30.120. (Ord. 94-7 (part), 1994)

5.30.120 Hearing.

A. At the hearing required by § 5.30.100, the council shall consider the written objections and comments received, any staff analysis or comment on the

written objections, oral testimony provided at the hearing and such other information as may be available. The council may adopt the formation resolution with or without amendment.

B. The council may make such changes as it finds appropriate to the boundaries of the district, the type, cost and location of improvements proposed, the amount of city participation in the cost of the project, the formula for spreading the assessment, or other aspects of the proposal; provided, if parcels not previously included are added to the district or if the changes, in the aggregate, result in an increase of over 15 percent to the estimated assessment to a parcel, the record owner of each such parcel shall be entitled to mailed notice in substantially the form set out in subsection 5.30.100 B. The council shall hold a second hearing on the establishment of the district. Only those persons entitled to notice under subsection 5.30.120 B may file objections; provided, any person who previously filed an objection may withdraw the objection.

C. The council may proceed with consideration of the resolution before the expiration of the notice period if each record owner entitled to notice gives written waiver of the right to object. (Ord. 94-7 (part), 1994)

5.30.130 Recording resolution and proposed assessment roll.

After adoption by the council of the resolution establishing the improvement district, the resolution and a proposed assessment roll based on the estimated costs approved by the council shall be recorded in the district recorder's office. Neither the failure to record the resolution and roll as required by this section nor any errors or defects in the proposed assessment roll shall in any manner affect the validity of the formation of the district, the inclusion of any property in the district, the assessment against any property, or any other matter or proceeding under this chapter. (Ord. 94-7 (part), 1994)

5.30.140 Award of contract--Review of costs.

A. After adoption of the resolution establishing the district, the city may proceed with the construction of the improvement unless, at the time the contract for the improvement or the first portion thereof, is to be awarded, the mayor determines the most current estimated costs of the improvement will cause assessable costs within the district to be increased by more than 25 percent.

B. If the estimated assessable costs are increased by more than 25 percent as determined under subsection A and the estimated assessable costs are more than 50 percent of the total estimated cost of the improvement, the record owners of property within the district shall be provided mailed notice of the increase in assessable costs and shall be given an opportunity

to file written objections against proceeding with the improvement. Notice shall be mailed by certified mail, return receipt requested. Written objections must be received by the clerk not later than the close of business on the twenty-first day following the date the notice is mailed. If the timely filed objections represent property that would bear 50 percent or more of the total costs of the improvement, the improvement may not be made; except, the council may proceed with the improvement over such objections upon approval of not fewer than three-fourths of the council. If the timely filed protests do not represent parcels that would bear 50 percent or more of the estimated costs of the improvement, or if the estimated assessable costs are 50 percent or less of the estimated costs of the improvement, the city may proceed with the improvement.

C. At any time, the council may increase the city's contribution to the project and such increase shall be taken into account when computing the percentage of the estimated assessable costs.

D. After the award of the contract for the improvement, or the first portion thereof, all increases in the costs of the improvement shall be borne by the property owners and the city in accordance with the formula for spreading the assessment approved by the council. (Ord. 94-7 (part), 1994)

5.30.150 Assessment. A. At any time after the actual costs of the improvement are known, including reasonable estimates of the costs to be incurred in connection with the issuance of bonds or other financing, the mayor shall prepare an assessment roll spreading the assessable costs of the improvement in accordance with the method approved by the council. The assessment roll shall contain for each parcel in the district the name and address of the record owner, a legal description of the parcel, and the amount of the assessment. If the owner is unknown, the assessment roll may show such owner to be "unknown owner".

B. The clerk shall fix a time to hear objections to the assessment roll. A notice of the hearing shall be posted in three public places and published in a newspaper of general circulation, if distributed within the city, at least 10 days before the hearing. Notice of the assessment and assessment roll hearing shall be sent by certified mail, return receipt requested, to each record owner of an assessed property not less than 15 days prior to the hearing. The mailed notice shall contain:

1. The name of the record owner or owners.
2. A description of the parcel by property roll identification number, by a legal description, or by other means by which the parcel's identity can be made reasonably certain.

3. The amount of the assessment against the parcel.
4. The date, time and place of the hearing on the assessment roll.
5. A statement that a written objection to an assessment must be received by the clerk by the close of business on the day prior to the hearing on the assessment roll.
6. Notice that if the council finds corrections to the assessment roll are necessary, it may increase the assessment against the parcel by up to five percent without further notice or hearing. (Ord. 94-7 (part), 1994)

5.30.160 Hearing and certification of assessment roll. A.

At the hearing on the assessment roll, the council shall hear oral objections to assessments and shall consider all written objections that were timely filed with the clerk. The property owner has the burden of proving an error in the assessment. An error may be shown by proving an error in computation or measurement or that the property cannot receive any benefit, gain or advantage from the improvement.

B. After consideration of objections, the council shall correct any errors in the roll and adjust all assessments to account for any deficiency or overage that accrues because of corrections. If an assessment is increased by more than five percent, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of property on which the assessment was increased by more than five percent.

C. When the roll is corrected, the council shall pass a resolution confirming the assessment roll. (Ord. 94-7 (part), 1994)

5.30.170 Payment, interest and penalty. A.

In the resolution confirming the assessment roll the council shall fix the time of payment, penalties for delinquency, and the rate of interest or the method of computing the rate of interest on the unpaid balance of the assessment. The council may require payment to be in one sum or it may authorize payment in installments. If payment is to be in one sum, payment may not be required sooner than 60 days after mailing of the assessment statement. Prepayment of all or a part of the balance of an assessment may be made with interest to the payment date or under such other terms and conditions as may be set out in the resolution confirming the assessment roll.

B. Within 30 days after the adoption of the resolution confirming the assessment roll, a statement shall be mailed to the record owner of each parcel assessed. The statement shall identify the property, the final assessment amount, the method

of payment, the rate or method of calculating interest, the time of delinquency, penalties on delinquencies, and conditions, if any, of prepayment.

C. Notice that the statements have been mailed need not be published. The failure to provide notice of the final assessment, penalties and interest to any record owner does not in any manner affect the validity of the assessment, the interest owing on the balance of the assessment or the lien of the assessment. (Ord. 94-7 (part), 1994)

5.30.180 Assessments to be liens; enforcement. Assessments are liens upon the property assessed and are prior and paramount to all other liens except municipal property tax liens. They may be enforced as provided in AS 29.45.320 through 29.45.470 for the enforcement of property tax liens, except foreclosure actions may be commenced more or less often than annually. (Ord. 94-7 (part), 1994)

5.30.190 Reassessment. A. The council shall within one year correct any deficiency in a special assessment found by a court. Notice and hearing must conform to the initial assessment procedures.

B. Payments on the initial assessment are credited to the property upon reassessment. The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure. (Ord. 94-7 (part), 1994)

5.30.200 Objection and appeal. A. The regularity or validity of an assessment may not be contested by a person who did not file with the city clerk a written objection to the assessment roll before its confirmation.

B. The decision of the council upon an objection may be appealed to the superior court within 30 days of the date of confirmation of the assessment roll. If no objection is filed or an appeal taken within that time, the assessment procedure shall be considered regular and valid in all respects. (Ord. 94-7 (part), 1994)

5.30.210 Sufficiency of notice. Notice required to be given under this chapter is sufficient if the time the notice is posted, published, or mailed and the content of the notice are in substantial compliance with the requirements of this chapter. Notice that is not sufficient as to an individual or parcel does not affect the validity of any proceeding, assessment, or lien under this chapter as to any other individual, parcel, or the remainder of the district. (Ord. 94-7 (part), 1994)

5.30.220 District by agreement. When all of the record owners of real property within an area enter into a written agreement approved by the city attorney, the council may

establish a local improvement district consisting of such property by resolution. Upon the execution of the agreement and adoption of the resolution, the property owners who are parties to the agreement waive all rights to notice, hearing and objection under this chapter except those specifically reserved in the agreement or resolution. The lien of assessments on property within a district formed under this section have the same force, effect, and priority and may be foreclosed in the same manner as the lien of other assessments under this chapter. (Ord. 94-7 (part), 1994)

5.30.230 Termination of district by request. The improvement project of a local improvement district that is established according to the procedures outlined in this chapter may subsequently be terminated upon the written request of the record owners of property that will bear more than 50 percent of the total cost of the improvement if the request is approved by not fewer than three-fourths of the council. Costs incurred prior to, and costs incurred as a result of termination of such an improvement project will become an assessment on the property in the district if the then current estimate of total cost of the improvement does not exceed 125 percent of the estimated total cost last presented to the property owners in a proceeding where property owners were given a right to object under this chapter. (Ord. 94-7 (part), 1994)

5.30.240 Financing. A. The city may finance all or a part of the costs of a local improvement under this chapter as provided in Title 29 of Alaska Statutes.

B. The council may, by ordinance or resolution, as appropriate, establish or authorize such terms and conditions as it finds appropriate for financing the costs of improvements under this chapter. (Ord. 94-7 (part), 1994)

Chapter 5.40 -- Fish Processing Business Tax

Sections:

Article 1. Levy; General Provisions

- 5.40.110 Definitions.
- 5.40.115 Fish processing business tax levied.
- 5.40.116 Determination of rate of levy.
- 5.40.117 Annual tax credit.
- 5.40.120 Exclusion from fish processing business tax.
- 5.40.125 Regulations; Forms; Rulings.

Article 2. Licensing; Returns and Payment; Records

- 5.40.210 License required.
- 5.40.215 Monthly return; Tax payments.
- 5.40.220 Under- or overpayment of tax.
- 5.40.225 Returns confidential; Exceptions.
- 5.40.230 Preservation and examination of books and records; Investigations.

Article 3. Enforcement; Appeals; Violations; Penalties

- 5.40.310 Estimated taxes upon non-filing of return or refusal to allow examination.
- 5.40.315 Civil penalties.
- 5.40.320 Delinquent tax lien.
- 5.40.325 Enforcement.
- 5.40.330 Appeals.
- 5.40.335 Criminal violations; Penalties.

Article 1. Levy; General Provisions

5.40.110 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Business: Includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly.

Fisheries resources: Has the same meaning as in 15 AAC 75.300.

Mayor: Means the mayor of the city or the person designated by the mayor to perform one or more of the functions of the mayor under this chapter.

Person: Has the same meaning as in § 1.05.025.

Processing fisheries resources: Means any activity that modifies or preserves the physical condition of a fisheries resource, including without limitation, butchering, freezing, salting, cooking, canning, dehydrating, smoking, decapitating,

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gutting, gilling, sliming, icing, or other activities performed in preparing fisheries resources for further processing, for subsequent sale, or to maintain the quality of the fresh resource, regardless of whether the processor owns the fisheries resources and regardless of whether the processor is the seller in a subsequent sale of the fisheries resources. Notwithstanding the foregoing, "processing fisheries resources" does not include decapitating shrimp and gutting, gilling, sliming, or icing a fisheries resource solely for the purpose of maintaining the quality of the fresh resource when done by a licensed commercial fisherman on the commercial fishing vessel that caught the fisheries resources.

Taxpayer: Means a person who is liable for the tax imposed under this chapter. (Ord. 2002-09, 2002)

5.40.115 Fish processing business tax levied. A. A person engaged in the business of processing fisheries resources is liable for and shall pay the tax hereby levied on all fisheries resources processed in the city. The rate of levy shall be determined under § 5.40.116.

B. For purposes of calculating the tax imposed by this chapter, the weight of fisheries resources will be the weight reported on the fish ticket or, if no fish ticket is given, other evidence of receipt by the fish processing business when it acquires the fisheries resource.

C. The taxes levied in this chapter shall be additional to any other tax or license fee imposed or levied under any law or any other ordinance of the city except as herein otherwise expressly provided.

D. The taxpayer shall not collect the tax imposed by this chapter from, nor shall the liability for the tax otherwise be passed on to, any fisherman or other person from whom the taxpayer acquires the fisheries resources. (Ord. 2002-09, 2002; Ord. 2002-12 § 1, 2002)

5.40.116 Determination of rate of levy. A. The city council will by ordinance annually determine the rate of levy, expressed in terms of dollars or cents per pound of fisheries resources processed.

B. If the ordinance fixing the annual rate of levy is enacted before the last day of February, the rate of levy will be effective as of January 1 for that entire calendar year. If the ordinance fixing the annual rate of levy is enacted on or after March 1, the new rate of levy will be effective commencing on the first day of the month following the month in which the ordinance is enacted, and the preceding year's annual rate of levy will continue in effect prior to that date.

C. If the city council does not enact the ordinance determining the annual rate of levy prior to January 1, the rate of levy for the preceding calendar year shall be used by the taxpayer for the purpose of filing monthly tax returns and paying taxes owed before the new annual rate of levy is fixed. Appropriate amended

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returns must be filed to reflect any changes in the tax owed if the annual rate of levy is fixed after the taxpayer has filed one or more returns and paid taxes based on the preceding year's rate of levy. (Ord. 2002-12 § 2, 2002)

5.40.117 Annual tax credit. A. A credit is allowed annually to every person engaged in processing fisheries resources against taxes imposed by this chapter. The amount of the credit is equal to the amount of tax that would be payable on 10,000,000 pounds of fisheries resources at the annual rate of levy determined under § 5.40.116.

B. The amount of the annual credit allowed to a person by this section shall not exceed the amount of tax imposed on the person by this chapter in that calendar year.

C. In no event shall the credit be applied to any other amount owed to the city, including, but not limited to, fees, penalties, fines, interest, or any other amounts owed to the city, whether under this chapter or otherwise. (Ord. 2002-12 § 3, 2002)

5.40.120 Exclusion from fish processing business tax. A person is not liable for the tax levied under this chapter when the fishery resource is frozen aboard a fishing vessel if:

1. the vessel is operated as a commercial fishing vessel under a valid commercial fishing license,
2. the fishery resource is not processed beyond heading, gutting or cleaning, freezing and glazing;
3. the fishery resource is caught by the vessel; and
4. the fishery resource is sold by the person claiming an exclusion from the tax to a fish processing business licensed under this chapter for processing in the city. (Ord. 2002-09, 2002)

5.40.125 Regulations; Forms; Rulings. A. The mayor may take any action necessary or appropriate to implement this chapter by promulgating regulations, which may include the adoption of forms. Such regulations or any procedures adopted by the mayor are effective at the time indicated by him, but are subject to revision or repeal by the city council at the next meeting following their effective date or at any time that the council acts thereon.

B. If a taxpayer is in doubt as to the application of this chapter to an actual situation, the taxpayer may apply to the mayor for an informal ruling on this issue. Rulings having general application may, at the direction of the mayor, be promulgated as regulations. (Ord. 2002-09, 2002)

Article 2. Licensing; Returns and Payment; Records

5.40.210 License required. A. A person engaging or attempting to engage in a fish processing business in the city must first apply for and obtain a license. The license is good for the calendar year in which issued, and must be renewed on or before January 1 of each succeeding year.

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B. An application for a license must be filed with the city clerk on a form prepared by the city and accompanied by an annual license fee of twenty-five dollars (\$25.00). A separate annual fee is required for each processing plant or location specified in the application. The application must contain the name of the applicant, the place(s) of business, and other facts that the mayor prescribes. The application must include the statement that the applicant will make a return and pay the tax at the time provided by law. Upon receipt of the application in proper form, accompanied by the annual fee, the city clerk will issue the license. (Ord. 2002-09, 2002)

5.40.215 Monthly return; Tax payments. A. Each person liable for payment of the tax must file a monthly return with the city on forms provided by the city. The return must contain an account by weight of all fisheries resources acquired for processing during the month, the amount of tax due, and such other information as the mayor prescribes by regulation. The return is due on or before the last day of the following calendar month.

B. The mayor is authorized, but not required to mail to taxpayers forms for returns, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or other amounts, when and as due under this chapter.

C. The tax imposed by this chapter must be paid monthly on or before the due date for filing the monthly return. Tax not paid when due will bear interest from the due date until paid at the interest rate specified in A.S. 45.45.010(a).

D. Taxes and other amounts payable under this chapter must be paid to the city by bank draft, certified check, cashier's check, personal check or money order, or in cash. If payment is made by draft or check, the tax or other amounts will not be deemed paid unless the check or draft is honored in the usual course of business; nor will the acceptance of any sum by the city be an acquittance or discharge of the tax or amount due unless the amount of the payment is in the full and actual amount due.

E. Whenever payment of any tax or other amount imposed by this chapter is made by check which is returned for lack of sufficient funds or for any other reason, any tax or other amount paid by that check is not deemed paid until payment with good funds is made to the city of the original amount due, plus interest and an additional returned check fee of twenty dollars (\$20.00), by certified check, money order, or in cash. Additional penalties as provided in this chapter will apply. (Ord. 2002-09, 2002; Ord. 2002-12 § 4, 2002)

5.40.220 Under- or over payment of tax. A. Assessments or demands for any additional tax, fee, penalty, or interest shall be made by the mayor within three years after the close of the month in which the same accrued, with the following exceptions:

1. assessments or demands for any additional tax, fee, penalty or interest due as a result of failure to file a tax return as required by this chapter may be made by the mayor against the

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taxpayer within six years after the close of the month in which the same accrued;

2. against a taxpayer who has committed fraud an assessment may be made by the mayor within six years after the fraud is discovered;

3. against a taxpayer who misrepresented a material fact an assessment may be made by the mayor within six years after the misrepresentation is discovered;

4. if, within such three-year period, the mayor has given written notice to a taxpayer that the mayor has begun an audit, examination, or other investigation of the taxpayer or its records, then the time for making an assessment or demand shall be extended by six months; or

5. where a taxpayer has executed a written waiver of such limitations.

B. If, after receipt of a written application for a refund within the time period specified within this subsection, the mayor determines upon an audit of a taxpayer's records or an examination of a taxpayer's returns or records that the taxpayer has paid any amount of tax, penalty, or interest in excess of the amount due for the period identified in the refund application, that amount shall, at the taxpayer's option, be either credited to the taxpayer's account or refunded to the taxpayer. No refund or credit may be allowed for taxes, penalties, or interest accrued more than three years prior to the beginning of the calendar month in which the written refund application is made.

C. The denial of a refund may be appealed as set forth in § 5.40.330.

D. No interest shall be allowed on any refund granted under this chapter.

E. The mayor may enter into a written agreement, subject to city council approval, with any person relating to the liability of such person in respect of any tax, penalty, interest, fee, or assessment imposed by this chapter in settlement of a genuine and substantial dispute as to the taxpayer's liability for any taxable period or periods for which the time for filing a written application for refund has not expired under subsection (B) of this section. Such an agreement will not bind the city unless approved by the city council.

F. Notwithstanding any other provision of this section, no application for refund may be filed for taxes, penalties, or other amounts paid in relation to an estimated return made by the mayor under § 5.40.310, and any attempted application for a refund of such amounts must be denied. A taxpayer's sole remedy with respect to such payments is an appeal to the superior court from the mayor's ruling on a petition for reconsideration as provided in § 5.40.310. (Ord. 2002-09, 2002)

5.40.225 Returns confidential; Exceptions. A. A tax return made pursuant to this chapter and the facts and information disclosed in any examination of books and records of a taxpayer are not matters of public record and must be kept confidential, except:

1. as necessary in connection with official investigations or proceedings, whether judicial or administrative,

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involving taxes, penalties, or other amounts due under this chapter; or

2. pursuant to subpoena or court order; or
3. with the consent of the taxpayer; or
4. as otherwise provided in this section.

B. The mayor may permit the proper officer of the United States or of a state, territory, or possession of the United States, or of a municipality of the State of Alaska, or such officer's authorized representative, to inspect the tax returns, reports, or other information, if the other jurisdiction grants substantially similar privileges to the city or its representative or to counsel for the city, and if the mayor determines that the other jurisdiction provides adequate safeguards for the confidentiality of the returns and information, and the returns and information will be used for tax or law enforcement purposes only.

C. Nothing in this section shall prohibit the city or any officer or employee of the city from:

1. giving such facts or information in evidence in any court action involving the taxes or other amounts imposed by this chapter or a violation of the provisions hereof or involving another municipality or a department of the state and the taxpayer; or

2. giving such facts and information to the taxpayer or his or her duly authorized agent; or

3. publishing the amount of taxes collected from each taxpayer under this chapter; or

4. publishing other statistics presented in a manner that prevents the identification of individual returns or reports of items thereon; or

5. publishing delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by law, together with other relevant information that in the opinion of the mayor may assist in the collection of delinquent taxes. (Ord. 2002-09, 2002)

5.40.230 Preservation and examination of books and records; Investigations.

A. A person liable for payment of taxes under this chapter must preserve for not less than five years all books and records pertaining to acquisition and processing of fisheries resources in the city from which can be determined the amount of tax due under this chapter, including, but not limited to, records of fish tickets and receipts given upon acquisition of fisheries resources. Such books and records must be made available for examination by the mayor at all reasonable times.

B. If any such person does not keep the necessary books and records within the city for examination, it will be sufficient if such person produces within the city such books and records as may be required by the mayor, or bears the cost of examination by the mayor at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the city the estimated amount thereof including round-trip transportation fares, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

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C. In addition, or as an alternative, to examining the books and records of a taxpayer, the mayor may hold hearings and conduct investigations to determine the accuracy of a person's returns and payments of the tax. The mayor may subpoena witnesses to attend and require that testimony be given under oath or affirmation. (Ord. 2002-09, 2002)

Article 3. Enforcement; Appeals; Violations; Penalties

5.40.310 Estimated taxes upon non-filing of return or refusal to allow examination. A. If any taxpayer neglects or refuses to file a complete and accurate return as and when required by this chapter, or refuses to provide or make available books and records for examination as directed by the mayor, then the mayor may, based upon such information as may be available or obtained as the result of an investigation, determine and assess an estimated amount of taxes due for the applicable period or periods. Such assessment shall be deemed prima facie correct and shall be the amount of tax owing the city by the taxpayer.

B. The mayor will promptly notify the taxpayer of the amount of tax so determined and assessed, together with any penalty and interest due. The total of such amounts shall be immediately due and payable. Interest will be computed from the original due date of the taxes assessed. The notice must be served personally or by registered or certified mail at the address of the taxpayer as shown on the current or most recent license.

C. The mayor's determination and assessment will become binding, final and unappealable 30 days from the date of personal service or the date of mailing of the notice; provided, however, that within such 30-day period the taxpayer may petition the mayor for a reconsideration of the assessment. Such petition must be in writing, must include the facts, supporting documentation, and accurate figures showing the correct amount of tax, and must be submitted under oath or affirmation. The mayor may conduct hearings, require the person to provide additional information, examine books and records, and otherwise conduct an investigation as necessary for the mayor's consideration of the petition. Failure to timely file the petition for reconsideration authorized by this subsection will be a waiver of the right of appeal to superior court from the mayor's determination and assessment.

D. The taxpayer bears the burdens of proof and persuasion. In ruling upon a petition for reconsideration, the mayor may modify the estimated return in accordance with findings based upon the evidence. The mayor's final ruling on the petition and estimated return, as may be modified by the mayor, will be considered the final and binding return and an order of the city, which may be appealed to superior court within 30 days after the mayor's final ruling is mailed or delivered to the taxpayer. (Ord. 2002-09, 2002)

5.40.315 Civil penalties. A. The mayor will assess a civil penalty against a person who, after reasonable notice and opportunity to be heard, is found by the mayor to:

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1. Keep false or fraudulent records of the acquisition or processing of fisheries resources subject to the tax imposed by this chapter.
2. Provide fraudulent or knowingly provide false information on a license application, tax return, or other form or report required by this chapter or by any regulation adopted under this chapter.
3. Fail to preserve books or records as required by this chapter.
4. Fail to file a tax return as required by this chapter.
5. Refuse to allow the examination of books and records as required by this chapter.
6. Knowingly obstruct an investigation conducted under this chapter.
7. Process fisheries resources in the city without having a current license as required by this chapter.
8. File a tax return after the due date.
9. Fail to pay the full amount of the tax by the due date.
10. Repeatedly file incomplete, incorrect, or inaccurate returns.
11. Violate any other provision of this chapter or any regulation adopted to implement this chapter.

B. The civil penalty imposed for a violation of subsection (A) will be as follows:

1. For a violation of subsections (A) (1) through (6), one hundred dollars (\$100.00) for the first violation, two hundred dollars (\$200.00) for a second violation of this chapter within five years, four hundred dollars (\$400) for a third violation of this chapter within five years of the second, and one thousand dollars (\$1,000.00) for a fourth or subsequent violation of this chapter within five years of the last previous violation.

2. For a violation of subsections (A) (7) through (11), fifty dollars (\$50.00) for the first violation, one hundred dollars (\$100.00) for a second violation of this chapter within five years, two hundred dollars (\$200.00) for a third violation of this chapter within five years of the second, four hundred dollars (\$400.00) for a fourth violation of this chapter within five years of the third, and one thousand dollars (\$1,000.00) for a fifth or subsequent violation of this chapter within five years of the last previous violation. (Ord. 2002-09, 2002)

5.40.320 Delinquent tax lien. Any tax or other amount due and unpaid and delinquent under this chapter, and all penalties and interest thereon, shall be a lien against all assets, real or personal, owned by the taxpayer. Public notice of such lien may be recorded in the office of the recorder in any district in which the taxpayer owns such assets. (Ord. 2002-09, 2002)

5.40.325 Enforcement. A. Any tax or other amount due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to the city and may be collected by court

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proceedings in the same manner as any other debt, which remedy shall be in addition to all criminal and civil penalties.

B. In addition, the city may bring an action to obtain any other available relief, including, without limitation, injunctive relief under § 1.15.025 and lien foreclosure. (Ord. 2002-09, 2002)

5.40.330 Appeals. A. A taxpayer aggrieved by the amount of the tax, fee, interest, or penalty assessed by the mayor under the provisions of this chapter may appeal the mayor's final decision only as provided in this section. An aggrieved taxpayer may appeal a mayor's final ruling under § 5.40.310 only if the taxpayer has exhausted the administrative remedies set forth in that section.

B. A person aggrieved by the denial of a refund by the mayor under the provisions of this chapter may appeal the mayor's final decision as provided in this section.

C. An appealable final decision may be appealed to the superior court by filing a notice of appeal in accordance with the applicable rules of court governing appeals to that court in civil matters. The notice of appeal must be filed within 30 days from the date that the final decision was delivered or mailed to the taxpayer. (Ord. 2002-09, 2002)

5.40.335 Criminal violations; Penalties. A. It is a violation of this chapter to:

1. Keep false or fraudulent records of the acquisition or processing of fisheries resources subject to the tax imposed by this chapter.

2. Provide fraudulent or knowingly provide false information on a license application, tax return, or other form or report required by this chapter or by any regulation adopted under this chapter.

3. Fail to preserve books or records as required by this chapter.

4. Fail to timely file a tax return as required by this chapter.

5. Process fisheries resources in the city without having a current license as required by this chapter.

6. Knowingly assist or cooperate with another in keeping false records or in making or filing a false or fraudulent return, license application, or other form required by this chapter or by regulations adopted under this chapter.

7. Refuse to allow the examination of books and records as required by this chapter.

8. Knowingly obstruct an investigation conducted under this chapter.

9. Violate any other provision of this chapter or any regulation adopted to implement this chapter.

B. A person who violates a provision of this chapter commits a violation and, upon conviction, is punishable by a fine of up to \$500 in addition to any civil penalties that may be assessed. (Ord. 2002-09, 2002)

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