



## Kenai City Council - Regular Meeting

June 03, 2020 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

**\*Telephonic/Virtual Information on Page 4\***

[www.kenai.city](http://www.kenai.city)

### Agenda

#### A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comment limited to three (3) minutes) per speaker; thirty (30) minutes aggregated*)

\*All items listed with an asterisk (\*) are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

#### B. SCHEDULED PUBLIC COMMENTS

*(Public comment limited to ten (10) minutes per speaker)*

#### C. UNSCHEDULED PUBLIC COMMENTS

*(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)*

#### D. PUBLIC HEARINGS

- 1. Ordinance No. 3127-2020** - Repealing and Replacing Kenai Municipal Code Title 6 - Elections to Provide Clarity, Process Improvements, and Increase Voter Accessibility through Vote By Mail Elections. (Council Member Peterkin)
- 2. Ordinance No. 3128-2020** - Amending Kenai Municipal Code Section 1.85.040 – Records Public, To Provide For A Record Retention Length. (City Clerk)
- 3. Ordinance No. 3129-2020** - Accepting and Appropriating Private Donations to the Kenai Animal Shelter for the Care of Animals. (Administration)
- 4. Resolution No. 2020-34** - Authorizing the City Manager to Extend the Restaurant Concession Agreement in the Kenai Municipal Airport for One Year. (Administration)
- 5. Resolution No. 2020-35** - Approving the Fourth Amendment to the Airline Operating Agreement and Terminal Area Lease and Authorizing the City Enter Into Such Agreement with Grant Aviation, Inc. (Administration)
- 6. Resolution No. 2020-36** - Authorizing a Budget Transfer in the Airport Fund, Airfield Department for Costs in Excess of Budgeted Amounts. (Administration)

- 7.** **Resolution No. 2020-37** - Supporting The Kenai Peninsula Borough Assembly Establishing The Resilience And Security Advisory Commission For The Kenai Peninsula Borough. (Vice Mayor Molloy)
- 8.** **Resolution No. 2020-38** - Authorizing the City Manager to Enter into an Agreement with the City of Soldotna to Provide Animal Shelter Services for the City of Soldotna at the Kenai Animal Shelter. (Administration)
- 9.** **Resolution No. 2020-39** - Approving a Grant Disbursement Program for Small Businesses and Non-Profit Organizations Utilizing Funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. (Administration)
- 10.** **Resolution No. 2020-40** - Further Extending the Disaster Emergency Declaration for the City of Kenai Made on March 18, 2020 in Response to the COVID-19 Pandemic. (Administration)

**E. MINUTES**

- 1.** \*Work Session Summary of May 18, 2020. (City Clerk)
- 2.** \*Regular Meeting of May 20, 2020. (City Clerk)

**F. UNFINISHED BUSINESS**

**G. NEW BUSINESS**

- 1.** \***Action/Approval** - Bills to be Ratified. (Administration)
- 2.** \***Action/Approval** – Special Use Permit to Crowley Fuels, LLC for Aircraft Loading and Parking on the Apron. (Administration)
- 3.** \***Action/Approval** – Special Use Permit to Empire Airlines, Inc. for Aircraft Parking on the Apron. (Administration)
- 4.** \***Action/Approval** – Special Use Permit to Everts Air Fuel, Inc. for Aircraft Loading and Parking on the Apron. (Administration)
- 5.** \***Action/Approval** – Special Use Permit to United Parcel Service Company for Aircraft Loading and Parking on the Apron. (Administration)
- 6.** \***Ordinance No. 3131-2020** - Amending the Official Kenai Zoning Map by Rezoning a Portion of S1/2 SE1/4 SW1/4 Lying North of K-Beach Road Excluding VIP Country Estates Subdivision Part 5 from Rural Residential (RR) to Limited Commercial (LC). (Administration)
- 7.** \***Ordinance No. 3132-2020** - Increasing Estimated Revenues And Appropriations by \$454.84 in the General Fund – Police Department for Drug Investigation Overtime Expenditures. (Administration)
- 8.** \***Ordinance No. 3133-2020** - Authorizing a Budget Transfer in the Airport Terminal Improvement Capital Project Fund and Appropriating FY2020 Budgeted Funds in the Airport Master Plan Capital Project, Airport Snow Removal Equipment and Airport Operations Facility Improvement Capital Project Funds for Heating, Ventilation and Air Conditioning

(HVAC) Improvement to the Airport Operations Facility and Replacement of the Airport's Wide Area Mower. (Administration)

- 9.** \***Ordinance No. 3134-2020** - Appropriating Funds in the Water & Sewer Improvement and Wastewater Treatment Facility Improvement Capital Project Funds for FY2021 Capital Improvement Plan Projects. (Administration)
- 10.** \***Ordinance No. 3135-2020** - Appropriating FY2020 Budgeted Funds in the Kenai Multipurpose Facility Improvements Capital Project Fund for Installation of an Exhaust Fan and Corrosion Remediation. (Administration)
- 11.** **Resolution No. 2020-26** - Amending its Comprehensive Schedule of Rates, Charges, and Fees to Incorporate Changes Included in the FY2021 Budget to Include Adjusting the Kenai Municipal Airport Apron Rental Rates, Airport Reserve Land Annual Lease Rates, and Adjusting the Monthly Rental Rates at Vintage Pointe. (Administration) [**Clerk's Note:** *This resolution was adopted at the 05/20/2020 meeting. It has been discovered that five of the new rates calculated for Vintage Pointe rents were incorrect. A motion to amend something previously adopted is in order and, as such appearance on this agenda serves as notice.*]

#### **H. COMMISSION / COMMITTEE REPORTS**

- 1.** Council on Aging
- 2.** Airport Commission
- 3.** Harbor Commission
- 4.** Parks and Recreation Commission
- 5.** Planning and Zoning Commission
- 6.** Beautification Committee
- 7.** Mini-Grant Steering Committee

#### **I. REPORT OF THE MAYOR**

#### **J. ADMINISTRATION REPORTS**

- 1.** City Manager
- 2.** City Attorney
- 3.** City Clerk

#### **K. ADDITIONAL PUBLIC COMMENT**

- 1.** Citizens Comments (*Public comment limited to five (5) minutes per speaker*)
- 2.** Council Comments

#### **L. EXECUTIVE SESSION**

1. Discussion of the Facility Management Agreement for the Kenai Visitor and Cultural Center, pursuant to AS 44.32.310(c)(1)(3) a matter of which the immediate knowledge may have an adverse effect upon the finances of the City, and a matter by which law, municipal charter, or ordinance are required to be confidential.

**M. PENDING ITEMS**

1. **Ordinance No. 3117-2020** - Appropriating Funds in the Airport Fund, Accepting a Grant From the Federal Aviation Administration and Appropriating Funds in the Airport Equipment Capital Project Fund for the Purchase of Snow Removal Equipment (SRE) – Loader with Attachments. (Administration) [**Clerk's Note:** *At the May 20 Meeting, this item was Postponed to the June 17 Council Meeting. A Motion to Enact is On the Floor.*]
2. **Resolution No. 2020-30** - Recommending the Kenai Peninsula Borough Assembly Enact Ordinance 2020-24 which would Provide for Vote by Mail Elections, More Time Between a Regular Election and Run-Off Election and Removal of Proposition Statements. (Council Member Peterkin) [**Clerk's Note:** *At the May 20 Meeting, this item was Postponed to the June 17 Council Meeting. A Motion to Adopt is On the Floor.*]

**N. ADJOURNMENT**

**O. INFORMATION ITEMS**

1. Purchase Orders Between \$2,500 and \$15,000.

*The agenda and supporting documents are posted on the City's website at [www.kenai.city](http://www.kenai.city). Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.*

**Join Zoom Meeting**

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**Meeting ID:** 814 2900 1838 **Password:** 402645

OR

**Dial in by your Location:** (253) 215-8782 or (301) 715-8592

**Meeting ID:** 814 2900 1838 **Password:** 402645



Sponsored by: Council Member Peterkin

## CITY OF KENAI

### ORDINANCE NO. 3127-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, REPEALING AND REPLACING KENAI MUNICIPAL CODE TITLE 6- ELECTIONS, TO PROVIDE CLARITY, PROCESS IMPROVEMENTS, AND IMPROVE VOTER ACCESSIBILITY THROUGH VOTE BY MAIL ELECTIONS.

WHEREAS, state statutes provide that local governing bodies establish the procedures governing local elections; and,

WHEREAS, it is in the best interest of the City to provide for clear processes in its elections; and,

WHEREAS, the City has realized efficiencies in its election processes by sharing election resources such as election workers with the Kenai Peninsula Borough (KPB); and,

WHEREAS, KPB entered into a conciliation agreement with the Alaska Human Rights Commission which specified that the KPB would have an ADA compliant election process in place by the end of 2020; and,

WHEREAS, it is prudent for the City to also have ADA compliant election processes in place; and,

WHEREAS, the KPB Assembly established the Election Stakeholders Group (“ESG”) through the direction and adoption of Resolution 2019-006, which included community members and members from many local governments in the KPB, including City Manager Ostrander, Mayor Gabriel, Council Member Peterkin and City Clerk Heinz from the City; and,

WHEREAS, the ESG researched ways to increase voter participation by developing sustainable election processes that maximize accessibility and inclusivity; and,

WHEREAS, ensuring security of the voting system, including hardware, software, accountability procedures, and the voter registration database and maintaining integrity in the system by adopting internal controls, including signature verification, to ensure all valid votes are counted were among guiding principles adopted by the ESG; and,

WHEREAS, after holding many public meetings throughout 2019 the ESG issued a final report with six specific recommendations regarding potential changes to KPB code and election processes which are intended to achieve guiding principles adopted by the ESG; and,

WHEREAS, recommendation number 1 of the ESG was for the KPB assembly to transition the election process from the current polling site structure to a vote by mail hybrid structure (VBMS); and,

WHEREAS, recent catastrophic events including disaster declarations related to local floods, fires

and a global public health pandemic reinforce the need to implement a VBMS election process that will allow for greater flexibility and voter participating when events make it impractical or impossible to vote at a traditional polling site; and,

WHEREAS, in response to the current statewide emergency disaster, Governor Dunleavy signed Senate Bill 241 in to law which, among other things, authorizes elections to be conducted by mail during the emergency disaster; and,

WHEREAS, on \_\_\_\_\_, the KPB Assembly adopted KPB Ordinance No. 2020-24 providing for vote by mail elections.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** Repealing and Re-enacting Title 6 of the Kenai Municipal Code: That Kenai Municipal Code, Title 6 - Elections is hereby repealed and re-enacted as follows:

[CHAPTER 6.05  
VOTING QUALIFICATIONS AND PROCEDURES

SECTIONS:

- 6.05.010 QUALIFICATIONS FOR VOTERS.
- 6.05.020 REGISTRATION.
- 6.05.030 PRECINCT AND POLLING PLACE.
- 6.05.040 PRECINCT BOARD.
- 6.05.050 COMPENSATION OF ELECTION PERSONNEL.
- 6.05.060 WATCHERS.
- 6.05.070 CITY CLERK TO SUPERVISE CITY ELECTIONS.
- 6.05.080 CITY CLERK TO PREPARE AND FURNISH BALLOTS.
- 6.05.090 BALLOT BOXES, VOTING BOOTHS.
- 6.05.100 NOTICE OF ELECTIONS—REGULAR AND SPECIAL.
- 6.05.110 CONDUCTING AN ELECTION—CANVASSING RETURNS.
- 6.05.120 ESTABLISHMENT OF CANVASSING BOARD AND PROCEDURES.
- 6.05.130 TIE VOTES.
- 6.05.140 ABSENTEE VOTING.
- 6.05.145 ABSENTEE VOTING IN PERSON.
- 6.05.150 ABSENTEE VOTING—APPLICATION.
- 6.05.160 ABSENTEE VOTING—BALLOTS.
- 6.05.170 ABSENTEE VOTING—BY MAIL.
- 6.05.180 VOTING—AUTHORIZED.
- 6.05.190 VOTING—BOARDS.
- 6.05.200 VOTING DEVICES AND MACHINES.
- 6.05.210 VOTING—TESTS AND SECURITY.
- 6.05.220 RECOUNT OF VOTES—APPLICATION.
- 6.05.230 APPEAL TO THE COURTS AFTER RECOUNT.
- 6.05.240 ELECTION CONTESTS.
- 6.05.250 RULES AND REGULATIONS.
- 6.05.260 CITY ELECTION TIME.
- 6.05.270 OFFENSES AND PENALTIES.
- 6.05.280 RECORD RETENTION.
- 6.05.300 VOTING BY MAIL, BALLOTS, BALLOT REVIEW, BALLOT ENVELOPES.
- 6.05.310 CASTING BALLOTS.

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- 6.05.320 NOTICE OF ELECTION, ELECTION DATE, PUBLIC NOTICE.
- 6.05.330 ABSENTEE VOTING OFFICIAL AND DUTIES.
- 6.05.335 ABSENTEE VOTING—BY ELECTRONIC TRANSMISSION.
- 6.05.340 STORING BALLOTS.

6.05.010 QUALIFICATIONS FOR VOTERS.

PERSONS WHO HAVE THE QUALIFICATIONS FOR VOTERS PRESCRIBED BY THE CITY CHARTER, SECTION 10-6, THE STATE CONSTITUTION, ARTICLE V, SECTIONS 1 AND 2, AND STATE LAW, SHALL BE QUALIFIED TO VOTE IN CITY ELECTIONS IF THEY ARE REGISTERED AS PROVIDED IN THIS TITLE. (KC 6-1)

6.05.020 REGISTRATION.

(A) THE ELECTION JUDGES SHALL KEEP AN ORIGINAL REGISTER ON WHICH EACH VOTER SHALL, BEFORE RECEIVING A BALLOT, SIGN THE VOTER'S NAME AND EITHER COMPLETE OR CORRECT BOTH THE VOTER'S RESIDENCE AND MAILING ADDRESSES. A RECORD SHALL BE KEPT ON THE REGISTER OF THE NAME OF EACH PERSON WHO OFFERED TO VOTE, BUT WAS REFUSED, AND A BRIEF STATEMENT OF THE BASIS OF THE REFUSAL. THE SIGNING OF THE REGISTER CONSTITUTES A DECLARATION BY THE VOTER THAT THE VOTER IS QUALIFIED TO VOTE.

(B) VOTERS MAY BE IDENTIFIED FROM SUCH REASONABLE SOURCES AS STATE VOTER REGISTRATION LISTS, BEING KNOWN TO THE ELECTION JUDGES AS RESIDENTS OF THE CITY OF KENAI, OR BY SUCH OTHER IDENTIFICATION AS IS ACCEPTED CUSTOMARILY FOR SCHEMES OF "PRE-REGISTRATION" QUALIFICATIONS.

(C) REGISTERS SIGNED BY VOTERS ON ELECTION DAY SHALL BE KEPT WITH THE RECORDS OF THAT ELECTION.

(D) AS USED IN THIS TITLE, "REGISTER" SHALL MEAN THE COMPUTER PRINTOUT ENTITLED "STATE OF ALASKA PRECINCT REGISTER" (OR ANY FORM SUBSEQUENTLY SUBSTITUTED THEREFOR) SUPPLIED BY THE DIVISION OF ELECTIONS OF THE STATE OF ALASKA FOR USE IN EACH PRECINCT.

(KC 6-9; ORDS. 193, 803)

6.05.030 PRECINCT AND POLLING PLACE.

(A) THE CITY OF KENAI SHALL BE COMPOSED OF SUCH ELECTION PRECINCTS AS MAY BE SET UP OR MODIFIED BY THE DIRECTOR OF ELECTIONS OF THE STATE OF ALASKA FOR ALL CITY ELECTIONS, BOTH REGULAR AND SPECIAL. THE POLLING PLACES WILL BE AS DESIGNATED BY THE STATE OF ALASKA, DIVISION OF ELECTIONS.

(B) CHANGES OF THE POLLING PLACES MAY BE ACCOMPLISHED BY THE COUNCIL BY MOTION, RESOLUTION, OR ORDINANCE.

(KC 6-12,13; ORDS. 159, 803, 1182)

6.05.040 PRECINCT BOARD.

(A) THERE SHALL BE ELECTION BOARDS FOR THE PRECINCTS IN THE CITY COMPOSED OF THREE (3) OR MORE JUDGES APPOINTED BY THE CITY COUNCIL. THE JUDGES SHALL BE QUALIFIED VOTERS OF THE CITY. THE CITY COUNCIL MAY DESIGNATE ONE OF THE JUDGES CHAIR OF THE BOARD, AND THE CHAIR SHALL BE PRIMARILY RESPONSIBLE FOR THE ADMINISTRATION OF THE ELECTION IN THE PRECINCT. THE CITY COUNCIL MAY ALSO APPOINT FROM AMONG THE QUALIFIED VOTERS OF THE CITY ONE (1) OR TWO (2) CLERKS WHERE IT DEEMS THEIR SERVICES ARE NECESSARY. THE CITY CLERK, AS THE ELECTION SUPERVISOR, MAY APPOINT NOT MORE THAN FOUR (4) ELECTION CLERKS FROM AMONG THE QUALIFIED VOTERS

OF THE CITY AT ANY POLLING PLACE WHERE THEY ARE NEEDED TO CONDUCT AN ORDERLY ELECTION AND TO RELIEVE THE ELECTION JUDGES OF UNDUE HARDSHIP IF HE OR SHE THINKS THEY ARE NEEDED AND IF THE CITY COUNCIL AUTHORIZES IT.

(B) ALL CITY ELECTION PERSONNEL SHALL BE APPOINTED WITHOUT REGARD TO THEIR MEMBERSHIP IN ANY POLITICAL PARTY.

(C) ALL ELECTION JUDGES AND CLERKS, BEFORE ENTERING UPON THEIR DUTIES, MUST SUBSCRIBE TO THE OATH REQUIRED OF ALL PUBLIC OFFICERS BY THE CONSTITUTION OF THE STATE OF ALASKA IN THE MANNER PRESCRIBED BY THE CLERK. IF ANY APPOINTED ELECTION OFFICIAL IS NOT ABLE OR REFUSES TO SERVE ON ELECTION DAY, THE CLERK MAY APPOINT A REPLACEMENT FOR THAT OFFICIAL.

(D) CANDIDATES SHALL NOT SERVE AS ELECTION OFFICIALS. CERTAIN FAMILIAL RELATIONSHIPS MAY NOT EXIST BETWEEN A CANDIDATE AND A PRECINCT ELECTION JUDGE, ELECTION CLERK, OR MEMBER OF A BALLOT COUNTING TEAM IN REGULAR OR SPECIAL ELECTIONS. THOSE FAMILIAL RELATIONSHIPS ARE:

- (1) MOTHER, MOTHER-IN-LAW, STEPMOTHER;
- (2) FATHER, FATHER-IN-LAW, STEPFATHER;
- (3) SISTER, SISTER-IN-LAW, STEPSISTER;
- (4) BROTHER, BROTHER-IN-LAW, STEPBROTHER;
- (5) SPOUSE; OR
- (6) PERSON SHARING THE SAME LIVING QUARTERS.

(E) IF THE ELECTION SUPERVISOR KNOWS OR LEARNS ANY OF THESE RELATIONSHIPS EXIST, THE PRECINCT ELECTION JUDGE, ELECTION CLERK, OR MEMBER OF THE BALLOT COUNTING TEAM SHALL BE NOTIFIED AND THE PERSON REPLACED.

(KC 6-12,13; ORDS. 159, 2108-2005)

6.05.050 COMPENSATION OF ELECTION PERSONNEL.

(A) THE CITY SHALL PAY ALL NECESSARY EXPENSES RELATING TO THE CONDUCT OF EACH CITY ELECTION, INCLUDING THOSE OF SECURITY POLLING PLACES, AND SHALL PROVIDE BALLOT BOXES, BALLOTS, VOTING BOOTHS OR SCREENS, NATIONAL FLAGS, AND OTHER SUPPLIES AND ANY WAGES TO ELECTION OFFICIALS UNLESS OTHERWISE PROVIDED BY THIS CODE.

(B) THE CITY SHALL PAY EACH ELECTION BOARD MEMBER AND CANVASS BOARD MEMBER AN HOURLY RATE FOR TIME SPENT AT HIS OR HER ELECTION DUTIES, INCLUDING THE RECEIVING OF INSTRUCTIONS AND POSTING OF NOTICES. THE ELECTION SUPERVISOR SHALL SET THE HOURLY COMPENSATION TO BE PAID FOR TIME SPENT BY ELECTION OFFICIALS AT A RATE COMPARABLE TO THAT PAID BY THE STATE FOR STATE ELECTIONS. THE CLERK SHALL RETAIN A RECORD FOR AUDITING AND PAYMENT OF ELECTION EXPENSES, INCLUDING THE COST OF GIVING NOTICE, RENTING POLLING PLACES, PAYING ELECTION OFFICIALS, SECURITY BALLOT BOXES, BOOTHS AND OTHER ELECTION NECESSITIES.

(KC 6-14; ORD. 2108-2005)

6.05.060 WATCHERS.

ANY CANDIDATE FOR ELECTIVE CITY OFFICE MAY APPOINT A WATCHER FOR THE PRECINCT. STATE LAW RELATING TO WATCHERS IN STATE ELECTIONS SHALL GOVERN WATCHERS IN CITY ELECTIONS INSOFAR AS IT IS APPLICABLE. (KC 6-15)

6.05.070 CITY CLERK TO SUPERVISE CITY ELECTIONS.

THE CITY CLERK, UNDER DIRECTION OF THE CITY COUNCIL AND IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, IS THE ELECTION SUPERVISOR FOR AND SHALL ADMINISTER ALL CITY ELECTIONS. (KC 6-16; ORD. 2108-2005)



6.05.080 CITY CLERK TO PREPARE AND FURNISH BALLOTS.

(A) THE CITY CLERK SHALL PREPARE AND FURNISH ALL OFFICIAL BALLOTS IN CITY ELECTIONS. THE PROVISIONS OF STATE LAW RELATING TO THE PREPARATION AND FURNISHING OF BALLOTS IN STATE ELECTIONS SHALL GOVERN THE PREPARATION AND FURNISHING OF BALLOTS IN CITY ELECTIONS INSOFAR AS THEY ARE APPLICABLE AND ARE NOT IN CONFLICT WITH THE CITY CHARTER OR ORDINANCE; AND THE CITY CLERK SHALL PERFORM THE FUNCTIONS IN REGARD THERETO PRESCRIBED BY LAW FOR THE DIRECTOR OF ELECTIONS IN REGARD THERETO IN STATE ELECTIONS INSOFAR AS IT IS APPROPRIATE.

(B) AT THE TIME OF PREPARING, THE BALLOTS MAY BE INSPECTED BY ANY CANDIDATE WHOSE NAME IS ON THE BALLOT, OR BY HIS OR HER AUTHORIZED AGENT, AND ANY DISCOVERED MISTAKE SHALL BE CORRECTED IMMEDIATELY.

(C) THE CITY CLERK SHALL PROVIDE TINTED SAMPLE BALLOTS, OATHS OF OFFICE OF JUDGES, QUESTIONED OATHS, TALLY SHEETS WHEN REQUIRED, INSTRUCTIONS TO VOTERS, WARNING NOTICES, AND OTHER FORMS AND SUPPLIES REQUIRED FOR CITY ELECTIONS; AND HE OR SHE SHALL GIVE THE DUPLICATE REGISTRATION INDEX AND AN ADEQUATE SUPPLY OF OFFICIAL BALLOTS, SAMPLE BALLOTS, AND ALL OTHER NECESSARY SUPPLIES AND MATERIALS TO THE CHAIRS OF THE PRECINCT ELECTION BOARDS IN ADEQUATE TIME BEFORE A CITY ELECTION.

(KC 6-17; ORDS. 803, 941, 1652-95, 2108-2005)

6.05.090 BALLOT BOXES, VOTING BOOTHS.

THE CITY CLERK SHALL PROVIDE SUITABLE BALLOT BOXES AND AN ADEQUATE NUMBER OF VOTING BOOTHS OR SCREENS. REGULATIONS MADE BY THE DIRECTOR OF ELECTIONS, RELATING TO POLLING PLACES, BALLOT BOXES, VOTING BOOTHS, SCREENS, FLAGS, AND SUPPLIES FOR STATE ELECTIONS, SHALL GOVERN THESE MATTERS IN RELATION TO CITY ELECTIONS INSOFAR AS THEY ARE APPLICABLE AND ARE NOT SUPERSEDED BY ORDINANCE. (KC 6-18; ORD. 803)

6.05.100 NOTICE OF ELECTIONS—REGULAR AND SPECIAL.

(A) AT LEAST TEN (10) DAYS BEFORE EVERY CITY ELECTION, REGULAR OR SPECIAL, THE CITY CLERK SHALL CAUSE TO BE PUBLISHED BY POSTING ON THE OFFICIAL CITY BULLETIN BOARD IN OR ON THE CITY ADMINISTRATION BUILDING AND IN TWO (2) OTHER PLACES IN THE CITY, OR IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE CITY, A NOTICE OF SUCH ELECTION. THE NOTICE SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

- (1) THE DATE OF THE ELECTION;
- (2) TIME DURING WHICH THE POLLING PLACE WILL BE OPEN;
- (3) THE LOCATION OF THE POLLING PLACE;
- (4) OFFICES TO WHICH CANDIDATES ARE TO BE ELECTED (IF ANY);
- (5) AND THE SUBJECTS OF THE PROPOSITIONS AND QUESTIONS WHICH ARE TO BE SUBMITTED TO THE VOTERS AT THE ELECTION (IF ANY).

(B) FAILURE TO PUBLISH SUCH A NOTICE OF AN ELECTION SHALL NOT AFFECT THE VALIDITY OF THE ELECTION OR OF THE VOTE FOR ANY CANDIDATE OR ON ANY PROPOSAL; BUT, IF CAUSED BY THE CITY CLERK, SHALL CONSTITUTE FAILURE TO PERFORM HIS OR HER OFFICIAL DUTIES.

(C) IN ADDITION TO THE ABOVE NOTICE, THE CITY CLERK SHALL PUBLISH IN FULL EVERY CHARTER AMENDMENT, EVERY ORDINANCE, AND EVERY OTHER QUESTION WHICH IS TO BE SUBMITTED AT AN ELECTION, EXCEPT A REFERRED ORDINANCE WHICH WAS PUBLISHED IN FULL AFTER PASSAGE, NOT MORE THAN FOUR (4) WEEKS

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AND AT LEAST TWO (2) WEEKS BEFORE THE ELECTION IN ACCORDANCE WITH THE CITY CHARTER, SECTIONS 1-7(4) AND 10-8.

(KC 6-19)

6.05.110 CONDUCTING AN ELECTION—CANVASSING RETURNS.

ALASKA STATUTES, CHAPTERS 15.15 THROUGH 15.20 AND ANY AMENDMENTS THERETO, SHALL APPLY TO THE CITY ELECTIONS INsofar AS THEY DO NOT CONFLICT WITH SPECIFIC CITY ORDINANCES. THE PRECINCT ELECTION BOARDS SHALL DELIVER TO THE CITY CLERK ONE (1) COPY OF THE CERTIFICATE WITH THE RESULTS OF THE VOTE IN THE PRECINCT, THE REGISTERS SIGNED BY PERSONS VOTING, ALL BALLOTS CAST, ALL BALLOTS IMPROPERLY MARKED, DAMAGED OR UNLAWFULLY EXHIBITED, AND ALL OATHS, AFFIRMATIONS AND AFFIDAVITS TO THE COUNCIL AS PROVIDED BY KMC 6.05.130. THE CHAIR OF EACH PRECINCT ELECTION BOARD SHALL RETAIN POSSESSION OF A DUPLICATE COPY OF THE RESULTS, WHICH COPY MAY BE DESTROYED BY EACH CHAIR TWENTY (20) DAYS AFTER THE ELECTION UNLESS THE CITY CLERK OR THE CITY COUNCIL REQUESTS ITS DELIVERY. (ORDS. 193, 803, 881, 1788-98, 2556-2011)

6.05.120 ESTABLISHMENT OF CANVASSING BOARD AND PROCEDURES.

(A) PURSUANT TO THE PROVISIONS OF SECTION 10-9 OF THE CHARTER OF THE CITY OF KENAI, THERE IS HEREBY ESTABLISHED A CANVASSING BOARD FOR THE CANVASSING OF ALL CITY ELECTIONS; REGULAR AND SPECIAL, AND TO ASCERTAIN AND DECLARE THE RESULTS THEREOF, AS FOLLOWS:

(1) THE CITY CLERK IS HEREBY DESIGNATED AS THE CHAIR OF THE CANVASSING BOARD.

(2) THE CANVASSING BOARD SHALL CONSIST OF THE CITY CLERK, CHAIR OF EACH PRECINCT ELECTION BOARD WITHIN THE CITY, AND UP TO FIVE (5) ADDITIONAL JUDGES SELECTED FROM AMONG THE QUALIFIED VOTERS OF THE CITY. IN THE EVENT ANY SUCH APPOINTED MEMBER OF THE BOARD IS ABSENT FROM THE CITY, ILL, OR OTHERWISE UNABLE TO ATTEND AT THE TIME SET FOR CANVASSING THE BALLOT, THE CITY CLERK IS HEREBY AUTHORIZED TO APPOINT ANOTHER ELECTION JUDGE FROM THE SAME PRECINCT TO SUBSTITUTE FOR THE APPOINTED MEMBER.

(B) THE CANVASSING BOARD SHALL MEET IN PUBLIC SESSION ON THE TUESDAY FOLLOWING EVERY CITY ELECTION, REGULAR OR SPECIAL, AT 8:30 A.M. AND, IF NECESSARY, CONTINUE THROUGH THE FOLLOWING DAY AND SHALL PROMPTLY PROCEED TO CANVASS THE RETURNS OF SAID ELECTION, MAKING DECISIONS AS TO VALIDITY OF QUESTIONED BALLOTS, COUNTING ABSENTEE BALLOTS, AND ASCERTAINING AND DECLARING THE RESULTS OF SAID ELECTION. THE CANVASS OF THE BALLOT VOTE COUNTED BY THE PRECINCT ELECTION BOARDS SHALL BE ACCOMPLISHED BY REVIEWING THE TALLIES OF THE RECORDED VOTE TO CHECK FOR MATHEMATICAL ERROR BY COMPARING TOTALS WITH THE PRECINCT'S CERTIFICATE OF RESULTS. ALL OBVIOUS ERRORS FOUND BY THE ELECTION CANVASS IN THE TRANSFER OF TOTALS FROM THE PRECINCT TALLY SHEETS TO THE PRECINCT CERTIFICATE OF RESULTS SHALL BE CORRECTED BY THE CANVASSING BOARD. A MISTAKE THAT HAS BEEN MADE IN PRECINCT RETURNS, AND THAT IS NOT CLEARLY AN ERROR IN THE TRANSFER OF THE RESULTS FROM THE TALLIES TO THE CERTIFICATE OF RESULTS, EMPOWERS THE CANVASSING BOARD TO RECOMMEND A RECOUNT OF THE RESULTS OF THE PRECINCT OR PRECINCTS FOR THAT PORTION OF THE RETURNS IN QUESTION.

(C) IN ORDER TO BE COUNTED, ABSENTEE BALLOTS THAT ARE MAILED MUST BE MAILED ON OR BEFORE THE DATE OF THE ELECTION, AND IF THE ENVELOPE

CONTAINING THE BALLOT IS POSTMARKED, THE POST MARK DATE MUST BE ON OR BEFORE THE DATE OF ELECTION, AND SAID BALLOT MUST BE RECEIVED IN THE CITY OF KENAI'S MAIL BY NOON ON THE SEVENTH (7TH) DAY AFTER THE ELECTION. BALLOT ENVELOPES RECEIVED BY UNITED STATES POSTAL SERVICE WITHOUT A POSTMARK SHALL BE COUNTED, PROVIDED THE BALLOT ENVELOPE MEETS ALL OTHER REQUIREMENTS (SIGNATURES, REGISTRATION, ETC.) AND THE RECEIPT BY THE CITY INDICATES THE BALLOT WAS MAILED ON OR BEFORE THE DATE OF THE ELECTION AND THE BALLOT WAS RECEIVED IN THE CITY OF KENAI'S MAIL BY NOON ON THE SEVENTH (7TH) DAY AFTER THE ELECTION.

(D) THE CITY CLERK, AS CHAIR OF THE CANVASSING BOARD, SHALL REPORT THE RESULTS OF THE ELECTION TO THE CITY COUNCIL AS THE FIRST ORDER OF BUSINESS FOLLOWING THE ROLL CALL AT THE NEXT REGULAR COUNCIL MEETING FOLLOWING THE MEETING OF THE CANVASSING BOARD.

(KC 6-12; ORDS. 707, 1652-95, 2108-2005, 2488-2010, 2556-2011)

#### 6.05.130 TIE VOTES.

IN CASE OF FAILURE TO ELECT BECAUSE OF A TIE VOTE, THE COUNCIL SHALL IMMEDIATELY PROCEED TO RECOUNT THE VOTES. IF THERE IS STILL A FAILURE TO ELECT BECAUSE OF A TIE AFTER COMPLETION OF THE RECOUNT, THE ELECTION SHALL BE DETERMINED FAIRLY BY LOT FROM AMONG THE CANDIDATES TYING, IN A MEETING OF THE COUNCIL AND UNDER ITS DIRECTION, IN ACCORDANCE WITH THE CITY CHARTER, SECTION 10-4. (KC 6-22)

#### 6.05.140 ABSENTEE VOTING.

ANY QUALIFIED VOTER WHO MAY SECURE AND CAST AN ABSENTEE BALLOT IN A STATE ELECTION MAY SECURE AND CAST AN ABSENTEE BALLOT IN A CITY ELECTION. THE CITY CLERK SHALL SUPERVISE ABSENTEE VOTING, AND SHALL ISSUE NECESSARY INSTRUCTIONS REGARDING THE PROCEDURE FOR ABSENTEE VOTING TO QUALIFIED APPLICANTS FOR ABSENTEE BALLOTS. THE CITY CLERK SHALL PROVIDE THE ABSENTEE BALLOTS, THE SECRECY ENVELOPES FOR THE BALLOTS, AND THE POSTAGE-PAID RETURN ENVELOPES THEREFOR, AND ANY OTHER FORMS AND SUPPLIES REQUIRED FOR THE USE OF ABSENTEE VOTERS. (KC 6-23; ORD. 2488-2010)

#### 6.05.145 ABSENTEE VOTING IN PERSON.

(A) A QUALIFIED VOTER MAY APPLY IN PERSON FOR AN ABSENTEE BALLOT AT THE OFFICE OF THE CITY CLERK DURING REGULAR OFFICE HOURS, OR THE VOTER MAY APPLY TO THE BOROUGH CLERK'S OFFICE OR ABSENTEE VOTING OFFICIAL IN HIS OR HER AREA DURING REGULAR OFFICE HOURS.

(B) ON RECEIPT OF AN APPLICATION IN PERSON FOR AN ABSENTEE BALLOT AND EXHIBITION OF PROOF OF IDENTIFICATION AS REQUIRED IN THIS TITLE, THE CLERK SHALL ISSUE THE BALLOT TO THE APPLICANT.

(C) THE VOTER SHALL PROCEED TO MARK THE BALLOT IN SECRET, TO PLACE THE BALLOT IN THE SMALL ENVELOPE, TO PLACE THE SMALL ENVELOPE IN THE LARGER ENVELOPE IN THE PRESENCE OF THE ELECTION OFFICIAL WHO SHALL SIGN AS ATTESTING OFFICIAL AND DATE OF HIS OR HER SIGNATURE. THE ELECTION OFFICIAL SHALL THEN ACCEPT THE BALLOT.

(D) THE ELECTION OFFICIAL MAY NOT ACCEPT A MARKED BALLOT THAT HAS BEEN EXHIBITED BY AN ABSENTEE VOTER WITH INTENT TO INFLUENCE OTHER VOTERS. IF THE ABSENTEE VOTER IMPROPERLY MARKS OR OTHERWISE DAMAGES A BALLOT, THE VOTER MAY REQUEST, AND THE ELECTION OFFICIAL SHALL PROVIDE HIM OR

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HER WITH ANOTHER BALLOT UP TO A MAXIMUM OF THREE (3). EXHIBITED, IMPROPERLY MARKED, OR DAMAGED BALLOTS SHALL BE DESTROYED. THE NUMBERS OF ALL BALLOTS DESTROYED SHALL BE NOTED ON THE BALLOT STATEMENT.

(E) EACH ABSENTEE VOTING OFFICIAL SHALL KEEP A RECORD OF THE NAMES AND THE SIGNATURES OF VOTERS WHO CAST ABSENTEE BALLOTS BEFORE HIM OR HER AND THE DATES ON WHICH THE BALLOTS WERE CAST.

(ORD. 1799-98)

6.05.150 ABSENTEE VOTING—APPLICATION.

ANY QUALIFIED VOTER WHO IS ENTITLED TO SECURE AND CAST AN ABSENTEE BALLOT MAY APPLY TO THE CITY CLERK IN PERSON, BY A PERSONAL REPRESENTATIVE, BY MAIL, OR BY ELECTRONIC TRANSMISSION, FOR AN ABSENTEE BALLOT. AN APPLICATION FOR AN ABSENTEE BALLOT RECEIVED BY THE CITY BY MAIL OR ELECTRONIC TRANSMISSION SHALL INCLUDE THE NAME OF THE APPLICANT AND BOTH THE LOCATION, I.E., ELECTRONIC, FACSIMILE, OR MAILING ADDRESS TO WHICH THE ABSENTEE BALLOT IS TO BE RETURNED AND HIS OR HER FULL RESIDENTIAL ADDRESS IN THE CITY. THE DATES FOR MAKING SUCH APPLICATIONS FOR ABSENTEE BALLOTS IN CITY ELECTIONS SHALL BE NOT LESS THAN SEVEN (7) DAYS PRIOR TO THE ELECTION. THE CITY CLERK SHALL FOLLOW THE PROCEDURE PRESCRIBED BY STATE LAW FOR ELECTION OFFICIALS IN DETERMINING WHETHER AN APPLICANT IS ENTITLED TO SECURE AND CAST AN ABSENTEE BALLOT. (KC 6-24; ORDS. 1652-95, 2556-2011)

6.05.160 ABSENTEE VOTING—BALLOTS.

VOTERS CASTING ABSENTEE BALLOTS SHALL MARK THE BALLOT, PLACE THE BALLOT IN THE SECRECY ENVELOPE AND THEN PLACE THE SECRECY ENVELOPE WITH THE MARKED BALLOT INSIDE THE POSTAGE-PAID RETURN ENVELOPE, AND RETURN THE DOCUMENTS TO THE CITY CLERK IN THE SAME MANNER AND UNDER THE SAME REGULATIONS, AS NEARLY AS MAY BE, AS REQUIRED BY LAW IN STATE ELECTIONS. (KC 6-25; ORD. 2488-2010)

6.05.170 ABSENTEE VOTING—BY MAIL.

(A) A QUALIFIED VOTER MAY APPLY FOR AN ABSENTEE BALLOT BY MAIL IF THE APPLICATION IS POSTMARKED NOT EARLIER THAN THE FIRST OF THE YEAR IN WHICH THE ELECTION IS TO BE HELD NOR LESS THAN SEVEN (7) DAYS BEFORE AN ELECTION. A VOTER MAY REQUEST HIS OR HER NAME BE PLACED ON PERMANENT ABSENTEE BY MAIL STATUS. THE APPLICATION SHALL INCLUDE THE ADDRESS TO WHICH THE ABSENTEE BALLOT IS TO BE RETURNED, THE APPLICANT'S FULL ALASKA RESIDENCE ADDRESS, AND THE APPLICANT'S SIGNATURE.

(B) AFTER RECEIPT OF AN APPLICATION BY MAIL, THE CITY CLERK SHALL SEND THE ABSENTEE BALLOT AND OTHER ABSENTEE VOTING MATERIAL TO THE APPLICANT BY FIRST CLASS MAIL. THE MATERIALS SHALL BE SENT AS SOON AS THEY ARE READY FOR DISTRIBUTION. THE POSTAGE PAID RETURN ENVELOPE SENT WITH THE MATERIALS SHALL BE ADDRESSED TO THE CITY CLERK.

(C) UPON RECEIPT OF AN ABSENTEE BALLOT BY MAIL, THE VOTER, IN THE PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE ARMED FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE OR MAGISTRATE, UNITED STATES POSTAL OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER OATHS, MAY PROCEED TO MARK THE BALLOT IN SECRET, TO PLACE THE BALLOT IN THE SECRECY ENVELOPE, TO PLACE THE SECRECY ENVELOPE IN THE POSTAGE PAID ENVELOPE, AND TO SIGN THE VOTER'S CERTIFICATE ON THE BACK OF THE

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POSTAGE-PAID RETURN ENVELOPE IN THE PRESENCE OF AN OFFICIAL LISTED IN THIS SUBSECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND SHALL DATE HIS OR HER SIGNATURE. IF NONE OF THE OFFICIALS LISTED IN THIS SUBSECTION ARE REASONABLY ACCESSIBLE, AN ABSENTEE VOTER SHALL HAVE THE BALLOT WITNESSED BY A PERSON OVER THE AGE OF EIGHTEEN (18) YEARS.

(D) AN ABSENTEE BALLOT MUST BE MARKED AND ATTESTED ON OR BEFORE THE DATE OF THE ELECTION. IF THE VOTER RETURNS THE BALLOT BY MAIL, HE OR SHE SHALL USE A MAIL SERVICE AT LEAST EQUAL TO FIRST CLASS AND MAIL THE BALLOT NOT LATER THAN THE DAY OF THE ELECTION TO THE CITY CLERK. THE BALLOT ENVELOPE MUST BE POSTMARKED ON OR BEFORE MIDNIGHT OF ELECTION DAY AND RECEIVED BY THE CITY CLERK NO LATER THAN NOON ON THE SEVENTH DAY AFTER THE ELECTION. BALLOT ENVELOPES RECEIVED AFTER THAT TIME SHALL NOT BE OPENED BUT SHALL BE MARKED "INVALID," WITH THE DATE OF RECEIPT NOTED THEREON, AND SHALL BE PRESERVED WITH OTHER BALLOTS OF THE ELECTION.

(E) THE CITY CLERK MAY REQUIRE A VOTER CASTING AN ABSENTEE BALLOT BY MAIL TO PROVIDE PROOF OF IDENTIFICATION OR OTHER INFORMATION TO AID IN THE ESTABLISHMENT OF HIS OR HER IDENTITY.

(F) THE CITY CLERK SHALL MAINTAIN A RECORD OF THE NAME OF EACH VOTER TO WHOM AN ABSENTEE BALLOT IS SENT BY MAIL. THE RECORD MUST LIST THE DATE ON WHICH THE BALLOT IS MAILED AND THE DATE ON WHICH THE BALLOT IS RECEIVED BY THE CITY CLERK AND THE DATES ON WHICH THE BALLOT WAS EXECUTED AND POSTMARKED.

(ORDS. 2488-2010, 2556-2011)

6.05.180 VOTING—AUTHORIZED.

THE ELECTION OFFICIAL MAY PROVIDE FOR VOTING AT ONE (1) OR MORE VOTING PLACES FOR ONE (1) OR MORE QUESTIONS OR OFFICES ON A BALLOT. (ORDS. 881, 1788-98)

6.05.190 VOTING—BOARDS.

THE ELECTION OFFICIAL SHALL APPOINT A RECEIVING BOARD AND A DATA PROCESSING CONTROL BOARD, EACH CONSISTING OF THREE (3) MEMBERS. THE ELECTION OFFICIAL SHALL APPOINT A CHAIR OF EACH BOARD AND ADMINISTER THE OATH PRESCRIBED FOR ELECTION JUDGES TO BOTH CHAIR WHO SHALL ADMINISTER THE OATH TO THE REMAINING MEMBERS OF THEIR RESPECTIVE BOARDS. A VACANCY ON A BOARD SHALL BE FILLED BY THE ELECTION OFFICIAL. (ORDS. 881, 1788-98)

6.05.200 VOTING DEVICES AND MACHINES.

(A) VOTING DEVICES AND MACHINES WILL BE USED FOR ALL REGULAR AND SPECIAL ELECTIONS UNLESS DETERMINED NOT TO BE PRACTICAL BY THE CLERK. THE LAWS OF THE STATE CONCERNING VOTING DEVICES AND MACHINES ARE INCORPORATED IN THIS CHAPTER AS IF FULLY SET OUT IN THIS CHAPTER EXCEPT FOR PROVISIONS IN CONFLICT WITH THIS CHAPTER.

(B) THE ELECTION OFFICIAL SHALL DESIGNATE THE COMPUTERS TO BE USED IN COUNTING THE BALLOTS AND MAY NEGOTIATE AND CONTRACT WITH THE KENAI PENINSULA BOROUGH OR A PRIVATE COMPUTER SERVICE FOR THE NEEDED COMPUTER SERVICES.

(ORDS. 881, 941, 1788-98)

6.05.210 VOTING—TESTS AND SECURITY.

NO LATER THAN ONE (1) WEEK BEFORE THE ELECTION, THE COMPUTER VOTE COUNTING PROGRAM MUST BE TESTED IN THE PRESENCE OF, AND TO THE SATISFACTION OF, THE DATA PROCESSING CONTROL BOARD. (ORDS. 881, 1788-98)

6.05.220 RECOUNT OF VOTES—APPLICATION.

(A) ANY DEFEATED CANDIDATE OR ANY TEN (10) QUALIFIED VOTERS, WHO BELIEVE THAT A MISTAKE HAS BEEN MADE BY AN ELECTION OFFICIAL OR BY THE COUNCIL IN COUNTING THE VOTES IN ANY ELECTION, MAY MAKE AN APPLICATION IN WRITING TO THE COUNCIL FOR A RECOUNT OF THE VOTES FROM THE PRECINCT FOR ANY PARTICULAR OFFICE OR ON ANY PARTICULAR QUESTION. THE APPLICATION MUST BE FILED WITH THE MAYOR, THE CITY CLERK, OR IN THE OFFICE OF THE CITY CLERK WITHIN TWENTY-FOUR (24) HOURS, EXCLUDING ANY SATURDAY, SUNDAY, OR HOLIDAY AFTER THE COUNCIL DECLARES THE RESULTS OF THE VOTE BEING QUESTIONED. IN CASE OF A TIE VOTE BETWEEN TWO (2) OR MORE CANDIDATES, THE COUNCIL SHALL RECOUNT THE VOTES WITHOUT AN APPLICATION THEREFOR.

(B) THE PERSON OR PERSONS APPLYING FOR A RECOUNT SHALL DEPOSIT ONE HUNDRED DOLLARS (\$100.00) IN CASH, BY CERTIFIED CHECK, OR BY BOND WITH SURETY APPROVED BY THE COUNCIL, EXCEPT IN THE CASE OF A TIE VOTE FOR CANDIDATES (WHEN NO DEPOSIT SHALL BE REQUIRED). IF ON THE RECOUNT A CANDIDATE OTHER THAN THE CANDIDATE WHO WAS FIRST DECLARED ELECTED IS DECLARED ELECTED, OR IF THE RESULT OF THE VOTE ON A QUESTION IS REVERSED, OR IF THE VOTE ON RECOUNT IS DETERMINED TO BE FOUR PERCENT (4%) OR MORE IN EXCESS OF THE VOTE REPORTED AFTER THE FIRST CANVASS FOR THE CANDIDATE APPLYING FOR THE RECOUNT OR IN FAVOR OF THE OPPOSED TO THE QUESTION STATED IN THE APPLICATION, THE DEPOSIT SHALL BE REFUNDED; OTHERWISE, IT SHALL BE PLACED IN THE GENERAL FUND OF THE CITY.

(C) THE COUNCIL SHALL BEGIN THE RECOUNT WITHIN FORTY-EIGHT (48) HOURS AFTER RECEIVING THE APPLICATION, EXCLUDING ANY SATURDAY, SUNDAY, OR HOLIDAY, SHALL PROCEED WITH IT AS FAST AS PRACTICABLE, AND, SHALL DECLARE THE RESULTS THEREOF. THE CITY CLERK SHALL PROMPTLY ISSUE ANOTHER ELECTION CERTIFICATE IF A CHANGE IN THE RESULTS REQUIRE IT.

(KC 6-27; ORD. 2108-2005)

6.05.230 APPEAL TO THE COURTS AFTER RECOUNT.

ANY CANDIDATE OR A MAJORITY OF THE PERSONS WHO REQUESTED A RECOUNT WHO HAVE REASON TO BELIEVE THAT AN ERROR HAS BEEN MADE IN THE RECOUNT INVOLVING ANY CANDIDATE OR QUESTION, MAY APPEAL TO THE SUPERIOR COURT IN ACCORDANCE WITH APPLICABLE COURT RULES GOVERNING APPEALS IN CIVIL MATTERS. THE FILING OF THE APPEAL AND THE PROCEEDINGS SHALL BE, AS NEARLY AS MAY BE, AS IN CASE OF SUCH AN APPEAL MADE AFTER A RECOUNT IN A STATE ELECTION. (KC 6-28)

6.05.240 ELECTION CONTESTS.

ANY DEFEATED CANDIDATE OR TEN (10) QUALIFIED VOTERS, BY ACTION BROUGHT IN THE SUPERIOR COURT, MAY CONTEST THE ELECTION OF ANY PERSON OR THE APPROVAL OR REJECTION OF ANY QUESTION UPON THE SAME GROUNDS AND IN THE SAME MANNER, AS NEARLY AS MAY BE, AS IN ELECTION CONTESTS ARISING OUT OF STATE ELECTIONS. THE CITY CLERK SHALL PROMPTLY ISSUE ANY NEW ELECTION CERTIFICATE REQUIRED TO REFLECT THE JUDGMENT OF THE COURT. (KC 6-29)

6.05.250 RULES AND REGULATIONS.

RULES AND REGULATIONS MADE BY THE DIRECTOR OF ELECTIONS PURSUANT TO LAW REGULATING STATE ELECTIONS SHALL ALSO APPLY TO CITY ELECTIONS INsofar AS THEY ARE APPLICABLE. THE CITY CLERK SHALL HAVE THE POWERS AND DUTIES PRESCRIBED FOR THE DIRECTOR OF ELECTIONS IN SAID RULES AND REGULATIONS, WITH REGARD TO CITY ELECTIONS, INsofar AS IT WOULD BE APPROPRIATE IN CITY ELECTIONS. (KC 6-31; ORD. 803)

6.05.260 CITY ELECTION TIME.

NOTHING IN THIS CHAPTER SHALL PROHIBIT HOLDING A CITY ELECTION ON THE SAME DAY AND BY THE SAME ELECTION PERSONNEL AS A STATE, BOROUGH, OR OTHER PUBLIC ELECTION, OR SUBMITTING A CITY QUESTION AT SUCH AN ELECTION, AS AUTHORIZED BY THE CITY CHARTER, SECTION 10-8. (KC 6-32)

6.05.270 OFFENSES AND PENALTIES.

(A) IT IS UNLAWFUL FOR ANY PERSON, FIRM, OR CORPORATION TO DO ANY OF THE FOLLOWING ACTS, AND ANY PERSON, FIRM, OR CORPORATION WHO DOES ANY OF THE FOLLOWING ACTS SHALL BE GUILTY OF A VIOLATION:

- (1) DIRECTLY OR INDIRECTLY USES OR THREATENS TO USE FORCE, COERCION, VIOLENCE, RESTRAINT, INFLICTS, OR THREATENS TO INFLICT DAMAGE, HARM, OR LOSS UPON OR AGAINST ANY PERSON TO INDUCE OR COMPEL THE PERSON TO VOTE OR REFRAIN FROM VOTING FOR ANY CANDIDATE IN ANY ELECTION OR FOR ANY ELECTION PROPOSITION OR QUESTION.
- (2) GIVES OR PROMISES TO GIVE, OR OFFERS ANY MONEY OR VALUABLE THING TO ANY PERSON, WITH THE INTENT TO INDUCE HIM OR HER TO VOTE FOR OR RESTRAIN HIM OR HER FROM VOTING FOR ANY CANDIDATE AT ANY ELECTION OR ANY ELECTION PROPOSITION OR QUESTION.
- (3) KNOWINGLY PRINTS OR CIRCULATES, OR CAUSES TO BE WRITTEN, PRINTED, OR CIRCULATED, ANY LETTER, CIRCULAR, BILL, PLACARD, POSTER, OR OTHER PUBLICATION RELATING TO ANY ELECTION OR TO ANY CANDIDATE AT ANY ELECTION OR TO ANY ELECTION PROPOSITION OR QUESTION WITHOUT THE SAME BEARING ON ITS FACE THE NAME AND ADDRESS OF THE AUTHOR, PRINTER, AND PUBLISHER THEREOF.
- (4) WRITES, PRINTS, OR CIRCULATES, OR WHO SHALL CAUSE TO BE WRITTEN, PRINTED, OR CIRCULATED, ANY LETTER, CIRCULAR, BILL, PLACARD, OR POSTER, OR WHO CAUSES ANY PAID ADVERTISEMENT TO BE PLACED IN A NEWSPAPER OR ANY OTHER PUBLICATION, OR WHO PAYS OR CONTRIBUTES TO THE PAYMENT FOR ANY SUCH ADVERTISEMENT, OR WHO MAKES ANY RADIO BROADCAST, WILLFULLY KNOWING THE LETTER, CIRCULAR, BILL, PLACARD, POSTER, PUBLICATION, PAID ADVERTISEMENT, OR RADIO BROADCAST TO CONTAIN ANY FALSE STATEMENT, CHARGE, OR COMMENT RELATING TO ANY CANDIDATE TO ANY ELECTION OR TO ANY ELECTION PROPOSITION OR QUESTION.
- (5) HAS IN HIS OR HER POSSESSION OUTSIDE OF THE VOTING ROOM ANY OFFICIAL BALLOT, PROVIDED THAT THIS SHALL NOT APPLY TO ELECTION OFFICIALS OR OTHER PROPERLY AUTHORIZED PERSONS HAVING SUCH POSSESSION IN LINE OF DUTY.
- (6) MAKES OR KNOWINGLY HAS IN HIS OR HER POSSESSION ANY COUNTERFEIT OF AN OFFICIAL BALLOT.
- (7) REFUSES TO ALLOW AN EMPLOYEE REASONABLE TIME OFF FOR THE PURPOSE OF VOTING WHEN THE EMPLOYEE DOES NOT HAVE A REASONABLE

AMOUNT OF TIME TO VOTE BEFORE OR AFTER WORK, OR WHO, AFTER ALLOWING THE TIME OFF, DEDUCTS THE TIME FROM THE COMPENSATION OF THE EMPLOYEE.

(8) BEING AN ELECTION OFFICIAL WHILE THE POLLS ARE OPEN, OPENS ANY BALLOT RECEIVED FROM A VOTER AT AN ELECTION, OR MARKS A BALLOT BY FOLDING OR OTHERWISE SO AS TO BE ABLE TO RECOGNIZE IT, OR OTHERWISE ATTEMPTS TO LEARN HOW ANY VOTER MARKED HIS OR HER BALLOT, OR ALLOWS THE SAME TO BE DONE BY ANY OTHER PERSON.

(9) WRITES, PRODUCES, OR ASSISTS IN WRITING OR PRODUCING ANY PUBLISHED LETTER, CIRCULAR, POSTER, BILL, PUBLICATION, OR PLACARD, KNOWING THAT IT CONTAINS ANY FALSE STATEMENT OR FALSE CHARGE REFLECTING ON THE CHARACTER, MORALITY, OR INTEGRITY OF ANY CANDIDATE AT ANY ELECTION.

(10) VOTES OR ATTEMPTS TO VOTE IN THE NAME OF ANOTHER PERSON OR IN ANY NAME OTHER THAN HIS OR HER OWN.

(11) BY FORCE, THREAT, INTIMIDATION, OR OFFER OF REWARD, INDUCES OR ATTEMPTS TO INDUCE ANY ELECTION OFFICIAL TO FAIL IN HIS OR HER DUTY.

(12) WILLFULLY CHANGES OR CAUSES TO BE CHANGED ANY OFFICIAL ELECTION DOCUMENTS, INCLUDING BALLOTS, TALLIES, AND RETURNS, OR ATTEMPTS TO DO THE SAME.

(13) WILLFULLY DELAYS OR CAUSES TO BE DELAYED THE ELECTION RETURNS, OR ATTEMPTS TO DO SO.

(14) WILLFULLY VOTES OR ATTEMPTS TO VOTE MORE THAN ONCE AT THE SAME ELECTION.

(15) SIGNS ANY NAME OTHER THAN HIS OR HER OWN TO A PETITION PROPOSING AN INITIATIVE, REFERENDUM, OR RECALL, OR KNOWINGLY SIGNS HIS OR HER NAME MORE THAN ONCE FOR THE SAME PROPOSITION OR QUESTION AT ONE (1) ELECTION, OR SIGNS THE PETITION KNOWING THAT HE OR SHE IS NOT A QUALIFIED VOTER.

(16) HAVING BEEN CONTRACTED OR EMPLOYED BY THE CITY TO PRINT OR REPRODUCE IN ANY MANNER ANY OFFICIAL BALLOT, WILLFULLY APPROPRIATES TO HIM OR HERSELF, OR GIVES OR DELIVERS TO, OR KNOWINGLY PERMITS TO BE TAKEN BY ANYONE OTHER THAN A PERSON AUTHORIZED BY THE CITY CLERK, ANY OFFICIAL BALLOTS, OR KNOWINGLY PRINTS, REPRODUCES, OR CAUSES TO BE PRINTED OR REPRODUCED ANY OFFICIAL BALLOTS IN ANY OTHER FORM OR WITH ANY OTHER CONTENT THAN THAT PRESCRIBED BY THE CHARTER, ORDINANCE, OR AS DIRECTED BY THE CITY CLERK.

(17) WILLFULLY MAKES A FALSE AFFIDAVIT OR SWEARS FALSELY UNDER ANY OATH REQUIRED IN CONNECTION WITH ANY ELECTION OR REGISTRATION FOR VOTING OR FALSELY AFFIRMS IN LIEU OF SO SWEARING.

(18) WILLFULLY FAILS TO PERFORM ANY ELECTION DUTY OR KNOWINGLY DOES ANY UNAUTHORIZED ACT WITH THE INTENT TO AFFECT THE ELECTION OR ITS RESULTS.

(19) WILLFULLY PERMITS, MAKES, OR ATTEMPTS TO MAKE ANY FALSE COUNT OR REPORT OF THE ELECTION RETURNS.

(20) BEING AN ELECTION OFFICIAL, WILLFULLY CONCEALS, WITHHOLDS, WRONGFULLY CHANGES, MUTILATES, OR DESTROYS THE ELECTION RETURNS, OR ATTEMPTS TO DO SO.

(B) ANY PERSON, FIRM, OR CORPORATION WHO IS GUILTY OF A VIOLATION AS DEFINED HEREINABOVE SHALL BE PUNISHED UPON CONVICTION THEREOF AS PROVIDED FOR MISDEMEANORS IN KMC 13.05.010.



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(KC 6-30; ORDS. 1240, 1858-2000)

6.05.280 RECORD RETENTION.

(A) THE CERTIFICATE OF RETURNS OF THE CANVASSING BOARD SHALL BE MAINTAINED PERMANENTLY, AND DESCRIPTIONS OF ELECTION BOUNDARIES, PRECINCTS, AND POLLING PLACES SHALL BE MAINTAINED UNTIL THEY ARE REVISED.  
(B) OTHER ELECTION RECORDS SHALL BE MAINTAINED FOR THE PERIOD SET FORTH BELOW:

|  |                                     |
|--|-------------------------------------|
| FINANCIAL DISCLOSURE FORM                        | SIX YEARS                           |
| CANDIDATE AFFIDAVIT OF EXPENSE AND CONTRIBUTIONS | FIVE YEARS                          |
| ELECTION REGISTERS                               | FOUR YEARS                          |
| NOMINATING PETITIONS                             | THREE YEARS                         |
| DECLARATION OF CANDIDACY                         | THREE YEARS                         |
| REJECTED BALLOTS                                 | ONE YEAR, UNLESS ELECTION CONTESTED |
| CERTIFICATES OF ELECTION RETURN REPORTS          | PERMANENTLY                         |

(C) THE CITY CLERK SHALL INFORM THE CITY COUNCIL PRIOR TO DESTRUCTION OF ANY RECORDS, SPECIFYING THE TYPE OF RECORD AND THE DATE OF THE ELECTION TO WHICH IT RELATES.  
(ORDS. 2488-2010, 2556-2011)

6.05.300 VOTING BY MAIL, BALLOTS, BALLOT REVIEW, BALLOT ENVELOPES.

(A) THE CITY CLERK MAY CONDUCT A SPECIAL ELECTION BY MAIL.  
(B) WHEN THE CLERK CONDUCTS A SPECIAL ELECTION BY MAIL, THE CLERK SHALL SEND A BALLOT TO EACH PERSON WHOSE NAME APPEARS ON THE OFFICIAL VOTER REGISTRATION LIST PREPARED UNDER AS 15.07.125 FOR THAT ELECTION. THE CLERK SHALL SEND THE BALLOT TO THE ADDRESS STATED ON THE OFFICIAL REGISTRATION LIST UNLESS THE VOTER HAS NOTIFIED THE CLERK IN WRITING OF A DIFFERENT ADDRESS TO WHICH THE BALLOT SHOULD BE SENT. THE CLERK SHALL SEND BALLOTS BY FIRST CLASS, NONFORWARD-ABLE MAIL ON OR BEFORE THE TWENTY-SECOND (22ND) DAY BEFORE THE ELECTION.  
(C) THE CLERK SHALL REVIEW BALLOTS VOTED UNDER THIS SECTION UNDER PROCEDURES ESTABLISHED FOR THE REVIEW OF ABSENTEE BALLOTS.  
(D) THERE SHALL BE A SMALL BLANK ENVELOPE AND A POSTAGE-PAID RETURN ENVELOPE SUPPLIED TO EACH BY-MAIL VOTER. THE POSTAGE-PAID RETURN ENVELOPE SHALL HAVE PRINTED ON IT AN AFFIDAVIT BY WHICH THE VOTER SHALL

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DECLARE THE VOTER'S QUALIFICATION TO VOTE, FOLLOWED BY PROVISION FOR ATTESTATION BY ONE (1) ATTESTING WITNESS, WHO IS AT LEAST EIGHTEEN (18) YEARS OF AGE. SPECIFIC INSTRUCTIONS FOR VOTING A BY-MAIL BALLOT AND A LIST OF THE APPOINTED ABSENTEE VOTING OFFICIALS, THEIR HOURS AND LOCATIONS, SHALL BE MAILED TO EACH VOTER WITH THE BALLOT.  
(ORDS. 1800-98, 2488-2010)

6.05.310 CASTING BALLOTS.

(A) UPON RECEIPT OF A MAIL-IN BALLOT, THE VOTER SHALL CAST HIS OR HER BALLOT IN THE MANNER SPECIFIED IN KMC 6.05.140 THROUGH 6.05.160. IF THE BALLOT IS CAST IN THE CLERK'S OFFICE, THE CLERK SHALL RETAIN IT FOR DELIVERY TO THE CANVASSING BOARD. IF THE BALLOT IS CAST IN ANOTHER LOCATION, THE VOTER SHALL RETURN IT BY MAIL TO THE CLERK IMMEDIATELY FOR DELIVERY TO THE CANVASSING BOARD.

(B) A VOTER WHO DOES NOT RECEIVE A MAIL-IN BALLOT MAY CAST HIS OR HER BALLOT IN PERSON AS SPECIFIED IN KMC 6.05.145.

(C) A VOTER MAY RETURN THE MAIL-IN BALLOT TO THE CITY CLERK AS PROVIDED IN KMC 6.05.160.

(ORD. 1800-98)

6.05.320 NOTICE OF ELECTION, ELECTION DATE, PUBLIC NOTICE.

(A) THE NOTICE OF ELECTION CALLING FOR THE ELECTION MUST STATE THAT THE ELECTION IS TO BE CONDUCTED BY MAIL AND THAT THERE WILL BE NO POLLING PLACE OPEN FOR REGULAR IN-PERSON VOTING ON ELECTION DAY. IN A BY-MAIL ELECTION, ELECTION DAY IS THE DEADLINE BY WHICH A VOTER'S BALLOT MUST BE RECEIVED BY THE CLERK.

(B) FOR EACH ELECTION CONDUCTED BY MAIL, THE PUBLIC NOTICE WILL BE GIVEN AS SET FORTH IN KMC 6.05.100.

(ORD. 1800-98)

6.05.330 ABSENTEE VOTING OFFICIAL AND DUTIES.

(A) THE CITY CLERK, OR DESIGNEE, SHALL ACT AS ABSENTEE VOTING OFFICIAL.

(B) THE DUTIES OF THE ABSENTEE VOTING OFFICIAL SHALL BE AS FOLLOWS:

(1) PROVIDE ABSENTEE VOTING IN PERSON ON ANY DATE, INCLUDING THE DAY OF THE ELECTION, AND ABSENTEE VOTING THROUGH A PERSONAL REPRESENTATIVE ON ANY DATE, INCLUDING THE DAY OF THE ELECTION, AND HAVE UNTIL THE DAY OF THE ELECTION TO RETURN THE BALLOTS;

(2) SIGN A VOTER'S BY-MAIL OATH AND AFFIDAVIT ENVELOPE AS AN AUTHORIZED ATTESTING OFFICIAL, EXCEPT THAT THE ABSENTEE VOTING OFFICIAL MAY NOT ATTEST HIS OR HER OWN BALLOT;

(3) ACCEPT RECEIPT OF A BY-MAIL VOTER'S HAND-DELIVERED VOTED BALLOT, WHICH HAS BEEN SWORN TO, ATTESTED AND SEALED IN THE BY-MAIL RETURN ENVELOPE;

(4) PROVIDE GENERAL VOTER ASSISTANCE, INCLUDING, BUT NOT LIMITED TO, ASSISTANCE TO A QUALIFIED VOTER WHO CANNOT READ, MARK THE BALLOT, OR SIGN HIS OR HER NAME, AND PROVIDING REPLACEMENT BALLOTS TO VOTERS WHO HAVE IMPROPERLY MARKED OR DAMAGED THEIR BALLOTS;

(5) DATE-STAMP ALL BALLOTS RECEIVED;

(6) PROVIDE FOR THE SECURITY AND SAFEKEEPING OF ALL BALLOTS RECEIVED AND PRESENT THOSE BALLOTS TO THE CLERK FOR CANVASSING.

(ORD. 1800-98)

6.05.335 ABSENTEE VOTING—BY ELECTRONIC TRANSMISSION.

(A) A QUALIFIED VOTER MAY APPLY TO THE CITY CLERK FOR AN ABSENTEE BALLOT TO BE SENT TO THE VOTER BY ELECTRONIC TRANSMISSION. SUCH APPLICATION MUST BE MADE BY THE VOTER NOT LESS THAN THE DAY IMMEDIATELY PRECEDING THE ELECTION. ABSENTEE BALLOTS WILL BE TRANSMITTED ELECTRONICALLY TO THE LOCATION (FACSIMILE NUMBER, E-MAIL ADDRESS, OR SIMILAR DESIGNATION) DESIGNATED IN THE APPLICATION. IF NO LOCATION IS DESIGNATED, AND IF THE APPLICATION IS RECEIVED NO LATER THAN SEVEN (7) DAYS PRIOR TO THE ELECTION, THE BALLOT WILL BE MAILED IN THE MANNER PROVIDED IN KMC 6.05.140 FOR DELIVERING ABSENTEE BALLOTS BY MAIL. THE CLERK WILL PROVIDE REASONABLE CONDITIONS FOR TRANSMITTING ABSENTEE BALLOTS ELECTRONICALLY.

(B) THE VOTER MAY RETURN THE BALLOT BY MAIL OR BY ELECTRONIC TRANSMISSION. AN ELECTRONICALLY-TRANSMITTED BALLOT SHALL CONTAIN A COPY OF THE BALLOT TO BE USED AT THE ELECTION IN A FORM SUITABLE FOR TRANSMISSION. A PHOTOCOPY OF THE COMPUTERIZED BALLOT CARD TO BE USED BY PERSONS VOTING IN PERSON AT THE POLLING PLACES IS ACCEPTABLE.

(C) AN ABSENTEE BALLOT THAT IS COMPLETED AND RETURNED BY THE VOTER BY ELECTRONIC TRANSMISSION MUST:

(1) CONTAIN THE FOLLOWING STATEMENT: "I UNDERSTAND THAT BY USING ELECTRONIC TRANSMISSION TO RETURN MY MARKED BALLOT, I AM VOLUNTARILY WAIVING A PORTION OF MY RIGHT TO A SECRET BALLOT TO THE EXTENT NECESSARY TO PROCESS MY BALLOT, BUT EXPECT THAT MY VOTE WILL BE HELD AS CONFIDENTIAL AS POSSIBLE." FOLLOWED BY THE VOTER'S SIGNATURE AND DATE OF SIGNATURE; AND

(2) BE ACCOMPANIED BY A STATEMENT EXECUTED UNDER OATH AS TO THE VOTER'S IDENTITY; THE STATEMENT UNDER OATH MUST BE WITNESSED BY ONE (1) UNITED STATES CITIZEN WHO IS EIGHTEEN (18) YEARS OF AGE OR OLDER.

(D) THE VOTER MAY RETURN THE BALLOT BY MAIL. THE BALLOT MUST BE MARKED, ATTESTED, AND RETURNED IN ACCORDANCE WITH KMC 6.05.170(D) IF THE VOTER RETURNS THE BALLOT BY MAIL.

(E) IF THE VOTER RETURNS THE BALLOT BY ELECTRONIC TRANSMISSION, THE VOTER MUST COMPLY WITH THE SAME DEADLINES AS FOR VOTING IN PERSON ON OR BEFORE THE CLOSING HOUR OF THE POLLS.

(F) WHEN A COMPLETED ABSENTEE BALLOT IS RECEIVED BY THE CITY THROUGH ELECTRONIC TRANSMISSION, THE CLERK WILL NOTE THE DATE OF RECEIPT ON THE ABSENTEE BALLOT APPLICATION LOG AND, IF THE BALLOT IS RECEIVED ON ELECTION DAY, THE TIME OF RECEIPT. THE CLERK WILL THEN:

(1) REMOVE THE BALLOT PORTION OF THE TRANSMISSION FROM THE PORTION THAT IDENTIFIES THE VOTER;

(2) PLACE THE BALLOT PORTION IN A SECRECY SLEEVE;

(3) SEAL THE SECRECY SLEEVE IN AN OUTER ENVELOPE OF THE TYPE USED FOR ABSENTEE BALLOTS RETURNED BY MAIL, AND SEAL THAT ENVELOPE;

(4) ATTACH THE VOTER IDENTIFICATION PORTION TO THE OUTER ENVELOPE; AND

(5) FORWARD THE OUTER SEALED ENVELOPE TO THE CANVASSING BOARD FOR REVIEW.

(G) AN ELECTRONICALLY-TRANSMITTED BALLOT SHALL BE COUNTED IN THE SAME MANNER AS OTHER ABSENTEE BALLOTS, EVEN THOUGH THIS PROCEDURE MAY REVEAL TO ONE (1) OR MORE ELECTION OFFICIALS THE MANNER IN WHICH A

PARTICULAR ABSENTEE VOTER CAST HIS OR HER BALLOT. HOWEVER, IT SHALL BE UNLAWFUL TO DISPLAY AN ELECTRONIC BALLOT IN A MANNER REVEALING THE WAY IN WHICH A PARTICULAR VOTER CAST HIS OR HER BALLOT TO ANY PERSON OTHER THAN THE CITY CLERK, A MEMBER OF THE CLERK’S STAFF, AN INFORMATION TECHNOLOGIES TECHNICIAN RETAINED BY THE CITY, AN ELECTION OFFICIAL IN THE COURSE OF HIS OR HER DUTIES, OR AN ATTORNEY ADVISING THE CLERK ON LEGAL QUESTIONS CONCERNING THE BALLOT.

(ORDS. 2108-2005, 2556-2011)

6.05.340 STORING BALLOTS.

THE CLERK SHALL PROVIDE FOR THE SECURE STORAGE OF THE MAIL-IN BALLOTS RECEIVED FROM THE VOTERS AND BY-MAIL OFFICIALS UNTIL THE DATE SET BY THE CLERK FOR THE COUNTING OF THE BALLOTS. (ORD. 1800-98)

CHAPTER 6.10  
FILING FOR OFFICE

SECTIONS:

- 6.10.010 NOMINATING PETITIONS.
- 6.10.020 SUFFICIENCY OF PETITION—NEW PETITION.
- 6.10.030 WITHDRAWAL OF CANDIDACY.
- 6.10.040 PETITION AND STATEMENT TO BE PRESERVED.

6.10.010 NOMINATING PETITIONS.

(A) ANY QUALIFIED PERSON MAY HAVE HIS OR HER NAME PLACED ON THE BALLOT FOR THE ELECTION AS A CANDIDATE FOR MAYOR OR COUNCIL BY FILING WITH THE CITY CLERK, BETWEEN AUGUST 1ST, AND AUGUST 15TH, A SWORN STATEMENT OF HIS OR HER CANDIDACY. IF AUGUST 15TH IS NOT A REGULAR CITY WORKDAY, THE FILING PERIOD SHALL BE EXTENDED TO THE CLOSE OF BUSINESS OF THE NEXT REGULAR CITY WORKDAY. SUCH SWORN STATEMENT SHALL BE ACCOMPANIED BY A NOMINATING PETITION SIGNED BY TWENTY (20) OR MORE REGISTERED, QUALIFIED CITY VOTERS AS REQUIRED BY THE CITY CHARTER, SECTION 10-3.

(B) NO VOTER SHALL SIGN MORE THAN ONE (1) PETITION EXCEPT THAT A VOTER MAY SIGN AS MANY NOMINATING PETITIONS FOR COUNCILMEMBERS AS THERE ARE VACANCIES TO BE FILLED; AND IF A VOTER SIGNS MORE PETITIONS THAN HEREBY AUTHORIZED, HIS OR HER SIGNATURE SHALL BE VOID EXCEPT AS TO THE AUTHORIZED NUMBER OF PETITIONS FIRST FILED.

(C) NOMINATION PETITIONS SHALL BE SUBSTANTIALLY IN THE FOLLOWING FORM:

**NOMINATING PETITION**

WE, THE UNDERSIGNED TWENTY (20)  
 ELECTORS OF THE CITY OF KENAI, HEREBY  
 NOMINATE AND SPONSOR  
 \_\_\_\_\_, WHOSE ADDRESS  
 IS \_\_\_\_\_, FOR THE  
 OFFICE OF \_\_\_\_\_, TO BE  
 VOTED FOR AT THE ELECTION TO BE HELD  
 ON \_\_\_\_\_; AND WE INDIVIDUALLY  
 CERTIFY THAT OUR NAMES PRESENTLY  
 APPEAR ON THE ROLLS OF REGISTERED  
 VOTERS OF THE CITY OF KENAI, AND THAT  
 WE ARE QUALIFIED TO VOTE FOR A

CANDIDATE FOR AN ELECTIVE MUNICIPAL OFFICE, AND THAT WE HAVE NOT SIGNED ANY OTHER NOMINATING PETITION FOR THE PARTICULAR OFFICE THIS CANDIDATE SEEKS. CHECK TERM OF OFFICE CANDIDATE IS SEEKING: \_\_\_\_\_ ONE YEAR; \_\_\_\_\_ TWO YEARS; THREE YEARS.

\_\_\_\_\_  
(HERE PLACE LINES FOR SIGNATURES, ADDRESSES, AND DATES OF SIGNING.)

**ACCEPTANCE OF NOMINATION**

I HEREBY ACCEPT THE NOMINATION FOR \_\_\_\_\_ AND AGREE TO SERVE \_\_\_\_\_ YEARS IF ELECTED.

DATE FILED: \_\_\_\_\_ BY: \_\_\_\_\_

RECEIVED: \_\_\_\_\_

CITY CLERK SIGNATURE OF CANDIDATE

(KC 6-33; ORDS. 247, 803, 995; AMENDED DURING 11-17-01 SUPPLEMENT; ORDS. 2067-2004, 2562-2011)

6.10.020 SUFFICIENCY OF PETITION—NEW PETITION. WITHIN THREE (3) DAYS AFTER THE FILING OF THE STATEMENT OF CANDIDACY AND NOMINATING PETITION, THE CITY CLERK SHALL DETERMINE WHETHER THE NOMINATING PETITION IS SIGNED BY THE REQUIRED NUMBER OF REGISTERED VOTERS, AND SO NOTIFY THE CANDIDATE. IF INSUFFICIENT, THE CITY CLERK SHALL RETURN THE PETITION IMMEDIATELY TO THE CANDIDATE WITH A STATEMENT AS TO WHY THE PETITION IS INSUFFICIENT. WITHIN THE REGULAR TIME FOR FILING PETITIONS AND STATEMENTS OF CANDIDACY, A NEW PETITION AND STATEMENT OF CANDIDACY MAY BE FILED BY THE CANDIDATE. THE ABOVE NOTICE TO THE CANDIDATE AND THE RETURN OF AN INSUFFICIENT PETITION MAY BE IN PERSON, BY DELIVERY BY POLICE, OR BY MAIL. (KC 6-34; ORD. 803)

6.10.030 WITHDRAWAL OF CANDIDACY. ANY CANDIDATE FOR OFFICE MAY WITHDRAW HIS OR HER CANDIDACY AT ANY TIME BEFORE THE EXPIRATION OF THE TIME WHEN CANDIDATES MAY FILE STATEMENTS OF CANDIDACY, BY FILING A WRITTEN NOTICE OF WITHDRAWAL WITH THE CITY CLERK DURING SUCH TIME. (KC 6-35)

6.10.040 PETITION AND STATEMENT TO BE PRESERVED. THE PETITION AND STATEMENT OF CANDIDACY OF EACH CANDIDATE SHALL BE PRESERVED BY THE CITY CLERK UNTIL THE EXPIRATION OF THE TERM OF OFFICE FOR WHICH HE OR SHE WAS A CANDIDATE. (KC 6-36)

CHAPTER 6.20  
INITIATIVE AND REFERENDUM

SECTIONS:

6.20.010 PROVISIONS OF CHARTER TO GOVERN.

6.20.010 PROVISIONS OF CHARTER TO GOVERN.  
THE INITIATIVE AND REFERENDUM SHALL BE GOVERNED BY THE CITY CHARTER, SECTIONS 11-1 TO 11-5. THE PROVISIONS OF THIS CHAPTER OF THIS CODE SHALL GOVERN ELECTIONS AT WHICH INITIATED AND REFERRED PROPOSALS ARE SUBMITTED TO THE VOTERS, AS WELL AS OTHER ELECTIONS, INSOFAR AS THEY ARE APPLICABLE. (KC 6-37)

CHAPTER 6.30  
RECALL

SECTIONS:

6.30.010 PROCEDURES AND GROUNDS.

6.30.010 PROCEDURES AND GROUNDS.  
PROCEDURES AND GROUNDS FOR RECALL OF INCUMBENTS OF ELECTIVE OFFICES OF THE CITY SHALL BE SUCH AS MAY BE PRESCRIBED BY LAW, AS PROVIDED BY THE CITY CHARTER, SECTION 11-6. THE PROVISIONS OF THIS TITLE OF THIS CODE SHALL GOVERN RECALL ELECTIONS, AS WELL AS OTHER ELECTIONS, INSOFAR AS THEY ARE APPLICABLE. (KC 6-38)]

Chapter 6.05  
General Provisions

**6.05.010 – Scope of Title**

This title governs all city elections in which voters of the City are entitled to vote.

**6.05.020 – Powers and Duties of the Clerk**

The clerk is the election supervisor for and shall administer all city elections.

**6.05.030 – Definitions**

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

“Ballot” means any document provided by the clerk or designee on which votes may be cast for candidates or propositions. When the term “ballot” is used in this title it shall mean the official ballot, except where the context clearly indicates it means the sample ballot or both types of ballots.

"City election" means any election:

1. To fill a city office;
2. Upon a proposition submitted to the voters under the ordinances of the City; or

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3. That the city is required by law to administer.

"City office" means an elective office under the ordinances of the City.

"Clerk" and "City Clerk" mean the clerk of the City, any properly authorized assistant or designee.

"Day" means a calendar day including Saturday, Sunday and holidays.

"Election" includes a regular or special city election.

"Election official" means the clerk and members of all election boards.

"Election supervisor" means the clerk.

"Oath" includes affirmation on penalty of perjury.

"Precinct" means the geographical area for voting purposes that is defined by the Alaska State Legislature.

"Proposition" includes question.

"Publication" means a newspaper of general circulation or posting in public places.

"Qualified voter" means any person who has the qualifications required by this chapter and is not disqualified under Article V of the Alaska State Constitution.

"Regular election" means a general election to fill city offices as required by Alaska Statutes.

"Registration" or "registered" refers to the form of registration required by the state election code. For city elections, a person is registered if registered to vote in state elections in the precinct in which that person seeks to vote 30 days prior to the city election.

"Signature" includes any mark intended as a signature or subscription.

"Special election" means any election held at a time other than when a regular election is held.

"Swear" includes "Affirm".

"Total votes cast" means the total number of votes cast in each seat for candidates whose names are printed on the ballot plus votes properly cast for the same seat in the write-in position(s) of the ballot. Ballots which are counted as blank votes in a particular race and ballots which are counted as over votes in a particular race shall not be added into the total votes in determining the percentage of votes cast.

"Vote center" means any location designated by the clerk for the purpose of providing voter assistance that is not solely for casting votes for a specific precinct.

"Voter" means any person who presents himself for the purpose of registering to vote or voting, either in person or by absentee application or ballot.

#### **6.05.040 – Severability**

Should any provision of this title or its application to any person or set of circumstances be held invalid, the remainder of this title and its application to any persons or circumstances shall not be affected.

#### **6.05.050 – Election Times.**

- (a) Regular Election. Annually, on the first Tuesday of October, a regular election shall be held in the city for the election of vacant city offices and for the determination of other matters as may be placed on the ballot as authorized by the City Charter, Section 10-1.
- (b) Special Election. The council, by resolution or ordinance, may call a special election at any time at least 75 days prior to the date of the election. Unless the council has set a date for a required special election, the election supervisor shall call a special election when required by law or ordinance to place and initiative, referendum, recall, or other question before the voters.
- (c) Nothing in this chapter shall prohibit holding a city election on the same day and by the same election personnel as a State, Borough, or other public election, or submitting a city question at such an election, as authorized by the City Charter, Section 10-8.

#### **6.05.060 – Votes Required for Election to Office.**

- (a) Each city office shall be filled by the candidate receiving the greatest number of votes as authorized by the City Charter, Section 10-4.
- (b) Tie votes. In case of a failure to elect because of a tie vote, the council shall immediately proceed to recount the votes pursuant to KMC 6.45.010. If there is still a failure to elect because of a tie after completion of the recount, the election shall be determined fairly by lot from among the candidates tying, in a meeting of the Council and under its direction, in accordance with the City Charter, Section 10-4.

#### **6.05.070 – Preservation of Election Ballots, Papers, and Materials.**

The clerk shall preserve all precinct election certificates, tallies, registers, receipts for ballots, all voted ballots, and declarations of candidacy filed for one month after the election is certified, unless the election is contested. If the election is contested, these records shall be preserved for one month after the election contest is resolved and the election is certified. These materials may be destroyed after their retention period has lapsed unless their destruction is stayed by an order from the court. Certificates of the canvass board are to be preserved as permanent records.

#### **6.05.080 – Election Expenses.**

- (a) The City shall pay all necessary expenses relating to the conduct of each city election. Necessary expenses shall include those associated with conducting the election. The clerk shall retain a record for auditing and payment of election expenses.
- (b) The City shall pay each election official and canvass board member an hourly rate for time spent at his or her election duties, including the receiving of instructions. The election supervisor shall set the hourly compensation to be paid for time spent by election officials.

#### **6.05.090 – Initiative, Referendum, and Recall.**

- (a) The initiative and referendum shall be governed by the City Charter, Sections 11-1 to 11-5. The provisions of this chapter of this Code shall govern elections at which initiated and



referred proposals are submitted to the voters, as well as other elections, insofar as they are applicable.

- (b) As set forth by the City Charter, Section 11-6, All incumbents of elective offices of the City, including persons chosen to fill vacancies in such offices, shall be subject to recall from office by the qualified voters of the City. Procedures and grounds for recall shall be such as may be prescribed by law. The Council, by ordinance, may further regulate the recall insofar as such regulation is not in conflict with the State Constitution or law.

### **6.05.100 – Offenses and Penalties**

(a) It is unlawful for any person, firm, or corporation to do any of the following acts, and any person, firm, or corporation who does any of the following acts shall be guilty of a violation:

- (1) Directly or indirectly uses or threatens to use force, coercion, violence, restraint, inflicts, or threatens to inflict damage, harm, or loss upon or against any person to induce or compel the person to vote or refrain from voting for any candidate in any election or for any election proposition or question.
- (2) Gives or promises to give, or offers any money or valuable thing to any person, with the intent to induce him or her to vote for or restrain him or her from voting for any candidate at any election or any election proposition or question.
- (3) Knowingly prints or circulates, or causes to be written, printed, or circulated, any letter, circular, bill, placard, poster, or other publication relating to any election or to any candidate at any election or to any election proposition or question without the same bearing on its face the name and address of the author, printer, and publisher thereof.
- (4) Writes, prints, or circulates, or who shall cause to be written, printed, or circulated, any letter, circular, bill, placard, or poster, or who causes any paid advertisement to be placed in a newspaper or any other publication, or who pays or contributes to the payment for any such advertisement, or who makes any radio broadcast, willfully knowing the letter, circular, bill, placard, poster, publication, paid advertisement, or radio broadcast to contain any false statement, charge, or comment relating to any candidate to any election or to any election proposition or question.
- (5) Has in his or her possession outside of the voting room any official ballot, provided that this shall not apply to election officials or other properly authorized persons having such possession in line of duty.
- (6) Makes or knowingly has in his or her possession any counterfeit of an official ballot.
- (7) Refuses to allow an employee reasonable time off for the purpose of voting when the employee does not have a reasonable amount of time to vote before or after work, or who, after allowing the time off, deducts the time from the compensation of the employee.
- (8) Being an election official while the vote centers are open, opens any ballot received from a voter at an election, or marks a ballot so as to be able to recognize it, or otherwise attempts to learn how any voter marked their ballot, or allows the same to be done by any other person.
- (9) Writes, produces, or assists in writing or producing any published letter, circular, poster, bill, publication, or placard, knowing that it contains any false statement or false charge reflecting on the character, morality, or integrity of any candidate at any election.
- (10) Votes or attempts to vote in the name of another person or in any name other than his or her own.
- (11) By force, threat, intimidation, or offer of reward, induces or attempts to induce any election official to fail in his or her duty.
- (12) Willfully changes or causes to be changed any official election documents, including ballots, tallies, and returns, or attempts to do the same.
- (13) Willfully delays or causes to be delayed the election returns, or attempts to do so.
- (14) Willfully votes or attempts to vote more than once at the same election.

(15) Signs any name other than his or her own to a petition proposing an initiative, referendum, or recall, or knowingly signs his or her name more than once for the same proposition or question at one (1) election, or signs the petition knowing that he or she is not a qualified voter.

(16) Having been contracted or employed by the City to print or reproduce in any manner any official ballot, willfully appropriates to him or herself, or gives or delivers to, or knowingly permits to be taken by anyone other than a person authorized by the City Clerk, any official ballots, or knowingly prints, reproduces, or causes to be printed or reproduced any official ballots in any other form or with any other content than that prescribed by the Charter, ordinance, or as directed by the City Clerk.

(17) Willfully makes a false affidavit or swears falsely under any oath required in connection with any election or registration for voting or falsely affirms in lieu of so swearing.

(18) Willfully fails to perform any election duty or knowingly does any unauthorized act with the intent to affect the election or its results.

(19) Willfully permits, makes, or attempts to make any false count or report of the election returns.

(20) Being an election official, willfully conceals, withholds, wrongfully changes, mutilates, or destroys the election returns, or attempts to do so.

(b) Any person, firm, or corporation who is guilty of a violation as defined hereinabove shall be punished upon conviction thereof as provided for misdemeanors in KMC 13.05.010.

#### Chapter 6.10 Voter Qualifications

##### **6.10.010 – Voter Qualifications**

A person is qualified to vote in a city election who:

- (a) Have the qualifications for voters prescribed by the City Charter, Section 10-6, the State Constitution, Article V, Sections 1 and 2, and State Law; and
- (b) Is registered to vote in state elections at a residence address within the City at least 30 days before the city election at which the person seeks to vote.

##### **6.10.020 – Rules for Determining Residence of Voters.**

For the purpose of determining residence for voting, the place of residence is governed by the following rules:

- (a) A person may not be considered to have gained a residence solely by reason of presence nor may a person lose it solely by reason of absence while in the civil or military service of this state or of the United States or by absence because of marriage to a person engaged in the civil or military service of this state or the United States, while a student at an institution of learning, while in an institution or asylum at public expense, while confined in public prison, while engaged in the navigation of waters of this state or the United States or of the high seas, while residing upon an Indian or military reservation, or while residing in the Alaska Pioneers' Home or the Alaska Veterans' Home.
- (b) The residence of a person is that place in which the person's habitation is fixed, and to which, whenever absent, the person has the intention to return. If a person resides in one place, but does business in another, the former is the person's place of residence. Temporary work sites do not constitute a dwelling place.
- (c) A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one place of residence.

- (d) A person does not lose residence if the person leaves home and goes to another country, state, or place in this state for temporary purposes only and with the intent of returning.
- (e) A person does not gain residence in any place to which the person comes without the present intention to establish a permanent dwelling at that place.
- (f) A person loses residence in this city if the person votes in another in another city's or borough's election or another state's election, either in person or by absentee ballot, and will not be eligible to vote in this state again until qualifying under provisions of state law.
- (g) The term of residence is computed by including the day on which the person's residence begins and excluding the day of election.
- (h) The address of a voter as it appears on the official voter registration record is presumptive evidence of the person's voting residence. This presumption is negated only if the voter notifies the Division of Elections in writing of a change of voting residence.

### **6.10.030 - Notice of voter registration.**

Before each election that is not a run-off election, the clerk shall post on the city website and publish at least twice in a newspaper of general circulation a notice of voter registration. The posting and first publication shall occur not less than 60 days before the election. The notice shall include the qualifications required to vote and the deadline for registering to vote in the election.

### Chapter 6.15 Filing for Office

### **6.15.010 – Candidate Qualifications**

A candidate for elective city office:

- (a) Shall have the qualifications required in City Charter, Section 2-1(b), as of the date of the declaration of candidacy.
- (b) Shall provide proof of qualifications for office as required by the clerk, and
- (c) Shall submit a nominating petition, on a form provided by the clerk, signed by twenty (20) or more registered qualified City voters, in accordance with City Charter, Section 10-3.

### **6.15.020 – Nomination and Declaration of Candidacy.**

- (a) A candidate for council or mayor may have his or her name placed on the ballot for election as a candidate for Mayor or Council by filing with the clerk, between August 1<sup>st</sup> and August 15<sup>th</sup>, 4:30 p.m., a nominating petition with sufficient signatures and a sworn declaration of his or her candidacy, on a form or forms provided by the clerk, accompanied by the public financial disclosure statement required by KMC 1.85.010(a). If August 15<sup>th</sup> is not a regular City workday, then candidates shall have until noon on the first workday following to file their candidacy paperwork.
- (b) A nominating petition shall include:
  1. The full name of the candidate the petitioners are sponsoring; and
  2. The full residence address of the candidate; and
  3. The office for which the petitioners are nominating the candidate for; and
  4. The length of the term of office for which the petitioners are nominating the candidate for; and
  5. Certification that the petitioners' names appear on current voter registration rolls for the City of Kenai, are qualified to vote for a candidate for elective municipal office, and have not signed any other nominating petition for the particular office the named candidate seeks.

- (c) No voter shall sign more than one (1) petition except that a voter may sign as many nominating petitions for councilmembers as there are vacancies to be filled; and if a voter signs more petitions than hereby authorized, his or her signature shall be void except as to the authorized number of petitions first filed.
- (d) A declaration of candidacy shall include:
1. The full name of the candidate and the manner in which he/she wishes his/her name to appear on the ballot; and
  2. The full residence and mailing address of the candidate; and
  3. The office for which the candidate declares; and
  4. A statement that the candidate is qualified for the office as provided by law; and
  5. Certification that the information contained in the declaration of candidacy is true and accurate; and
  6. The date and signature of the candidate; and
  7. Attestation and date by the clerk; and
  8. Any other information the clerk reasonably requires to determine whether the candidate is qualified for the office as provided by law.
- (e) Within three (3) days after the filing of the declaration of candidacy and nominating petition, the clerk shall determine whether the nominating petition is signed by the required number of registered voters, and so notify the candidate. If insufficient, the clerk shall return the petition immediately to the candidate with a statement as to why the petition is insufficient. Within the regular time for filing petitions and declarations of candidacy, a new petition and declaration of candidacy may be filed by the candidate. The above notice to the candidate and the return of an insufficient petition may be in person or by mail.

#### **6.15.030 – Review of Candidate Qualifications.**

- (a) In determining residence within the City, for the purposes of this chapter, the clerk shall apply the following rules:
1. A person establishes residence within the city by:
    - (A) Actual physical presence at a specific location within the city; and
    - (B) Maintaining a habitation at the specific location;
  2. A person may maintain a place of residence at a specific location within the city while away from the location for purposes of employment, education, military service, medical treatment or vacation if the person does not establish residency at another location; and
  3. A qualified voter loses residence by voting in another city or borough or in another state's election.
- (b) The clerk shall determine whether each candidate is qualified as provided by law. At any time before the election the clerk may disqualify any candidate whom the clerk finds is not qualified. A candidate who is disqualified may request a hearing before the clerk. The hearing shall be held no later than 5 business days after the request unless the candidate agrees in writing to a later date.
- (c) Any person may question the eligibility of a candidate who has filed a declaration of candidacy by filing a complaint with the clerk. A complaint regarding the eligibility of a candidate must be received by the clerk not later than the close of business on the 10<sup>th</sup> calendar day after the filing deadline for the office for which the candidate seeks election.
- (d) The complaint must be in writing and include the name, mailing address, contact phone number, and signature of the person making the complaint, and a statement in 200 words or less specifying the grounds for the complaint, described in particular, on which the candidate's eligibility is being questioned.

- (e) The clerk will review only those issues cited in the complaint related to candidate qualifications established by this chapter.
- (f) Upon receipt of a complaint, the clerk will review any evidence relevant to the issues identified in the complaint which is in the custody of the municipal clerk's office including evidence provided with the complaint, the candidate's registration record, declaration of candidacy, and, in the discretion of the clerk, any other public record. Following review of all relevant evidence in the case, and within 20 days of receiving the complaint, the clerk will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate. The process for issuing a final determination will be as follows:
1. The clerk will send notification in writing to the candidate whose eligibility is being questioned that a complaint has been received. The notification will include a copy of the complaint, supporting relevant evidence, a statement as to whether a preponderance of evidence reviewed as of that notice supports or does not support the eligibility of the candidate, and a request that the candidate provide a sworn response statement along with any relevant supporting evidence.
  2. The clerk must also notify the challenger that all relevant evidence must be submitted within 7 calendar days of the date of the clerk's notice to the candidate that a complaint has been filed. If the clerk receives additional evidence during this 7-day period, such evidence must be provided to the candidate with an opportunity to respond. Absent extraordinary circumstances, the clerk shall not consider evidence received after the challenger's deadline to submit evidence.
  3. The candidate's response statement and any supporting evidence must be received within 10 calendar days of the date of the clerk's notice to the candidate that a complaint has been filed. Absent extraordinary circumstances, the clerk shall not consider evidence received after the candidate's deadline to submit evidence.
  4. For purposes of this section, "extraordinary circumstances" must be specified in writing, documenting a serious circumstance or event beyond the control of the individual providing the late evidence.
  5. Following review of all relevant evidence in the case, and within 20 days of receiving the complaint, the clerk will issue a final determination based on a preponderance of evidence standard for review
  6. A final determination must be issued in writing within 20 days of the clerk receiving the complaint.
- (g) The clerk must send the final written decision to the person making the complaint and to the candidate. The clerk's decision shall be sent by certified mail and by electronic mail (email), if an email address is known. The determination of the clerk constitutes a final administrative decision. An appeal of the clerk's decision shall be filed with the State of Alaska Superior Court at Kenai, Alaska in conformance with the Rules of Appellate Procedure of the State of Alaska, Part VI.

#### **6.15.040 – Correction, Amendments, and Withdrawal of Declaration of Candidacy.**

- (a) Any candidate may withdraw their nomination at any time during the period for filing a nomination petition declaration of candidacy by appropriate written notice to the clerk. However, after the filing period has closed, no declaration may be corrected, amended or withdrawn.
- (b) A declaration of candidacy presented shall not be changed as to term of office. If a candidate desires to file for a different seat, the candidate shall request new forms from the clerk.

#### **6.15.050 – Campaign Reporting.**

All candidates for elective city office shall comply with the Alaska Public Offices Commission campaign reporting requirements in Alaska Statutes 15.13. The name of the candidate shall be placed on the ballot by the clerk only after the candidate has complied with this requirement.

**6.15.060 – Prohibitions.**

- (a) A person may not serve simultaneously as a member of the city council or mayor and as a member of the borough assembly or as borough mayor.
- (b) No elected official of the City may hold any other compensated city office or city employment or elected position in the state or federal government while in office.

**6.15.070 – Notice of Vacancy.**

At least ten days before nominations are open for each regular or special election, the clerk shall publish at least twice in a newspaper of general circulation, a notice of offices to be filled at the election and the procedure for filing a nomination petition and declaration of candidacy for the offices.

**6.15.080 – Watchers.**

Any candidate for elective city office may appoint a watcher for each vote center or counting center. State law relating to watchers in elections shall govern watchers in city elections insofar as it is applicable.

Chapter 6.20  
Administration of Elections

**6.20.010 – Election Notices.**

- (a) Notice of Election. Before every city election, regular or special, the clerk shall cause to be published at least twice in a newspaper of general circulation, a notice of election. The clerk shall also post a notice of election on the official city bulletin board and in two (2) other public places in the city limits. The posting and first publication shall occur at least 20-days before an election. Each notice of election shall include:
  - 1. The type of election, whether regular or special;
  - 2. The date of the election;
  - 3. A statement that the election is to be conducted by mail and that there will be no precinct polling places open for the election on election day;
  - 4. The hours and locations the vote centers will be open;
  - 5. The offices to which candidates are to be elected;
  - 6. The subjects of propositions to be voted upon;
  - 7. Voter qualifications and instructions for registration; and
  - 8. Instructions for application for absentee voting.
- (b) Failure to publish such a notice of an election shall not affect the validity of the election or of the vote for any candidate or on any proposal; but, if caused by the clerk, shall constitute failure to perform his or her official duties.
- (c) In addition to the above notice, the clerk shall publish in full, every charter amendment, every ordinance, and every other question which is to be submitted at an election, except a referred ordinance which was published in full after passage, not more than four (4)

weeks and at least two (2) weeks before the election in accordance with the City Charter, Sections 1-7(4) and 10-8.

- (d) Notice of Bonded Indebtedness. Before a general obligation bond issue election, the clerk shall publish notice of total existing bonded indebtedness at least once a week for three consecutive weeks. The first notice shall be published at least 20-days before the date of the election. The notice must include:
1. The current total general obligation bonded indebtedness, including authorized but unsold bonds, of the City;
  2. The cost of the debt service on the current indebtedness; and
  3. The total assessed valuation within the city.

#### **6.20.020 – Election Officials.**

- (a) Before each election, the clerk, subject to approval by the council, shall appoint election officials.
- (b) If any appointed election official is not able or refuses to serve, the clerk may appoint a replacement for that official.
- (c) All election officials, before entering upon their duties, must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the clerk.
- (d) Candidates shall not serve as election officials. Certain familial relationships may not exist between a candidate and an election official in regular or special elections. Those familial relationships are:
1. Mother, mother-in-law, stepmother;
  2. Father, father-in-law, stepfather;
  3. Sister, sister-in-law, stepsister;
  4. Brother, brother-in-law, stepbrother;
  5. Spouse; or
  6. Person sharing the same living quarters.
- (e) If the clerk knows or learns that any of these relationships exist, the election official shall be notified and replaced.

#### **6.20.030 – Ballot Form.**

- (a) The ballot shall be designed with the position of names of the candidates set out in the same order in each section on each ballot used in that election. However, the order of placement of the names of the candidates for each office shall be randomly determined by the clerk.
- (b) The title of the office to be filled shall be followed by the printed names of the candidates for such office, below which shall be blank lines equal in number to the candidates to be elected to such office, upon which the voter may write the names of persons not listed on the ballot. The words "Vote for no more than \_\_\_\_\_" with the appropriate number replacing the blank, shall be placed before the list of candidates for each office. The names of the candidates shall be printed as they appear upon the declaration filed with the clerk, except that any honorary or assumed title or prefix shall be omitted. However, the candidate's name appearing on the ballot may include a nickname or familiar form of a proper name. The names of candidates shall be set out in order as provided in subsection A. of this section.
- (c) The propositions to be voted on shall follow the candidates for office or shall be on separate ballots, as the clerk may determine. The words "yes" and "no" shall appear below each proposition.

- (d) Each ballot shall bear the words "Official Ballot," and the date of the election.
- (e) A ballot shall be printed either on paper or on card stock as provided in this title.
- (f) The ballots shall be consecutively numbered.

#### **6.20.040 – Ballot Preparation and Distribution.**

- (a) The clerk shall have ballots printed for each election. The clerk may contract for the preparation and printing of ballots without competitive bidding.
- (b) The clerk shall possess the printed ballots at least 21 days before each regular election and at least 15 days before each special election. At that time, the ballots may be inspected by any candidate whose name is on the ballot, or by his or her authorized agent, and any discovered mistake shall be corrected immediately.
- (c) The clerk shall have sample ballots available to voters which are identical in form to the official ballot, and which are printed on colored paper and marked "sample." Sample ballots shall be made available at vote centers.

#### Chapter 6.25 Elections by Mail

#### **6.25.010 – By-Mail Precincts.**

- (a) All precincts within the City shall be designated as "by-mail" precincts. The procedures shall be as follows:
  - a. Ballots shall be sent to each registered voter in the precinct on or before the 21<sup>st</sup> day prior to the regular or special election
  - b. Voted ballots must be postmarked on or before midnight of Election Day and received by the clerk no later than the Tuesday following the election.
- (b) Voters wishing to vote in person may do so at designated vote center(s).

#### **6.25.020 – Procedures for Conducting Elections by Mail.**

- (a) The clerk shall mail by non-forwardable mail an official ballot package with a return identification envelope addressed to the Clerk's Office and a secrecy sleeve. The ballot, return envelope, and secrecy envelope shall be mailed no later than the 21st day before the date of a regular or special election and no later than the 15th day before the date of a runoff election. The ballot shall be sent to the address stated on the official registration list unless:
  - 1. The voter has notified the clerk in writing of a different address to which the ballot should be sent; or
  - 2. The address on the official registration list has been identified as being an undeliverable (UN) address or is in the condition of purge notice (PN).
- (b) On receipt of any ballot described in this section, the voter shall mark the ballot, sign the return identification envelope supplied with the ballot, and comply with the instructions provided with the ballot. The voter may return the marked ballot to the Clerk's Office by return mail or by depositing the ballot at any place of deposit designated by the clerk. The ballot must be returned in the identified envelope. A ballot must be received by the clerk or at a place of deposit designated by the clerk, not later than the end of the period determined under regulations established by the clerk.

#### Chapter 6.30



Absentee and Vote Center Voting.

**6.30.010 – Administration of Absentee Voting.**

The clerk shall provide general administrative supervision over the conduct of absentee voting. The clerk shall make available, instruction to absentee voters regarding the procedure for absentee voting.

**6.30.020 – Designation of Absentee Voting Officials.**

The clerk may appoint any person qualified to vote in state elections to act as absentee voting officials. The clerk shall supply adequate voting supplies and ballots to the absentee voting officials. After taking an oath in the form required of election officials, an absentee voting official may perform all the duties of an election official with respect to the issuance, witnessing and receipt of absentee ballots at such places and times as the clerk may designate. Each absentee voting official shall transmit the dated envelopes containing the marked ballots to the clerk in the manner set forth in the written instructions provided by the clerk. Upon receipt of the absentee ballots, the clerk shall hold the ballots in a secure location until they can be transferred to the canvass board along with the absentee in person registers and other election materials received from the absentee voting official.

**6.30.030 – Eligibility.**

Any qualified voter may vote at a vote center for the precinct in which the voter resides and is registered if the voter was unable to vote by mail whether inside the city or not.

**6.30.040 – Fee Prohibited.**

No person may receive a fee from the voter for attesting to any voter's certificate required in voting absentee.

**6.30.050 – Materials for Absentee Voting.**

The clerk shall provide ballots for use as absentee ballots for all precincts, and shall provide a small envelope in which the voter shall initially place the marked ballot, and shall provide a larger envelope, with the prescribed voter's certificate on the back, in which the smaller envelope with ballot enclosed shall be placed. The clerk shall provide the form of and prepare the voter's certificate on the back, in which the smaller envelope with ballot enclosed shall be placed. The clerk shall provide the form of and prepare the voter's certificate which shall include an oath, for use when required, that the voter is a qualified voter in all respects, a blank for the voter's signature, a certification that the affiant properly executed the marking of the ballot and identified themselves, blanks for the attesting official or witnesses, and a place for recording the date the envelope was sealed and witnessed.

**6.30.060 – Vote Center Voting – In Person.**

- (a) A qualified voter may apply in person for an absentee ballot at the office of the clerk during regular office hours, or the voter may apply to the borough clerk's office or election official during regular office hours.
- (b) On receipt of an application in person for an absentee ballot and exhibition of proof of identification as required in this title, the election official shall issue the ballot to the applicant.

- (c) The voter shall proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope in the presence of the election official who shall sign as attesting official and date of the signature. The election official shall then accept the ballot.
- (d) The election official may not accept a marked ballot that has been exhibited by an absentee voter with intent to influence other voters. If the voter improperly marks or otherwise damages a ballot, the voter may request, and the election official shall provide the voter with another ballot up to a maximum of three. Exhibited, improperly marked, or damaged ballots shall be destroyed. The numbers of all ballots destroyed shall be noted on the ballot statement.
- (e) Each election official shall keep a record of the names and the signatures of voters who cast absentee ballots before the election official and the dates on which the ballots were cast.
- (f) Fifteen minutes before the closing of the vote center, and at the time of closing the voter center, an election official shall announce both the designated closing time and the actual time at which the announcement is made. Failure to make the announcement at 15 minutes before closing time shall not in any way invalidate the election or extend the time for closing of the voter center. After closing, no person will be allowed to enter the voter center for purposes of voting. Every qualified voter present and in line at the time prescribed for closing the voter center may vote.
- (g) When the vote centers are closed and the last vote has been cast, the election official shall account for all ballots by completing a ballot statement containing, in a manner prescribed by the clerk, the number of official ballots supplied.

### **6.30.070 – Absentee Voting – By Mail.**

- (a) A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first of the year in which the election is to be held nor less than seven days before an election. A voter may request his name be placed on permanent absentee by mail status. The application shall include the address to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature.
- (b) After receipt of an application by mail, the clerk shall send the absentee ballot and other absentee voting material to the applicant by first class mail. The materials shall be sent as soon as they are ready for distribution. The return envelope sent with the materials shall be addressed to the clerk.
- (c) Upon receipt of an absentee ballot by mail, the voter, in the presence of a notary public, commissioned officer of the armed forces including the National Guard, district judge or magistrate, United States postal official, or other person qualified to administer oaths, may proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certificate on the back of the larger envelope in the presence of an official listed in this subsection who shall sign as attesting official and shall date his signature. If none of the officials listed in this subsection are reasonably accessible, an absentee voter shall have the ballot witnessed by a person over the age of 18 years.
- (d) An absentee ballot must be marked and attested on or before the date of the election. If the voter returns the ballot by mail, he shall use the most expeditious mail service and mail the ballot not later than the day of the election to the clerk. It must be postmarked on or before midnight of Election Day and received by the clerk no later than noon on the seventh day following the election. Ballot envelopes received after that time shall not be opened but shall be marked "invalid", with the date of receipt noted thereon, and shall be preserved with other ballot of the election.
- (e) The clerk may require a voter casting an absentee ballot by mail to provide proof of identification or other information to aid in the establishment of his identity.

- (f) The clerk shall maintain a record of the name of each voter to whom an absentee ballot is sent by mail. The record must list the date on which the ballot is mailed and the date on which the ballot is received by the clerk and the dates on which the ballot was executed and postmarked.

### **6.30.080 – Absentee Voting – By Electronic Transmission.**

- (a) A qualified voter may apply for an absentee ballot to be sent by electronic transmission. Such request must be made not less than the day immediately preceding the election. Absentee ballots will be electronically transmitted to the location designated in the application. If no location is designated, and if the request is received no later than seven days prior to the election, the ballot will be mailed in the manner provided in KMC 6.35.070 for absentee ballots by mail. The clerk will provide reasonable conditions for electronically transmitting absentee ballots.
- (b) A ballot electronically transmitted shall contain a copy of the ballot to be used at the election in a form suitable for transmission. A photocopy of the computerized ballot card to be used by persons voting in person at the vote center is acceptable.
- (c) An absentee ballot that is completed and returned by the voter by electronic transmission must:
1. Contain the following statement: "I understand that by using electronic transmission to return my marked ballot, I am voluntarily waiving a portion of my right to a secret ballot to the extent necessary to process my ballot, but expect that my vote will be held as confidential as possible.", followed by the voter's signature and date of signature; and
  2. Be accompanied by a statement executed under oath as to the voter's identity; the statement under oath must be witnessed by one United States citizen who is 18 years of age or older.
- (d) The voter shall mark the ballot on or before the date of the election and shall use a mail service at least equal to first class and mail the ballot not later than the day of the election to the clerk. The ballot may not be counted unless it is received by noon on the 7th day after the election.
- (e) A voter who returns the absentee ballot by electronic transmission must comply with the same deadlines as for voting in person on or before the closing hour of the vote centers.
- (f) When a completed absentee ballot is received by electronic transmission, the clerk will note the date of receipt on the absentee ballot application log and, if the ballot is received on Election Day, the time of receipt. The clerk will then:
1. Remove the ballot portion of the transmission from the portion that identifies the voter;
  2. Place the ballot portion in a secrecy sleeve;
  3. Seal the secrecy sleeve in an outer envelope of the type used for absentee ballots returned by mail, and seal that envelope;
  4. Attach the voter identification portion to the outer envelope; and
  5. Forward the outer sealed envelope to the canvas board for review.
- (g) An electronically transmitted ballot shall be counted in the same manner as other absentee ballots, even though this procedure may reveal to one or more election officials the manner in which a particular absentee voter cast his or her ballot. However, it shall be unlawful to display a telefax ballot in a manner revealing the way in which a particular voter cast his or her ballot to any person other than the clerk, a member of the clerk's staff, an election official in the course of his or her duties, or an attorney advising the clerk on legal questions concerning the ballot.

### **6.30.090 – Special Needs Voting.**

A qualified voter with a disability who, because of that disability, is unable to go to a vote center to vote may vote a special needs ballot. Special needs ballots shall be issued and accounted for in accordance with the rules adopted by the state for use in state elections and in effect at the time of the local election.

### **6.30.100 – Prohibitions.**

- (a) During the hours that the vote centers are open, no election official may discuss any political party, candidate or issue while on duty.
- (b) During the hours the vote centers are open, no person who is in the voter center or within 200 feet of any entrance to the voter center may attempt to persuade a person to vote for or against a candidate, proposition or question. Nor may any person conduct other political activities that may pertain to any future election or potential ballot proposition. The election official shall post warning notices in the form and manner prescribed by the clerk.
- (c) No voter may exhibit a ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot, except as provided in this chapter.
- (d) While the vote centers are open no election official may open any ballot received from a voter, mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked a ballot, or allow the same to be done by another person.
- (e) No person may leave the voter center with the official ballot that the person received to mark.

### **6.30.110 – Assisting Voter.**

A qualified voter who cannot read, mark the ballot, or provide a signature may request assistance from an election official or not more than two persons of the voter's choice. If the election official is requested, the official shall assist the voter. If any other person is requested, the person providing assistance shall state upon oath before the election official that the voter's ballot will be kept confidential.

### **6.30.120 – Spoiled Ballots.**

The election supervisor shall specify uniform procedures for replacement, registration and disposition of spoiled ballots. These uniform procedures shall be provided in writing to the election judges.

### **6.30.130 – Placing Ballot in Ballot Box.**

When the voter has marked the ballot, the voter shall inform the election official. The clerk may require that the voter return the ballot to the election official temporarily so that any stub which may be part of the ballot may be removed by the election official. Any such requirement shall protect the secrecy of the ballot. In all cases the ballot shall be deposited in the ballot box by the voter in the presence of the election official unless the voter requests the election official to deposit the ballot.

## Chapter 6.35 Ballot Counting Procedures.

### **6.35.010 – Commencement of Ballot Count.**

Upon receipt of voted ballot packages the election official will verify that the voter has provided at least one identifier, signed the envelope and that the signature has been witnessed. If the ballot package is complete and valid the package will be sorted by precinct and the ballot and identifying

envelope will be separated. The ballot will proceed to be scanned and counted. The unofficial results will not be tallied until the end of the designated election period.

### **6.35.020 – General Procedure for Ballot Count.**

The clerk may issue rules prescribing the manner in which the precinct ballot count is accomplished so as to assure accuracy in the count and to expedite the process. The election board shall account for all ballots by completing a ballot statement containing (1) the number of official ballots received; (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4) the number of official ballots unused and destroyed. Discrepancies shall be noted and the numbers included in the certificate prescribed by the clerk. When hand counting ballots, the election official shall count the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for mailing may have a marking device in hand or remove a ballot from the immediate vicinity.

### **6.35.030 – Rules for Counting Hand-Marked Ballots.**

- (a) The election officials shall count hand marked ballots according to the following rules:
1. A voter may mark his or her ballot with a cross mark, "X" mark, diagonal, horizontal or vertical mark, solid mark, star, circle, asterisk, check or plus sign using the parking device provided at the vote center or with any black-inked marker. The marks will be counted only if they are clearly spaced in the square opposite the name of the candidate the voter desires to designate.
  2. A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
  3. If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
  4. If a voter more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.
  5. The mark specified in subsection 1 of this section shall be counted only if it is substantially inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square marked.
  6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly marked.
  7. An erasure or correction invalidates only that section of the ballot in which it appears.
- (b) The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.

### **6.35.040 – Write-in Votes.**

- (b) Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence, that the ballot was so marked for the purpose of identifying the ballot.
- (c) In order to vote for a write-in candidate, the voter must write a candidate's name in the space provided and, in addition, mark the square opposite the candidate's name in accordance with KMC 6.35.030(a). Stickers may not be used. Use of stickers can cause that portion of the ballot to be invalidated.

(d) Write-in votes shall only be tabulated by person if the total number of write-in votes for an office exceeds the smallest number of votes cast for a candidate for that office whose name is printed on the ballot.

#### **6.35.050 – Disqualified Candidate.**

Votes cast for a candidate who is disqualified shall not be counted for any purpose.

#### **6.35.060 – Tally of Votes.**

Tally of votes cast by paper ballots. The clerk shall issue instructions and shall provide forms and supplies for the tally of votes cast by paper ballot so as to assure accuracy and to expedite the process. The election board shall canvass and count the votes according to the rules for determining marks on ballots prescribed in KMC 6.30.030. The election board shall canvass the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for delivery to the election supervisor may remove a ballot from the immediate vicinity of the polls or have a marking device in hand.

#### **6.35.070 – Completion of Ballot Count.**

When the tally of hand counted ballots is completed, and in no event later than the day after the election, the election board shall make a certificate in duplicate of the results. The certificate includes the number of votes cast for each candidate, for and against each proposition, yes or no on each question, and any additional information prescribed by the election supervisor. The election board shall, immediately upon completion of the certificate or as soon thereafter as the local mail service permits, send in one sealed package to the election supervisor one copy of the certificate and the register. In addition, all ballots properly cast shall be mailed or hand delivered to the election supervisor. The package shall clearly indicate the precinct from which it came. To assure adequate protection the election supervisor shall prescribe the manner in which the ballots, registers and all other election records and materials are thereafter preserved, transferred and destroyed.

### Chapter 6.40

#### Canvassing and Certification of Election Results.

#### **6.40.010 – Canvass Board.**

(a) Pursuant to the provisions of Section 10-9 of the Charter of the City of Kenai, there is hereby established a Canvassing Board for the canvassing of all City elections; regular and special, and to ascertain and declare the results thereof, as follows:

(1) The City Clerk is hereby designated as the Chair of the Canvassing Board.

(2) The Canvassing Board shall consist of the City Clerk and up to eight (8) additional judges selected from among the qualified voters of the city. In the event any such appointed member of the Board is absent from the city, ill, or otherwise unable to attend at the time set for canvassing the ballot, the City Clerk is hereby authorized to appoint another election judge from the same precinct to substitute for the appointed member.

(b) All members of the election canvass board, before entering upon their duties, must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the clerk.

**6.40.020 – Preparation for Counting Ballots Delivered by Mail.**

- (a) Ballots may not be counted before 8:00 p.m., local time, on the day of the election.
- (b) Not sooner than the tenth day before the date of an election, in preparation for counting ballots delivered by mail, the election supervisor may:
  1. begin opening return identification and secrecy envelopes of ballots delivered by mail and received; and
  2. take any other actions that are necessary to allow the counting of ballots delivered by mail to begin at 8:00 p.m., local time, on election day.

**6.40.030 – Canvass of Returns.**

- (a) The canvassing board shall meet on the Tuesday following each election, the election canvass board shall meet in public session and canvass all election returns. In full view of those present, the election canvass board shall judge the applicability of by mail and absentee ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. Upon completion of the canvass, the canvassing board shall prepare a final certificate of the results of votes cast by absentee ballot and of votes cast by mail ballot, and shall prepare a written report of the results.
- (a) The clerk, as chair of the canvassing board, shall report the results of the election to the council at the next regular council meeting following the meeting of the canvassing board.

**6.40.040 – Voters Not on Official Registration List.**

A person whose registration has been canceled under AS 15.07.130(b) shall not have their ballot counted.

**6.40.050 – Certification of the Election Results.**

- (b) At the next regular council meeting following the meeting of the canvassing board, the council shall meet in public session to receive the report of the canvass board. If, after considering the report, the council determines that the election was validly held, the election shall be certified by resolution and entered upon the minutes of the meeting, together with the total number of votes cast for each candidate and for or against each proposition or question.
- (c) If the canvass board reports that a failure to comply with provisions of state law and city ordinances, or an illegal election practice has occurred, and that such failure is sufficient to change the outcome of the election, then the council may exclude the votes cast in one or more precincts where such failure or illegal practices occurred from the total returns, or may declare the entire election invalid and order a new election.
- (d) If the canvass board reports an apparent discrepancy in the returns of one or more precincts, the council may order a recount of votes cast in said precinct or precincts. Such recount shall be conducted immediately by the canvass board and the results shall be reported to the council. The council shall meet as soon as possible to certify the results of the election recount.
- (e) Upon certification of a valid election, the clerk shall deliver to each person elected to office a certificate of election, signed by the clerk and authenticated by the seal of the city, in accordance with City Charter, Section 10-9.

Chapter 6.45

## Election Recount.

### **6.45.010 – Recount Application.**

- (a) Any defeated candidate or any ten (10) qualified voters, who believe that a mistake has been made by an election official or by the canvass board in counting the votes in any election, may make an application in writing to the clerk for a recount of the votes for any particular office or on any particular question. The application must be filed in the office of the City Clerk within twenty-four (24) hours, excluding any Saturday, Sunday, or holiday after the Council certifies the results of the vote being questioned. In case of a tie vote between two (2) or more candidates, to which only one candidate is to be elected, the clerk shall initiate a recount.
- (b) The application shall include a deposit in cash or by certified check for the amount listed in the most current City of Kenai Schedule of Rates, Charges and Fees. The deposit shall be applied against any costs incurred or refunded if there is no liability for recount costs.
- (c) A recount application shall state in substance the basis of the belief that a mistake has been made and shall identify the particular precinct, office, proposition or question for which the recount is to be held and shall state that the person making the application is a candidate or that the ten persons making the application are qualified voters. The candidate or person making the application shall designate by full name and mailing address two persons who shall represent the applicant during the recount. Any person may be named representative, including the candidate or any person signing the application. Applications by ten qualified voters shall also include the designation of one of the number as chairman. The candidate or persons making the application shall sign the application and shall print or type their full name and mailing address.

### **6.45.020 – Date of Recount – Notice.**

- (a) If the clerk determines that the application is substantially in the required form, the clerk shall fix the date of the recount to be held within forty-eight (48) hours, excluding any Saturday, Sunday, or holiday, after the receipt of an application requesting a recount of the votes in a city election after it has been initiated under KMC 6.45.010.
- (b) The clerk shall give the recount applicant and other directly interested parties notice of the time and place of the recount by telephone or electronic transmission.

### **6.45.030 – Procedure for Recount.**

- (a) If a recount of ballots is demanded, the clerk shall appoint a recount board of four or more qualified voters to conduct the recount of ballots or those precincts cited in the application for recount.
- (b) In conducting the recount, the recount board shall review all ballots to determine which ballots or parts of ballots, were properly marked and which ballots are to be counted in the recount, and shall check the accuracy of the original count, the precinct certificate, and the review. For administrative convenience, the clerk may join and include two or more applications in a single review and count of votes. The rules governing the counting of marked ballots shall be followed in the recount.
- (c) The ballots and other election materials shall remain in the custody of the clerk during the recount and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within ten days.

### **6.45.040 – Certification of Recount Result.**



Upon completion of the recount, the recount board shall meet and adopt a report of the results of the recount for submission to the council. The council shall abide by procedures for issuing a certificate of the election as set forth in this title. The clerk shall promptly issue another election certificate if a change in the results requires it.

**6.45.050 – Return of Deposit and Apportionment of Expenses Upon Recount.**

If, upon recount, a different candidate or position on a proposition or question is certified or if the vote on recount is 4 percent or more in excess of the vote originally certified for the candidate or position on a proposition or question supported by the recount application, the entire deposit shall be refunded to the recount applicant; otherwise, it shall be placed in the general fund of the City. If this section does not require that the entire deposit be refunded, the clerk shall refund any money remaining after the cost of the recount has been paid from the deposit. If it is determined that the contestant shall bear the costs of the recount pursuant to this section and the deposit is insufficient to cover the costs, the City may recover the excess costs from the contestant. If the recount is obtained by voters, each of them shall be individually liable for the whole amount of such expense.

**6.45.060 – Appeal to the Courts After Recount.**

Any candidate or a majority of the persons who requested a recount who have reason to believe that an error has been made in the recount involving any candidate or question, may appeal to the Superior Court in accordance with applicable court rules governing appeals in civil matters. The filing of the appeal and the proceedings shall be, as nearly as may be, as in case of such an appeal made after a recount in a State election.

Chapter 6.50  
Contest of Election.

**6.50.010 – Grounds for Election Contest.**

A candidate or any ten (10) qualified voters of the city may contest the election of any person or the approval or rejection of any question or proposition upon one or more of the following grounds:  
(a) Malconduct, fraud or corruption by an election official sufficient to change the result of the election;  
(b) The person elected is not qualified under law or ordinance; or  
(c) Existence of a corrupt election practice, as defined by the laws of the State of Alaska, sufficient to change the result of the election.

**6.50.020 – Contest Procedure.**

(a) Notice of contest of an election shall be submitted in writing to the clerk before five p.m. on the day of the certification of the election or to the assembly at its meeting to certify the election returns. The notice of contest shall specify the election being contested, the grounds of the contest, and shall bear the notarized signatures of the candidate or qualified voters bringing the contest. The notice shall be in substantially the following form:

**NOTICE OF ELECTION CONTEST**

The undersigned contest the regular (or special) election of the City of Kenai held on the \_\_\_\_\_ day of \_\_\_\_\_ . The grounds for the contest are as follows:

Signature and date

(Notarization)

- (b) Upon receiving a notice of contest, the council shall order an investigation be conducted by the clerk and city attorney. Those contesting the election, those whose election is contested, and the public shall be allowed to attend all investigation and recounting proceedings.
- (c) If the contest involves the eligibility of voters the council shall direct the clerk to recheck the most current state registration lists. After considering the reports of the investigating officials and any other proof, the council shall determine whether any illegally cast votes could have affected the election results. If they could not have, the council may so declare and determine the election valid and certify the results pursuant to this title.
- (d) If the contest involves other prohibited election practices which are shown to have taken place, the council, in certifying the election returns, shall exclude the vote of the precincts where such practices occurred. If it is determined that such exclusion could not affect the election results, the council shall declare the election valid and certify the results pursuant to this title.
- (e) The contestants shall pay all costs and expenses incurred in a recount of an election as provided by KMC 6.45.010.

**6.50.030 – Appeal or Judicial Review.**

A person may not appeal or seek judicial relief of an election for any cause or reason unless the person is qualified to vote in the city, has exhausted all administrative remedies before the council, and has commenced within ten (10) days after the council has finally declared the election results, an action in the superior court. If an action under this section is not commenced within the ten-day period, the election and the election result shall be conclusive, final, and valid in all respects.

Chapter 6.55  
Special Elections.

**6.55.010 – Procedure.**

The clerk shall conduct special elections in accordance with the procedures set out in this title for a regular election.

**Section 2.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 3.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this \* day of \*, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

Ordinance No. 3127-2020  
Page 39 of 39

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Jamie Heinz, CMC, City Clerk

Introduced: May 20, 2020  
Enacted: \*, 2020  
Effective: \*, 2020



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**FROM:** Robert Peterkin, Council Member  
**DATE:** May 14, 2020  
**SUBJECT:** Ordinance No. 3127-2020

---

In January 2019 the Kenai Peninsula Borough formed the Election Stakeholder Group in response to an ADA complaint related to election practices and I, along with Mayor Gabriel, City Manager Ostrander, and City Clerk Heinz participated in the group's meetings. The group's guiding principles included maximizing accessibility and inclusivity, ensuring efficiency and conservation of public resources, ensuring voter satisfaction and confidence, ensuring longevity in the solution, promoting coordination and collaboration, ensuring security and integrity of the voting system, encouraging higher voter turnout, and ensuring continuity of election operations. The group received presentations from local clerks, the State of Alaska Division of Elections, the Municipality of Anchorage, the United States Postal Service, and the Kenai Peninsula Borough's (KPB) current ballot printer. The group also received demonstrations from two software/hardware providers. Presentations reviewed both polling place and vote by mail structures. The group unanimously adopted six recommendations, the number one recommendation being to transition the election process from a polling site structure to a vote by mail hybrid structure. On September 18, 2019, the Kenai City Council adopted Joint Resolution No. 2019-001, recognizing the recommendations of the KPB Election Stakeholders Group and directing staff to explore implementation of the recommendations.

In December 2019, the KPB clerk's office contracted with Resource Data for the completion of a feasibility study and cost analysis for a vote by mail system implementation and, Resource Data's final feasibility study, in section 2.1. Overall Assessment, indicated that they believed that KPB would be able to successfully transition to an area-wide vote by mail election process.

The City of Kenai shares approximately 6,000 voters with KPB and traditionally, much of the election process is a joint effort making voting both in the City of Kenai and KPB elections not only a more convenient process for the shared voters but a more fiscally responsible one.

Ordinance 3127-2020 will codify and implement the vote by mail hybrid system recommended by the Election Stakeholders Group in conjunction with KPB to continue to provide convenient, secure and fiscally responsible elections to the city's voters in a sustainable and accessible way.

Your consideration is appreciated.



# KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**FROM:** Jamie Heinz

**DATE:** May 12, 2020

**SUBJECT:** **Ordinance No. 3127-2020**

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Following is an analysis of how our current election code was incorporated into Ordinance No. 3127-2020, highlights potential policy changes, and discusses which sections of our current election code would no longer be needed if the city were to move to a by-mail election process.

6.05.010 is new and provides a scope for the title.

6.05.020 replaces current 6.05.070, indicates that the clerk administers elections, and was adapted from Kenai Peninsula Borough (KPB) Code.

6.05.030 is new, provides definitions, and was incorporated as found in KPB's code as potentially amended by KPB Ordinance No. 2020-24.

6.05.040 is new, provides a severability clause, and was incorporated from KPB's code.

6.05.050 speaks to timing of elections, is adapted from KPB code, includes some details from our own city charter, and provides a timeline for a special election. Subsection (c) replaces current 6.05.260.

6.05.060 speaks to the number of votes required for election to office, includes detail from city charter, and is adapted from KPB code; subsection (b) replaces current 6.05.130.

6.05.070 speaks to record retention and replaces current 6.05.280. This section is adapted from KPB code and reduces retention of most records to 30 days after certification of election. Because retention of some election certification records is permanent, windows of appeal periods being small, and certification finalizing the election the records being reduced to the shortened retention length would no longer be needed; others are not the City's record but Alaska Public Offices Commission's (APOC) record. Ordinance No. 3128-2020 is a companion ordinance to this one and moves retention of financial disclosure forms, as is, to Title 1.

6.05.080 replaces current 6.05.050; addresses the city paying all necessary expenses relating to its elections and was modified to remain consistent with KPB regarding wages and by-mail.

6.05.090 replaces current chapters 6.20 and 6.30 relating to initiative, referendum, and recall situations.

6.05.100 brings offenses and penalties forward which are currently in 6.05.270. Some offenses to note are, using force to coerce a voter to vote in a certain way and voting or attempting to vote in the name of another person or in any name other than his or her own. Punishments for convicted violations are spelled out in KMC 13.05.010 so, our own police department could be leveraged to investigate.

6.10.010 replaces current 6.05.010 relating to voter qualifications, is also spelled out in charter, and adds a bit more language specific to registration; this was adapted from City of Soldotna (CoS) and KPB.

6.10.020 is new and was included pursuant to KPB and CoS. It was modified from AS 15.05.020. This information would provide something for the city to look to in the event of an election contest.

6.10.030 is new in the code but has been past practice; a joint advertisement with CoS.

6.15.010 and 6.15.020 pull a lot of information from city charter and replace current chapter 6.10. They go into more detail about what information is included in nomination petitions and declarations of candidacy. A change here which was incorporated from KPB code modifies the ending of the filing period in the event August 15 falls on a weekend or holiday with the extended deadline being noon on the designated day instead of close of business.

6.15.030 is new; was copied from a KPB ordinance which was adopted in January. This section will provide review processes for determining candidate qualifications and also in the event of an election contest similar to what Homer, KPB, and Haines have experienced.

6.15.040 provides an opportunity for a candidate to amend and withdraw their candidacy. It contains some information from current 6.10.030 and was adapted from KPB code.

6.15.050 is new and is a policy decision relating to campaign reporting; it was taken from KPB code. It can be left as it is which puts the clerk in the position of policing state law, or the second sentence can be removed putting the onus on the candidate. It is current practice that the clerk provides information for accessing APOC to determine what type of reporting would be necessary.

6.15.060 would be a new policy in our code and was taken from KPB and COS.

6.15.070 is a new policy for our code but is current practice, likely taken from KPB at some point.

6.15.080 speaks to watchers and is in our current code as 6.05.060. It is not in KPB code so Anchorage code was looked to for rewording in a by mail situation.

6.20.010 covers election notices and replaces current 6.05.320. Timing changes match KPB. A notice of bonded indebtedness was included which isn't currently mentioned in our code.

6.20.020 regarding election officials replaces current 6.05.040 regarding poll workers and now matches KPB's ordinance 2020-24 for by mail.

6.20.030 is new and specifies ballot form.

6.20.040 speaks to ballot preparation and distribution, and covers what is currently 6.05.080; this was copied from KPB so election resources could continue to be shared.



Chapter 6.25 speaks to by mail elections and is copied from KPB's ordinance 2020-24 for by mail; 6.25.010 incorporates current 6.05.030 to the extent possible with a transition to a by mail election.

6.30.010 is new and speaks to the clerk supervising absentee voting; it was copied from KPB code.

6.30.020 speaks to absentee voting officials and was copied from KPB code and ordinance 2020-24; it covers current 6.05.340 and 6.05.330.

6.30.030 and 6.30.040 discuss who is eligible to vote by mail and prohibits someone collecting a fee for attesting a voter's certificate required on an absentee ballot; these were copied from KPB code.

6.30.050 discusses the clerk providing materials for absentee voting and covers the absentee portion of current 6.05.080.

6.30.060 discusses voting in person in a vote center and was copied from KPB ordinance 2020-24 to provide for sharing resources; this section covers portions of current 6.05.145, 150, and 160.

6.30.070 discusses voting absentee by mail and was adapted from KPB code and ordinance 2020-24. This section addresses portions of current 6.05.140, 145, 150, 160, and 170. It also speaks to a portion of current 6.05.120(c). A new policy here provides that a permanent absentee by mail list will be provided by the City. This is in KPB's existing code and was being considered by the state through HB115 which died in committee when legislature adjourned.

6.30.080 speaks to voting absentee by electronic transmission and incorporates current code sections 6.05.145, 150, 160, 170, and 335.

6.30.090 is not in our current code; however, has been our practice.

6.30.100 speaks to electioneering rules and was not previously codified by the city; it was copied from KPB code.

6.30.110 provides guidance on assisting voters and was not previously codified by the city; it was also copied from KPB code.

6.30.120 provides for the clerk to specify rules for spoiled ballots and has been practice though it has never been in code; it was copied from KPB code.

6.30.130 discusses ballot boxes in the vote centers and covers current 6.05.090 to the extent possible with a mostly by mail election; it was copied from KPB code as may be amended by ordinance 2020-24.

Chapter 6.35 is copied from KPB's code and ordinance 2020-24 to match in counting procedures for sharing election resources.

6.40.010 moves into the canvass board part of the election and incorporates what is currently in 6.05.120 (a); it was adapted from KPB code as may be amended by ordinance 2020-24 and it now speaks to full number of election workers and no longer refers to precincts.



6.40.020 begins with counting procedures considering an influx of by mail ballots received and was copied from KPB code as may be amended by ordinance 2020-24.

6.40.030 is a high level overview of the canvass board's responsibilities and incorporates current 6.05.120(b) and (d)

6.40.040 speaks to ballots of voters not appearing on official registration lists not being counted and has been practice; this section was copied from KPB code.

6.40.050 discusses certification of election results and contains information from charter and the city's past practices; it is new and was adapted from KPB code.

Chapter 6.45 provides policies and adds procedures for an election recount and was copied from KPB code while incorporating the city's current code sections 6.05.220 and 6.05.230. Timelines and certain practices were updated; for example, our code currently indicates that a recount request can be brought to the Mayor and that the requestor can pay by bond.

Chapter 6.50 provides policies and adds procedures for an election contest and was copied from KPB code while incorporating 6.05.240.

To the extent possible with a transition to a by mail election process, all current sections of code were incorporated into this ordinance while retaining the ability to share resources with the borough and attempting to improve processes and provide clarity. Sections in current code that were not incorporated in some way were 6.05.110 which speaks to following state statutes regarding to elections and a poll-based type of election, 6.05.200 is not addressed in KPB code and was left out to provide for the ability to share resources with the borough to the extent we decide, 6.05.210 which speaks to computer testing to the satisfaction of a data processing control board which does not exist, and 6.05.250 which speaks to rules and regulations developed by the Director of Elections at the state level which would be aimed at poll based elections.







Sponsored by: City Clerk

**CITY OF KENAI**

**ORDINANCE NO. 3128-2020**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING KENAI MUNICIPAL CODE SECTION 1.85.040 – RECORDS PUBLIC, TO PROVIDE FOR A RECORD RETENTION LENGTH.

WHEREAS, Ordinance 3127-2020 repealed and replaced the City’s election code; and,

WHEREAS, it is appropriate to identify the record retention length for financial disclosure statements in KMC 1.85.040 which requires them.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** Amending Section 1.85.040 – Records Public of the Kenai Municipal Code: That Kenai Municipal Code, Section 1.85.040 – Records Public is hereby amended as follows:

**1.85.040 Records public.**

All statements required to be filed by this chapter are public records and shall be maintained for six (6) years.

**Section 2.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 3.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this \* day of \*, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Introduced: May 20, 2020  
Enacted: \*, 2020  
Effective: \*, 2020



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**FROM:** Jamie Heinz  
**DATE:** May 14, 2020  
**SUBJECT:** **Ordinance No. 3128-2020**

---

Ordinance No. 3128-2020 is a companion ordinance to Ordinance No. 3127-2020. If Ordinance No. 3127-2020 is enacted, record retention of Public Official Financial Disclosure forms would need to be incorporated back into code; it is my recommendation that it be incorporated into KMC Chapter 1.85 where Public Official Financial Disclosure forms are set forth.

Your consideration is appreciated.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3129-2020**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING PRIVATE DONATIONS TO THE KENAI ANIMAL SHELTER FOR THE CARE OF ANIMALS.

WHEREAS, the Kenai Animal Shelter recently received monetary donations from eight private individuals and one business; and,

WHEREAS, the Animal Control Chief has identified equipment needs, including an upgrade to cat kennels at the shelter; and,

WHEREAS, the acceptance of these donations to further the mission of the Animal Shelter is in the best interest on the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** That the City Manager is authorized to accept these donated funds in the amount of \$785.

**Section 2.** That the estimated revenues and appropriations be increased as follows:

General Fund:

|  |              |
|--|--------------|
| Increase Estimated Revenues –<br>Donations- Animal Control | <u>\$785</u> |
| Increase Appropriations –<br>Animal Control- Small Tools   | <u>\$785</u> |

**Section 3.** That the City Manager is authorized to execute xxx.

**Section 4.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 5.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.


Ordinance No. 3129-2020  
Page 2 of 2

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3<sup>rd</sup> day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: May 20, 2020  
Enacted: June 3, 2020  
Effective: June 3, 2020



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**THROUGH:** Paul Ostrander, City Manager

**FROM:** David Ross, Police Chief

**DATE:** May 5, 2020

**SUBJECT:** Ordinance No. 3129-2020, Donation to Kenai Animal Shelter

---

The Kenai Animal shelter received a number of unsolicited private donations recently totaling \$785. The individual donors include: Glenn & Patricia Clifford, Mykel's Restaurant Staff, Elizabeth Whiteside, Rosemary Milliken, Timothy Stanley, Ronald Dupis, Linda Tannehill, Karen Monell and Linda Ashley. The Animal Control Chief has identified improvements to be made to the cat kennels at the shelter, which she believes would be an appropriate use of those donated funds to continue providing high quality care at the Shelter.

I am respectfully requesting consideration of the ordinance accepting and appropriating those donated funds to assist in the care of animals as they were intended.



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2020-34**

A RESOLUTION OF THE CITY OF KENAI, ALASKA, AUTHORIZING THE CITY MANAGER TO EXTEND THE RESTAURANT CONCESSION AGREEMENT IN THE KENAI MUNICIPAL AIRPORT FOR ONE YEAR.

WHEREAS, on August 1, 2018, Council passed Resolution 2018-42 authorizing the City Manager to enter into a restaurant concession agreement with the Brothers' Café; and,

WHEREAS, on March 6, 2019 Council passed Resolution 2019-14 authorizing the City Manager to enter into an amended concession agreement with the Brothers' Café recognizing decreased business due to the terminal rehabilitation project; and,

WHEREAS, on December 4, 2019, Council passed Resolution 2019-78 authorizing the City Manager to enter into an amended concession agreement with the Brothers' Café recognizing a necessary business closure due to the terminal rehabilitation project; and,

WHEREAS, a formal second amendment was never executed though an agreement between the City and Brother's café was reached; and,

WHEREAS, at its regular meeting of May 14, 2020 the Airport Commission unanimously recommended Council approve the extension; and,

WHEREAS, it is in the best interest of the City of Kenai to authorize the City Manager to extend the term of the agreement for one year pursuant to ARTICLE II of the Restaurant Concession Agreement as Brother's Café provides a valuable service to the Airport.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the City Manager is authorized to execute a Second Amendment to the Restaurant Concession Agreement with the Brothers Café, extending the term of the Agreement for the period of July 1, 2020 and ending June 30, 2021.

**Section 2.** That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3rd day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL, SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

**SECOND AMENDMENT TO CITY OF KENAI  
KENAI MUNICIPAL AIRPORT  
RESTAURANT CONCESSION AGREEMENT**

**James Hamilton** and **Zachary Hamilton**, Co-Owners (Concessionaire), Situla LLC (d/b/a/ Brother’s Cafe, 1510 Kittiwake CT, Kenai, Alaska 99611, and the **CITY OF KENAI**, a municipal corporation, organized and existing under the laws of the State of Alaska (City), 210 Fidalgo Avenue, Suite 200, Kenai, Alaska 99611, entered into a contract for restaurant concession services at the Kenai Airport, beginning August 2, 2018.

Whereas: on August 1, 2018, the Kenai City Council adopted Resolution 2018-42, authorizing the City Manager to enter into a restaurant concession agreement with Concessionaire; and,

Whereas: on March 6, 2019, the Kenai City Council adopted Resolution 2019-14, authorizing the City Manager to amend the Agreement with Concessionaire to reflect a temporary adjustment to the fees and payments due; and,

Whereas: pursuant to Article II of the Agreement, the City and Concessionaire mutually agree to extend the Agreement for the first successive one-year term.

Now, therefore, the City of Kenai and Concessionaire agree as follows:

1. Pursuant to Article II of the Restaurant Concession Agreement for the Kenai Municipal Airport, this Agreement is extended for the first one-year term extension beginning on July 1, 2020 and ending on June 30, 2021.
2. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

**LESSOR:**

CITY OF KENAI

\_\_\_\_\_  
Paul Ostrander, City Manager

**CONCESSIONAIRE:**

Situla LLC (d/b/a/ Brother's Café)

Situla LLC (d/b/a/ Brother's Café)

\_\_\_\_\_  
James Hamilton – Co-Owner

\_\_\_\_\_  
Zachary Hamilton – Co-Owner

STATE OF ALASKA                    )  
  )ss  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, James Hamilton, Co-Owner, Situla LLC (d/b/a/ Brother's Café), being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said Corporation.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires:\_\_\_\_\_



STATE OF ALASKA )  
 )ss  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, Zachary Hamilton, Co-Owner, Situla LLC (d/b/a/ Brother's Café), being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said Corporation.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA )  
 )ss  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, personally appeared before me, **PAUL OSTRANDER**, known to me and to me known to be the City Manager of the City of Kenai, Alaska, and who acknowledged before me that the foregoing instrument was freely and voluntarily executed on behalf of the City of Kenai, for the uses and purposes set forth and with full authority of the City of Kenai to do so.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

Approved by Kenai City Council on \_\_\_\_\_

Approved as to lease form by City Attorney \_\_\_\_\_

Approved by Finance Director \_\_\_\_\_

Approved by City Manager \_\_\_\_\_



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Mary Bondurant, Airport Manager

**DATE:** May 15, 2020

**SUBJECT:** **Resolution 2020-34 Extend Restaurant Concession**

---

James and Zachary Hamilton, Situla, LLC (d/b/a Brother's Café) are requesting to extend the Agreement for the first successive one-year term under the same terms and conditions.

The Brother's Café is current in all fees owed to the City and a current certificate of insurance is on file.

Airport Commission reviewed the request at the May 14, 2020 meeting and unanimously recommend that Council approve the Second Amendment to the restaurant concession agreement.

Thank you for your consideration.

**CITY OF KENAI  
KENAI MUNICIPAL AIRPORT  
RESTAURANT CONCESSION AGREEMENT**

**James Hamilton and Zachary Hamilton, Co-Owners (Concessionaire), Situla LLC (d/b/a/ Brother's Cafe, 1510 Kittiwake CT, Kenai, Alaska 99611, and the CITY OF KENAI, a municipal corporation, organized and existing under the laws of the State of Alaska (City), 210 Fidalgo Avenue, Suite 200, Kenai, Alaska 99611, hereby enter into this contract for restaurant concession services at the Kenai Airport, the term of which is August 2, 2018 through June 30, 2020.**

**INTRODUCTION**

- A. The City owns and operates the Kenai Municipal Airport, located in Kenai, Alaska.
- B. In connection with the Airport, the City owns the Terminal.
- C. The City has determined that offering a Restaurant Concession Agreement by the competitive bid process is in the best interest of the City and the traveling public.
- D. The Concessionaire desires to operate the Restaurant Concession in the Terminal.
- E. The City solicited competitive bids for the Restaurant Concession, and the Concessionaire was the successful bidder.

**ARTICLE I: DEFINITIONS**

The following definitions apply for this Agreement:

- A. Agreement: This Agreement, together with:
  1. *Certified Activity Report* form (CAR) (Exhibit A)
  2. Drawing of Airport Restaurant Space 8/8A (Exhibit B);

City   
 Concessionaire   
 Concessionaire 



- 3. List of city-owned equipment in the restaurant (Exhibit C);
- 4. Restaurant Safety & Maintenance List (Exhibit D);
- 5. Successful Proposal (Exhibit E); and
- 6. All future amendments or supplements executed by the parties to this Agreement.

- B. Airport: The real property and facilities of the Kenai Municipal Airport, 305 N. Willow, Kenai, Alaska, as they exist on the execution date of this Agreement, together with any future additions or expansions.
- C. Airport Manager: The City's designated manager at Kenai Municipal Airport acting directly or through a duly authorized representative.
- D. Certified Activity Report: A report that lists the Gross Sales generated by the Restaurant Concession during the calendar month for which payment is made. The format of the Certified Activity Report is specified in Exhibit A.
- E. Concessionaire: The successful bidder for this Restaurant Concession Agreement, who enters into this Agreement, or any other subsequent Concessionaire as provided under Article XXI (Assignment or Subletting) of this Agreement.
- F. Disadvantaged Business Enterprise (DBE): A business certified by the City of Kenai or the State of Alaska, as a disadvantaged business enterprise as defined in 49 CFR, Part 23.
- G. Entertainment Device: A mechanical or electronic device, video game, or similar item used for personal entertainment in a public place.
- H. Manager: That person described in Article VII and having authority to act for the Concessionaire.
- I. Premises: The floor space available to the Concessionaire for the uses authorized under this Agreement is as shown below (also see Exhibit B):

The premises known as the restaurant area of the Kenai Municipal Terminal within the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼), Section 32, Township 6 North, Range 11 West, Seward Meridian, in the Kenai Recording District, Third Judicial District, State of Alaska.

- J. Term: The period of time specified under Article II of this Agreement.
- K. Terminal: The City of Kenai passenger terminal building at the Airport.

- L. Vending Machine: A coin-operated device for selling nonalcoholic beverages or food items.

**ARTICLE II: TERM**

- A. Term: This Agreement is effective on the date it is signed on behalf of the City. The City grants the Concessionaire the rights listed in Article III beginning at 12:01 a.m., **August 2, 2018**, and ending at **12:00 midnight on June 30, 2020**, with an opportunity to extend for three successive one-year terms by mutual written consent of Owner and Concessionaire.
- B. Holding Over: If the Concessionaire holds over without a written renewal of this Agreement after it expires, the holding over does not operate as a renewal or extension of the rights granted under this Agreement, but only creates a month-to-month tenancy, regardless of any payment the City accepts. The Concessionaire's obligations to perform under this Agreement will continue until the City terminates the month-to-month tenancy. The City may terminate the holdover tenancy at any time by giving the Concessionaire at least 10 days' written notice. The monthly payment for any holdover period is the monthly rental fee.

**ARTICLE III: RIGHTS GRANTED, RESERVATIONS, AND PROHIBITIONS**

Subject to the rights and obligations under this Agreement, the City grants the Concessionaire the authority to exercise the following rights:

- A. Non-Exclusive Rights: The City grants the Concessionaire the following non-exclusive rights:
  1. To prepare, serve, or sell food and beverage items, except vending machines.
  2. To provide in-flight meal service for airline crews and passengers.
  3. To provide delayed-flight meal service inside aircraft parked at the Terminal.
  4. To prepare, serve, and sell food and nonalcoholic beverages to customers in the Airport Terminal or off the Airport.
  5. To install and operate Entertainment Devices on the premises when approved in writing by the Airport Manager.

City   
 Concessionaire   
 Concessionaire 



B. General Rights: The City grants the Concessionaire the following general rights:

1. To ingress, egress, and occupy the premises by the Concessionaire, its officers, contractors, suppliers, service personnel, guests, patrons, and invitees, subject to the security rules of the Airport.
2. To construct and install fixtures, equipment, and other improvements necessary to operate the concession, subject to the prior written approval of the City (Article X of this Agreement).

C. Reservations: The City reserves the following rights:

1. To authorize airlines to provide Restaurant service in airline VIP rooms.
2. To grant others any right or privilege not specifically and exclusively granted to the Concessionaire.
3. To allow airlines to provide complementary coffee and snacks during hours when food and beverage service provided under this agreement is not available.
4. The rights and privileges granted the Concessionaire under this Agreement is the only rights and privileges granted the Concessionaire. The Concessionaire has no easements, rights, or privileges, expressed or implied, other than those specifically granted under this Agreement.

D. Prohibitions: This Agreement prohibits the Concessionaire from the following:

1. To provide any service or product not described in this Agreement without the prior written consent of the City. If a question or dispute arises concerning the sale of any service or product, the Concessionaire may submit a written request to the City asking for a review and decision concerning the dispute. The City will deliver a written decision to the Concessionaire, and the decision of the City is final.
2. To sell any item or service for which the City has granted exclusive concession rights to others.
3. To divert any business or cause or allow by its own actions any business to be diverted from the Airport.

E. Hours/Days of Operation: The Concessionaire will be open for a minimum of 60 hours per week. The airport manager must approve changes to hours of

operation, in writing. If the concessionaire requests to operate for fewer hours then the City shall have the option of advertising for proposals and negotiating a new contract and terminating the existing contract if it is in the best interest of the City.

- F. Emergency Closures: The City recognizes that emergencies may occur that are beyond the control of the concessionaire. If an emergency arises that requires an unexpected closure then the Concessionaire will notify the Airport Manager of the circumstances in writing. If excessive closures occur, the City shall have the option of terminating this contract.
- G. Closure for Repairs: The parties recognize that major repairs of the building may occur during the life of this contract. The City reserves the right to cause interruptions to the utilities and other amenities as necessary to conduct normal repairs. If such interruptions are minimal and notification of such work is provided the concessionaire then the City is not held liable for lost revenue. If the interruption lasts more that one working day then appropriate adjustments will be made to the rent.

**ARTICLE IV: PREMISES**

The City will deliver the premises to the Concessionaire at 12:01 a.m. on **August 2, 2018**. The Concessionaire accepts the premises in its then-present condition and as is. The Concessionaire acknowledges that the City's obligation is limited to making the premises available to the Concessionaire for its use.

**ARTICLE V: FEES AND PAYMENTS**

- A. Monthly Percentage of Gross Receipts: For the rights and privileges granted under this Agreement, the Concessionaire will pay the City a monthly percentage of gross receipts. 5% plus applicable sales tax for August and September of 2018 and 10% plus applicable sales tax for all months after September 2018.

The percent required to be paid shall be paid for each calendar month during the term of this Agreement and shall be due and payable on the tenth (10<sup>th</sup>) day of the calendar month succeeding the month for which the payment is applicable.

Concessionaire shall provide a Certified Activity Report (CAR) for each month of the preceding month for the City's audit purposes to determine compliance with this requirement. The Concessionaire shall submit each CAR in the format shown in **Exhibit A**. The CAR shall be submitted to the Airport Manager's office at the Airport.

City   
 Concessionaire   
 Concessionaire 



Percentage payment payable to the City by the Concessionaire under this Agreement shall be owned by the City at the time of each customer transaction and will be held in trust by the Concessionaire while the funds are in Concessionaire's custody and control. The Concessionaire is responsible for these fees until delivered to the City. If any fees payable to the City are lost, stolen, or otherwise unlawfully removed from the custody and control of the Concessionaire, the Concessionaire remains responsible to the City for the revenue.

1. Gross sales numbers are confidential to the extent allowed by law.
  2. Payments must be submitted to City of Kenai, Finance Department, 210 Fidalgo, Kenai, AK 99611.
  3. The Concessionaire will make its payments free from any claim, demand, setoff, or counterclaim of any kind against the City, and will make its payments in cash or by check, bank draft, or money order payable to the City of Kenai.
- B. Utilities; City shall pay for garbage removal and electrical utilities including heat and normal air conditioning during the operating hours of the terminal. All other utilities and services including gas, water and sewer, telephone communication, internet, cable and other utilities and services incident to the Concessionaire's business, shall be operated and maintained at the Concessionaire's sole expense.
- C. Catering: Concessionaire may provide catering services to private aircraft as well as off-premises as part of the restaurant function; however, all catering sales are also subject to the same fees as described above. Catering service is not exclusive to the restaurant concession.
- D. Waiver of Monthly Rental:
1. The City will waive the monthly percentage payment if any of the following events occur:
    - a. Any event, not the fault of the Concessionaire that so damages the Terminal and prevents the normal operation of the Concessionaire's business for more than 30 consecutive days. If the normal operation of the Concessionaire's business is prevented for more than 30 consecutive days, this waiver is effective from the first day following the period of 30 consecutive days and will continue until normal operations can resume.



- b. Complete closure of the Airport to the commercial air transport of passengers for more than 30 consecutive days. If complete closure of the Airport exceeds 30 consecutive days, this waiver will be effective from the first day following the period of 30 consecutive days and will continue until the Airport is reopened to the commercial air transport of passengers.
2. For the purposes of this Section, if the waiver period does not fall on the first or last day of the month, the minimum rent may be prorated on a daily basis to determine the Concessionaire's correct monthly fee.
3. At its discretion, the City will either credit any overpayment resulting from a waiver toward future payments due the City or refund the overpayment to the Concessionaire.
- E. Fees Vest in the City: Whether for cash or credit, the fees due the City for the services the Concessionaire is authorized to provide under this Agreement immediately vest in and become the property of the City. The Concessionaire is responsible for those fees until delivered to the City.
- F. Unpaid Fees: Any rent, charge, fee, or other consideration due but unpaid at the expiration or voluntary or involuntary termination or cancellation of this Agreement is a charge against the Concessionaire and its property, real or personal, and the City has any lien rights allowed by law. Either the City or its authorized agent may provide enforcement.
- G. Security Deposit: The successful proposer will be required to provide a security deposit or bond for the same in the amount of \$3,000.00. This deposit or bond will be used by the City to remedy any late payments, property damage, or other costs incurred due to the failure of the proposer to comply with the contract terms and otherwise will be held until and if the premises is vacated by the successful proposer in full compliance with all agreement terms. The security deposit or bond must be provided to the City prior to the execution of the Restaurant Concession Agreement.
- H. Closure Fees: Concessionaire shall be open a minimum of 60 hours a week. The City may require the Concessionaire to pay a penalty of \$100 per week for any week the Concessionaire is not open a minimum 60-hours unless the City authorizes in writing a reduction of hours for that week. This penalty will be in addition to normal fees due the City under this concession agreement

## ARTICLE VI: DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

DISADVANTAGED BUSINESS ENTERPRISES (DBE'S): The City of Kenai's policy is to ensure that DBE's have the maximum opportunity to participate in the performance of Airport concession contracts.

(a) Concessionaire's obligation: The Concessionaire will ensure that DBE's have the maximum opportunity to participate in the performance of this agreement.

This agreement is subject to the requirements of the United State Department of Transportation's regulations, 49 CFR, Part 23, Subpart F. The Concessionaire Agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR, Part 23, Subpart F. The Concessionaire agrees to include the above statements in any subsequent concession arrangements that it enters and cause those businesses to similarly include the statements in further agreements.

The Concessionaire will comply with all applicable laws and regulations regarding the fair and equitable treatment of DBEs now in effect or which may subsequently take effect during this Agreement. The Concessionaire will include a provision to this effect in any subcontract or other arrangement for DBE participation entered into under this Agreement.

## ARTICLE VII: PERSONNEL

The Concessionaire will maintain an adequate staff with the experience necessary to meet the provisions of this Agreement.

- A. Manager: The Concessionaire will select and properly train a Manager responsible for the general day-to-day operations under this Agreement. The Manager must reside in the Kenai area and be ordinarily available during regular business hours. At all times during the Manager's absence, a responsible subordinate must be in charge and available.
- B. Other Personnel: The Concessionaire's personnel will meet the standards set forth in this Agreement and will conduct the Concessionaire's operations in accordance with the standards set forth in Article IX of this Agreement.

## ARTICLE VIII: OWNERSHIP OF EQUIPMENT AND IMPROVEMENTS

- A. City-owned Equipment: The City holds title to certain restaurant equipment that is located on the premises and is listed on Exhibit C.
- B. Concessionaire-owned Equipment
1. Title to all Concessionaire-owned personal property, trade fixtures, equipment, furniture, vending machines, and entertainment devices remains vested in the Concessionaire.
  2. Entertainment Devices: The City will approve the locations, maximum number, and kinds of entertainment devices it will allow on the premises. The Concessionaire will relocate or remove any Entertainment Device at its sole expense when requested to do so by the City.
- C. Ownership of Permanent Improvements  
On expiration, cancellation, or termination of this Agreement, title to any structural or other improvements that the Concessionaire cannot, in the City's determination, remove without damage to the premises vests in the City. These improvements include interior walls, ceilings, carpeting, finished flooring, electrical wiring, air-conditioning ducts and equipment, and all interior decorations and finishing erected or installed by the Concessionaire.

## ARTICLE IX: SERVICE AND OPERATION

The Concessionaire's operation under this Agreement is a service to terminal employees, the traveling public and other users of the Airport. The Concessionaire will operate its Concession in accordance with the highest standards and practices of the food and beverage industry. The Concessionaire will take all reasonable measures to maintain, develop, and increase its business within the Terminal. Accordingly, the Concessionaire will provide service in a first-class, businesslike, efficient, courteous, accommodating manner and will comply with the following:

- A. Service Quality: The Concessionaire will provide terminal employees, the traveling public and other users of the Airport with high-quality service and products.
- B. Orderly Operation: The Concessionaire will conduct all business in a quiet, orderly, and courteous manner, so as not to annoy, disturb, or offend customers, patrons, or tenants of the Airport.

C. Health Standards and Facilities' Cleanliness

1. The Concessionaire will comply with all established health standards as monitored by the local governmental health department.
2. Within five (5) days of any health standards inspection, the Concessionaire will provide the City with a copy of the inspection report.
3. The Concessionaire will have an ongoing cleaning program for both the public and non-public areas within the premises. The program will include cleaning of carpets, floors, equipment, trade fixtures, furniture, entertainment devices, vents, and service areas.

D. Standard of Conduct for Employees: The Concessionaire will maintain a standard of conduct for its employees that include the following:

1. Employees must be well groomed and maintain a pleasant attitude toward the public.
2. Employees may not display their grievances in public, use improper language or conduct, or drink any alcoholic beverage while on duty or in uniform.

E. Janitorial and Cleaning Services: The Concessionaire will provide, at its own expense, the day-to-day janitorial and cleaning services and supplies necessary to maintain the premises except for those services provided by the City under Article XI of this Agreement. The Concessionaire will maintain the premises in a clean, neat, and sanitary condition.

F. Trash, Garbage, and Refuse: The Concessionaire will provide for the adequate sanitary handling and removal of all trash, garbage, and other refuse caused as a result of the Concessionaire's operations. The Concessionaire will coordinate a schedule and procedure of trash removal with the City. The Concessionaire will provide and use suitably covered or sealed receptacles for all garbage, trash, and other refuse from its operations inside the Terminal.

G. Security: The Concessionaire will adhere to all applicable responsibilities of the federal airport security program set out in Federal Aviation Regulations Part 107 and the Airport Master Security Program. The Concessionaire will procure any required identification badges necessary to access the premises or the Concessionaire's operations authorized under this Agreement. Any fine that results from a violation of the federal airport security program by the Concessionaire, its agents, officers, suppliers, sub lessees, vendors, guests, customers, or employees, whether on or off the premises, that is found by the

Federal Aviation Administration or the City to be the fault of the Concessionaire will be the sole responsibility of the Concessionaire. If the City pays any such fine to meet the Federal Aviation Administration deadlines, the Concessionaire will reimburse the City within 30 days after written notice by the City. The Concessionaire will coordinate any Airport security matter with the City.

- H. Smoking: Neither the Concessionaire, employees, or customers may smoke in the Terminal except in designated smoking areas.
- I. Complaints, Questions, or Concerns: The City will forward to the Concessionaire for response any complaints, questions, or concerns regarding the Concessionaire's operations. The City reserves the right to address and resolve any problems arising out of the Concessionaire's operations.
- J. Signs: The Concessionaire may, after consent by the Airport Manager, install signs at its premises identifying its business. The Concessionaire will request the City's advance written approval through the City's building permit process (Article X, Section B of this Agreement) before installation of any signage. The City will approve or disapprove the names selected for the restaurant.

#### **ARTICLE X: MAINTENANCE AND CONSTRUCTION ON THE PREMISES**

##### **A. Maintenance**

1. The Concessionaire will, at its sole expense:
  - a. Be responsible for all routine upkeep, maintenance and cleaning of all City owned equipment. Be responsible for all repairs/replacement costs associated with Concessionaire owned equipment. A Restaurant Safety & Maintenance List, Exhibit D, will be strictly monitored and enforced by the City.
  - b. Do or cause to be done without delay all those things which in the determination of the City are necessary or desirable in the interest of safety or to maintain the premises, furniture, trade fixtures, equipment, and Entertainment Devices in good repair and appearance.
  - c. Pay for damage to the facilities of any other Airport tenant or the City caused by the Concessionaire's lack of adequate maintenance of any equipment, fixture, or system installed by the Concessionaire.

2. The City may require the Concessionaire to perform necessary repairs to the premises, furniture, trade fixtures, equipment, and vending machines, and entertainment devises at the Concessionaire's own expense.
3. If, after 30 days following notice, or in shorter periods if an emergency exists, the Concessionaire fails or refuses to perform any action required by this Agreement, the City has the right, but not the obligation, to perform any or all actions required by this Agreement at the sole expense of the Concessionaire. The City will not take action if the Concessionaire begins and continues expeditious action to perform any action required by this Agreement that cannot be reasonably completed within 30 days. If the City performs any action required of the Concessionaire, the Concessionaire will reimburse the City within 30 days from the date of billing.
4. Concessionaire will be responsible to have the hood system, including all fire protection, professionally cleaned and inspected at the Concessionaire's expense, once a year.

**B. Terminal Building Permit Process:**

1. The Concessionaire may not make repairs or alter the premises without first obtaining the City's prior written consent through the building permit process. The Concessionaire will complete a Terminal Building Permit Application form obtained from the City. Repairing and altering the premises include the following:
  - a. Installation, maintenance, repair, or removal of trade fixtures, equipment, entertainment devices, locks, antennae, counters, shelving, signs, posters, telephone lines, data circuits, floor coverings, wall coverings, painting, electrical, plumbing, and refrigeration work; and
  - b. Any other repair or alteration that the City deems necessary to be approved through the building permit process.
2. The City may withhold its approval if the Concessionaire is in violation of any requirement under this Agreement.
3. The Concessionaire will make all repairs and alterations to the premises at its own expense. The City has the right to approve the final repair or alteration.

C. General Construction Requirements

1. Any alteration, repair, construction, or improvement performed by the Concessionaire will be neat, presentable, and compatible with the architecture of the Terminal, as determined by the City, and performed at no cost to the City.
2. The Concessionaire will deliver detailed as built drawings to the City within 30 days after completion of any permanent improvement. The as built drawings must show the location and dimensions of any permanent improvement made by the Concessionaire.

**ARTICLE XI: CITY SERVICES**

A. City Services

1. The City will perform the following services:
  - a. Maintain the structure of the Terminal, the roof, and exterior walls.
  - b. Agrees to pay for electricity consumed on the Premises.
  - c. Wash the outside of all exterior Terminal windows as well as clean and maintain the public areas in the Terminal.
  - d. Maintain the Terminal's existing and future utility systems in good condition and repair. Utility systems include systems to supply heat, electricity, water, sewage disposal, fire alarm, fire protection, sprinkler, air conditioning, and telecommunications services. The City has the right to maintain lines, pipes, mains, wire, conduits, and equipment connected with or appurtenant to any system. However, the City may refuse to maintain any system installed by the Concessionaire and may charge the Concessionaire for any repair necessary due to negligence by the Concessionaire during any such installation or as the result of any such installation.
2. The City will invoice the Concessionaire and the Concessionaire will pay for any extraordinary lighting, power, utility bills, or cleaning services used by the Concessionaire that, in the determination of the City, are beyond the scope of normal services provided by the City.

- B. Hold Harmless: The Concessionaire will waive any claim and hold the City harmless for damages from any failure or interruption of utility or other service

furnished by the City, including failure or interruption of electrical energy, space heating or cooling, or any public or passenger convenience. In addition, the City may make any repair or alteration necessary for the proper functioning of the Terminal without liability to the Concessionaire for any damages.

**ARTICLE XII: CITY'S RIGHTS OF INSPECTION AND ACCESS**

- A. Inspection: The City, by its officers, employees, agents, representatives, and contractors, may at any reasonable time enter the premises to inspect or observe the Concessionaire's performance of its obligations under this Agreement, or to take any action that the City is obligated to take under this Agreement or otherwise. The Concessionaire will neither claim nor does the City allow an abatement of fees if the City exercises this right. Except in an emergency, the City will coordinate all inspections with the Concessionaire to minimize interference with the Concessionaire's activity on the premises.
  
- B. Access:
  1. The Concessionaire will assure the City of emergency access to the premises by providing emergency telephone numbers by which the Concessionaire or the Concessionaire's Manager may be reached on a 24-hour basis.
  
  2. Without limiting the generality of the foregoing, the City, by its officers, employees, agents, representatives, and contractors, has the right to maintain the existing and future utility systems or portions of them on the premises as listed in Article XIII of this Agreement. The City has the right to enter the premises at any reasonable time to make repairs, alterations, or replacements that are, in the determination of the City, necessary or advisable, and, from time to time, to construct or install over, in, or through the premises new lines, pipes, mains, wires, conduits, and equipment. Any repair, alteration, replacement, or construction will not unreasonably interfere with the use of the premises by the Concessionaire, and nothing in this Article may be construed to relieve the Concessionaire of any obligation to maintain the premises and improvements.
  
  3. At any time during ordinary business hours within the 12 months preceding expiration of this Agreement, the City has the right to enter the premises to measure, photograph, show, and view all parts of the premises.



### **ARTICLE XIII: ADDITION OR REDUCTION IN SPACE**

If the Concessionaire requests additional terminal space and the City determines that suitable space is available and needed, the City may lease the additional space subject to the requirements of law concerning leasing of Airport Terminal space.

### **ARTICLE XIV: CITY-DIRECTED RELOCATION**

The Concessionaire acknowledges that the City may require the relocation of the premises, in whole or in part, if the City determines that relocation is necessary to meet the needs of the traveling public or the City. If the City requires relocation of the premises, the following applies:

- A. City's Responsibilities: The City, at its sole expense, will provide the new space with interior permanent improvements including floors, ceiling, carpeting, lighting, electricity, wall finishes, heating and cooling, ventilation, and permanent fixtures similar to those in the premises.
- B. Concessionaire's Responsibilities
1. The Concessionaire, at its sole expense, will relocate all nonpermanent fixtures, furnishings, and equipment from the premises; provide any additional fixtures, furnishings, and equipment that the Concessionaire finds necessary or desirable to fully use the new lease space; and vacate and surrender the former lease space to the City when the new space is completed. Concessionaire will continue to be liable for rental fees and payments as provided in Article V.
  2. The City and the Concessionaire will perform their respective obligations in an expeditious manner, excluding any delay that is beyond the control of either party. The new lease space will have a floor area similar in size to the area being vacated by the Concessionaire. The City will make every reasonable effort to ensure that the new lease space will provide access and exposure to passenger traffic similar to that of the former lease space. However, the City will not be responsible for any financial losses that the Concessionaire may incur due to relocation under this Article unless the losses are the result of a breach by the City of its obligations under this Article.
  3. The Concessionaire is responsible to maintain an account and all costs for the natural gas utility for the restaurant/café.

4. The concessionaire is responsible for water & sewer charges.

#### ARTICLE XV: LAWS AND TAXES

This Agreement is subject to all City of Kenai laws and regulations, including those relating to leasing facilities and granting privileges at city airports.

##### A. Laws

1. At no expense to the City, the Concessionaire will comply with all federal, City, and local laws, ordinances, regulations, and Airport rules that are either now or in the future in force that may apply to the business authorized under this Agreement, or to the use, care, operation, maintenance, and protection of the Airport, including matters of health, safety, sanitation, and pollution. The City is neither liable to the Concessionaire for any diminution or deprivation of the Concessionaire's rights due to the exercise of any authority, nor is the Concessionaire entitled to terminate the whole or any portion of this Agreement by reason of the City's exercise of any authority.
2. The Concessionaire will comply with all City and federal regulations governing hazardous substances, including hazardous wastes, and will comply with all instructions of the City with regard to environmental concerns and requirements, regardless of whether based on specific law, regulation, or order of any governmental authority. In addition, the Concessionaire assumes responsibility for any spill of oil, oil-based substance, or hazardous substance attributable to its operation under this Agreement. With respect to any such occurrence, the Concessionaire will indemnify, defend, save, and hold the City and its employees harmless from any loss, claim, suit, or judgment.
3. The Concessionaire will properly handle its spills of hazardous substances. The Concessionaire will immediately notify the City of any spill that occurs on the Airport, as well as the action taken, while performing under this Agreement. The Concessionaire will forward copies of any written spill reports and reports regarding action taken to the City as soon as they are available.

- B. Taxes: The Concessionaire will obtain all necessary licenses, permits, pay all taxes and special assessments lawfully imposed on its business, and pay any other fee or charge assessed under any applicable public statute, regulation, or ordinance.

- C. Disputes: In any dispute between the parties, the laws of the State of Alaska will govern and any lawsuit must be brought before the courts of the State of Alaska.
- D. Claims: Concessionaire will notify the City of any claim, demand, or lawsuit arising out of the rights granted to the Concessionaire under this Agreement. At the City's request, the Concessionaire will cooperate and assist in the investigation and litigation of any claim, demand, or lawsuit that affects the rights granted the Concessionaire under this Agreement.

**ARTICLE XVI: DEFENSE OR ENFORCEMENT OF AGREEMENT**

The Concessionaire will pay all reasonable actual expenses, costs, and attorney fees the City may incur, with or without formal action, to enforce, defend, or protect this Agreement or the City's rights under this Agreement, including any expense incurred with respect to environmental compliance, bankruptcy or any proceeding that involves the Concessionaire, the Agreement, the premises, improvements, or property on the premises. The Concessionaire will make payment within 30 days of the date of each notice from the City of any amounts payable under this Article. Any amount not timely paid under this Article will constitute a default of the Agreement and will accrue interest from the date of the notice as provided in Article V of this Agreement.

**ARTICLE XVII: INDEMNIFICATION AND INSURANCE**

A. Indemnification

- 1. The Concessionaire will indemnify, defend, and hold the City, its agents, officers, and employees harmless from any liability, action, claim, suit, or loss for property damage or personal injury of whatever kind resulting from or arising out of any act or omission by the Concessionaire or the Concessionaire's agents, employees, or clients or arising from or connected with the Concessionaire's rights and privileges granted under this Agreement.
- 2. In any litigation brought by a third party against the City or the Concessionaire that specifically challenges the rights granted in Article III, the Concessionaire would assume the responsibility to defend the City and the Concessionaire unless the City elects to defend itself. The City will assist in the defense of the rights granted. The City is not required to indemnify the Concessionaire for any attorney fees the Concessionaire incurs to defend the City.

B. Insurance

1. The Concessionaire will, throughout the term of this Agreement and at its own expense, secure and keep in force adequate insurance, as stated below, to protect the City and the Concessionaire. Where specific limits are stated they are the minimum acceptable limits. If the Concessionaire's insurance policy contains higher limits, the City is entitled to coverage to the extent of the higher limits.
  - a. Comprehensive general liability insurance with coverage limits not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence where generally applicable, including in-Terminal operations, independent contractors, products, and completed operations, broad-form property damage, blanket contractual, and personal injury endorsements.
  - b. Worker's Compensation insurance with coverage for all employees engaged in work under this Agreement as required by AS 23.30.045. The Concessionaire is responsible for Worker's Compensation insurance for any subcontractor who directly or indirectly provides services under this Agreement.
  - c. Comprehensive automobile liability insurance covering all owned, hired, and non-owned vehicles with coverage limits not less than \$250,000 combined single limit per occurrence.
  
2. All insurance required by this Article must meet the following requirements:
  - a. For comprehensive general liability insurance, name the City additionally insured.
  - b. For worker's compensation insurance, general liability and automobile liability insurance include a waiver of subrogation so that the insurer waives all rights of subrogation against the City for payments made under the policy.
  - c. Provide the City notification at least 20 days before any termination, cancellation, or material change in insurance coverage.
  - d. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.

C. Evidence of Insurance Coverage

1. The Concessionaire will submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.
2. Evidence of insurance coverage must be submitted to the City by **August 2, 2018**. The effective date of the insurance will be no later than **August 2, 2018**.

D. Obligation: The indemnification and insurance-coverage requirements stated in Sections A and B above do not relieve the Concessionaire of any other obligation under this Agreement.

E. Increase or Revision: The City may increase the amount or revise the type of required insurance on written demand without requiring amendment to this Agreement. The City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, the Concessionaire will submit to the City evidence of insurance coverage that meets the requirements of the City.

**ARTICLE XVIII: CANCELLATION BY CITY**

A. Breach of Agreement

1. The City may cancel this Agreement and recover possession of the premises by giving the Concessionaire 30 days' advance written notice from the postmark date of the written notice if any of the following events occur and the breach is not cured within the above-specified 30 days:
  - a. The Concessionaire fails to pay when due any rent, fee, penalty, or other charge specified under this Agreement.
  - b. A check for any payment to the City is returned for insufficient funds.
  - c. The Concessionaire uses the premises for purposes not authorized under this Agreement.
  - d. A petition in bankruptcy is filed by or against the Concessionaire.
  - e. A court enters a judgment of insolvency against the Concessionaire.

- f. A trustee or receiver is appointed for the Concessionaire's assets in a proceeding brought by or against the Concessionaire.
  - g. A lien is filed against the premises because of any act or omission of the Concessionaire and the lien is not removed, enjoined, or a bond of satisfaction of the lien is not posted within 60 days.
  - h. The Concessionaire fails to operate the business authorized under this Agreement for a period of more than seven consecutive calendar days without the City's prior written approval.
  - i. The cessation or deterioration of any service for any period, which, in the determination of the City, materially and adversely affects the service the Concessionaire, is required to perform under this Agreement.
  - j. The Concessionaire fails to perform any provision or covenant under this Agreement.
2. In the case of a breach, which is not reasonably curable within 30 days, a cancellation notice under this Article may be stayed by the City if the Concessionaire begins and continues expeditious action to cure the breach within the 30-day notice period. The determination of "expeditious action" and "not reasonably curable" is at the City's sole discretion.
- B. City's Right of Reentry: As an additional remedy, on giving written notice of cancellation or termination, the City may reenter any part of the premises on the effective date of cancellation or termination without further notice of any kind, remove any persons or property, and regain and resume possession with or without the institution of summary or legal proceedings or otherwise. Any reentry, however, will not in any manner affect, alter, or diminish any obligation of the Concessionaire under this Agreement.
- C. Additional Rights of the City
1. On termination or cancellation of this Agreement or on reentry, the City may regain or resume possession of the premises, may occupy the premises, and may permit any person, firm, or corporation to enter on and use the premises. Others may occupy any part of the premises or the entire premises or a part of the premises together with other space for the time remaining under this Agreement, and on terms and conditions the same as or different than those set forth under this Agreement.

2. The City also has the right to repair or to make any structural or other change in the premises that is necessary, in the City's sole judgment, to maintain the suitability of the premises for the uses and purposes similar to those granted under this Agreement without affecting, altering, or diminishing the obligations of the Concessionaire under this Agreement. The City will charge, and the Concessionaire will pay to the City within 30 days of billing, the cost of these repairs.

D. Survival of Concessionaire's Obligations:

1. If the City cancels or terminates this Agreement, all of the Concessionaire's obligations under this Agreement will survive in full force for the entire term of this Agreement. Subject to the City's obligation to mitigate damages, the fees and charges become due and payable to the City to the same extent, at the same time, and in the same manner as if no termination or cancellation had occurred. The City may maintain separate actions to recover any monies then due, or at its option and at any time, may sue to recover the full deficiency.
2. The amount of damages for the time subsequent to termination or cancellation will be the sum of the following:
  - a. Title to all improvements as provided in Article IX, Section C of this Agreement.
  - b. The total monthly rental obligation that would have been paid by the Concessionaire during the balance of the Term of this Agreement if no termination or cancellation had occurred. However, the amount will be offset by any fees or charges received by the City from a succeeding concessionaire.

E. Waiver of Redemption and Damages

1. The Concessionaire waives any right of redemption granted by or under any present or future law or statute if the Concessionaire is dispossessed for any cause, or if the City obtains or retains possession of the premises in any lawful manner.
2. The Concessionaire acknowledges that if it is necessary for the City to gain possession of the premises, the total amount of damages to which the Concessionaire is entitled is the sum of ONE DOLLAR (\$1.00). The Concessionaire also acknowledges that this provision may be filed in any action as its stipulation fixing the amount of damages to which it is entitled.

**F. Surrender of Possession**

1. The Concessionaire will yield possession of the premises to the City on the date of the termination, cancellation, or normal expiration of this Agreement promptly, peaceably, quietly, and in as good order and condition as the same now or later improved by the Concessionaire or the City, reasonable use and wear-and-tear accepted.
2. The Concessionaire will be allowed a maximum of three calendar days after the effective date of the expiration of this Agreement to remove all of its personal property, equipment, furniture, trade fixtures, and Entertainment Devices from the premises and from the Terminal subject to the provisions of Article VIII, Section C of this Agreement. The Concessionaire and the City agree, as part of the consideration for this Agreement, that all property remaining on the premises after these three calendar days will become the sole property of the City, with full title vested in the City, and the City may remove, modify, sell, or destroy the property as it sees fit. The Concessionaire will reimburse the City for any cost the City incurs in removing and disposing of the property.

**ARTICLE XIX: CANCELLATION BY CONCESSIONAIRE**

The Concessionaire may cancel this Agreement by mutual agreement of the City or giving the City advance written notice of ten (10) days if any of the following events occur:

- A. The permanent abandonment of the Airport by all passenger airlines or the removal of all passenger airline service from the Airport for a period of at least 90 consecutive days.
- B. The lawful assumption by the United States government, or its authorized agent, of the operation, control, or use of the Airport, or any substantial part of the Airport, that restricts the Concessionaire from operating its business under this Agreement for a period of at least 90 consecutive days.
- C. A court of competent jurisdiction issues an injunction that prevents or restrains the use of the Airport by all airlines provided the injunction remains in force for at least 90 consecutive days.



**ARTICLE XX: CANCELLATION BY CONCESSIONAIRE**

Subsequent Agreement Award: The Concessionaire acknowledges that on the expiration, cancellation, or termination of this Agreement, the City may award any subsequent concession agreement by any legal means then available to the City.

**ARTICLE XXI: ASSIGNMENT OR SUBLETTING**

- A. City's Consent: The Concessionaire will not assign this Agreement or any interest, and will not sublet the premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, agents and employees of the Concessionaire excepted, to occupy or use the premises or any portion thereof without first obtaining the written consent from the City. A consent by the City to one assignment, subletting, occupancy, or use by another party will not be deemed to be a consent to any subsequent assignment, subletting, occupancy, or use by another person or entity. Any such assignment, subletting, occupancy, or use by another person or entity without such consent by the City will be void and will, at the option of the City, terminate this Agreement. This Agreement will not, nor will any interest, be assignable as to the interest of the Concessionaire by operation of law without the written consent of the City. The City agrees that it will not unreasonably withhold its consent required hereunder.
- B. Approval Process: The Concessionaire will submit to the City copies of any proposed assignment, encumbrance, or sublease bearing the original notarized signatures of all parties. All covenants and provisions in this Agreement extend to and bind the legal representatives, successors, and assigns of the parties.
- C. Merger, Consolidation, or Reorganization:
1. The City will not unreasonably withhold its consent to an assignment of this Agreement by the Concessionaire to a corporation that results from a merger, consolidation, or reorganization of the Concessionaire to a corporation that purchases all or substantially all of the assets of the Concessionaire or to any corporation that controls or is controlled by or is under common control with the Concessionaire.
  2. For purposes of this Section, "control" of any corporation is deemed vested in the person or persons owning more than 50 percent of the voting power for electing the board of directors of the corporation.

**ARTICLE XXII: GENERAL COVENANTS**

- A. **Execution by City:** This Agreement is not effective until signed by the City Manager.
- B. **Approval by City:** The City may not unreasonably withhold any approval required under this Agreement.
- C. **Notices:** Any notice required under this Agreement must be hand delivered, sent by certified mail or by electronic transmission in such a way as to confirm receipt to the appropriate party, or delivered by a reliable overnight delivery service to the appropriate party at the address set forth on page one of this Agreement or to any other address that the parties subsequently designate in writing. All notice periods begin on the date the notice is mailed.
- D. **Modification:** The Concessionaire acknowledges that the City may make any modification to this Agreement necessary to meet the revised requirements of federal or City grants, to operate the Airport, or to conform to the requirements of any revenue bond covenant to which the City of Kenai is a party and may do so without formal amendment. However, a modification may neither reduce the rights or privileges granted the Concessionaire under this Agreement nor cause the Concessionaire financial loss.
- E. **Interrelationship of Provisions:** All provisions of this Agreement and the associated proposal documents are essential parts of this Agreement and are intended to be cooperative, to provide for the use of the Airport, and to describe the respective rights and obligations of the parties to this Agreement. In the event of any irreconcilable conflict between the Agreement and the incorporated proposal of the Concessionaire, the provisions of Agreement will prevail. Each party will fully perform all provisions of this Agreement and the associated proposal documents.
- F. **Validity of Parts:** If any part of this Agreement is declared invalid by a court of competent jurisdiction, the remaining parts continue in full force.
- G. **Radio Interference:** At the City's request, the Concessionaire will discontinue the use of any machine or device that interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.
- H. **Discrimination:** The Concessionaire may not discriminate on the grounds of race, color, religion, national origin, ancestry, age, or sex against any patron, employee, applicant for employment, or other person or group of persons in any manner

prohibited by federal or City law. The Concessionaire recognizes the right of the City to take any action necessary to enforce this covenant, including actions required by any federal or City law.

- I. Nondiscrimination: The Concessionaire will undertake a nondiscrimination program required by 14 CFR, Part 152, Subpart E, to insure that no person will be excluded from participating in any employment activity covered by 14 CFR, Part 152, Subpart E, on the grounds of race, creed, color, national origin, or sex. The Concessionaire may not exclude any person on these grounds from participating in or receiving the services or benefits of any program or activity covered by the Subpart. The Concessionaire further understands that it will require its covered sub organizations to provide assurances to the City that they will also undertake nondiscrimination programs and require assurances from their sub organizations, as required by 14 CFR, Part 152, Subpart E.
- J. National Emergency: If the federal government declares a national emergency, the Concessionaire may not hold the City liable for its inability to perform any part of this Agreement resulting from the national emergency.
- K. Vacation: At the expiration, cancellation, or termination of this Agreement, the Concessionaire must promptly, peaceably, and quietly vacate the premises, remove all personal property, and return possession to the City. The premises must be left in a clean, neat, and presentable condition, except for reasonable wear and tear, to the satisfaction of the City.
- L. No Waiver: The City's failure to insist in any one or more instances on the strict performance by the Concessionaire of any provision in this Agreement is not a waiver nor relinquishment for the future, but the provision will continue in full force. A City waiver of any provision in this Agreement cannot be enforced nor relied on unless the waiver is in writing and signed on behalf of the City.
- M. Disasters: If, in the determination of the City, a fire, flood, earthquake, or other disaster damages the Airport so extensively as to render it untenable, either party may elect to terminate this Agreement on 30 days' written notice to the other party. If this Agreement is terminated because of a disaster, the City will prorate the fees payable under this Agreement up to the time the Airport becomes untenable.
- N. Condemnation: If the Airport is condemned by any proper authority, this Agreement ends on the date the Concessionaire is required to leave the Airport. The City is entitled to all condemnation proceeds. However, the City will pay the Concessionaire the portion of proceeds attributable to the fair market value of any

improvements placed on the Airport by the Concessionaire, according to the provisions of the then-current Alaska Administrative Code.

- O. Liens: The Concessionaire will keep the premises free of all liens, pay all costs for labor and materials arising out of any construction or improvements by the Concessionaire on the premises, and hold the City harmless from liability for any liens, including costs and attorney fees. By this provision, the City does not recognize that it is in any way liable for any liens on the premises.
- P. Quiet Enjoyment: The City covenants that it has full, unencumbered title to the Airport; that it has the right and lawful authority to execute this Agreement; and that the Concessionaire will have, hold, and enjoy peaceful and uninterrupted use of the premises.
- Q. Captions: The captions of the Articles and Sections of this Agreement are for convenience only and do not necessarily define, limit, describe, or construe the contents of any Article or Section. The use of the singular or plural form of words is intended to include the singular and plural, as appropriate.
- R. Proposal Documents: The Request for Proposals, the Notice Inviting Proposals, the General Instructions to Proposers, the Proposal Submittal Form, including the Specific Proposal Requirements, the Concessionaire's proposal, any addenda, and the required proposal deposit are parts of this Agreement, and each party will fully perform its obligations under all provisions of these documents.
- S. Entire Agreement: This Agreement, including any amendments and all items listed under Section R of this Article, constitutes the entire agreement between the parties. No modification or amendment of this Agreement is effective unless in writing and signed by both parties, except as Stated in section D. above.
- T. Force Majeure: Except for the payment of fees, neither the City nor the Concessionaire is in violation of this Agreement if it is prevented from performance by reason of strike, boycott, labor dispute, embargo, shortage of energy or materials, act of God, act of public enemy, act of superior governmental authority, weather condition, riot, rebellion, sabotage, or any other circumstance for which it is not responsible and which is beyond its control.
- U. Time: Time is of the essence in the performance of all rights and obligations of the parties to this Agreement.
- V. Employee Parking: Restaurant employees may use non-exclusive employee vehicle parking facilities at no charge. All employees must register their vehicle(s) at the Airport Manager's office to receive a vehicle-parking permit to park while on

the job. Concessionaire shall be held accountable for Concessionaire's employees' use of designated vehicle parking facilities and shall assure that employees comply with all applicable Airport Directives.

W. COSTS AND EXPENSES: Costs and expenses incident to this lease, including but not limited to, recording costs shall be paid by Concessionaire.


City PO  
Concessionaire TH  
Concessionaire AA

IN WITNESS WHEREOF, the parties have set their hands the day and year stated in the acknowledgment below.

(If the Concessionaire is a partnership or joint venture, all general partners or members of the joint venture must sign; if the Concessionaire is a corporation, the signature of one authorized representative is sufficient unless the corporation requires two or more signatures.)

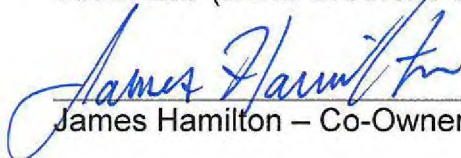
**LESSOR:**

CITY OF KENAI

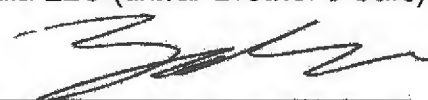
  
Paul Ostrander, City Manager

**CONCESSIONAIRE:**

Situla LLC (d/b/a/ Brother's Café)


  
James Hamilton – Co-Owner

Situla LLC (d/b/a/ Brother's Café)

  
Zachary Hamilton – Co-Owner

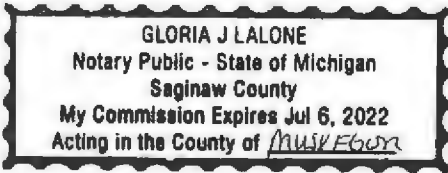
STATE OF ALASKA                    )  
  )ss  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this 21 day of August, 2018, James Hamilton, Co-Owner, Situla LLC (d/b/a/ Brother's Café), being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said Corporation.

  
Notary Public for Alaska  
My Commission Expires: 6/13/2019

STATE OF ALASKA                    )

City PO  
Concessionaire JA  
Concessionaire JA



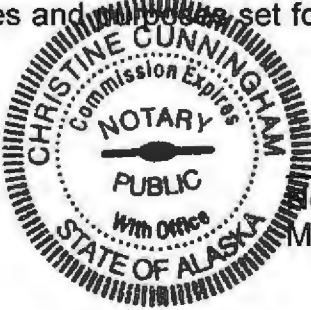
THIRD JUDICIAL DISTRICT )  
 )ss )

THIS IS TO CERTIFY that on this 14<sup>th</sup> day of August, 2018, Zachary Hamilton, Co-Owner, Situla LLC (d/b/a/ Brother's Café), being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said Corporation.

Gloria J. Lalone  
Notary Public for ~~Alaska~~ Michigan  
My Commission Expires: 07/06/2022

STATE OF ALASKA )  
 )ss )  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 27<sup>th</sup> day of AUGUST, 2018, personally appeared before me, **PAUL OSTRANDER**, known to me and to me known to be the City Manager of the City of Kenai, Alaska, and who acknowledged before me that the foregoing instrument was freely and voluntarily executed on behalf of the City of Kenai, for the uses and purposes set forth and with full authority of the City of Kenai to do so.



[Signature]  
Notary Public for Alaska  
My Commission Expires: W/OFFICE

- Approved by Kenai City Council on
- Approved as to lease form by City Attorney
- Approved by Finance Director
- Approved by City Manager

[Signature]  
SS  
YL  
P.O.



Sponsored by: Administration

## CITY OF KENAI

### RESOLUTION NO. 2020 - 35

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, APPROVING THE FOURTH AMENDMENT TO THE AIRLINE OPERATING AGREEMENT AND TERMINAL AREA LEASE AND AUTHORIZING THE CITY TO ENTER INTO SUCH AGREEMENT WITH GRANT AVIATION, INC.

WHEREAS, the City of Kenai is the owner and operator of the Kenai Municipal Airport; and,

WHEREAS, a recommendation of the 2007 Supplemental Planning Assessment was to update the City's airline operating agreement and terminal lease; and,

WHEREAS, Council approved Resolution No. 2008-27 establishing a new airline operating agreement and terminal lease to modernize the airport airline terminal leasing procedures and policies and increase airport operating revenue effective June 1, 2008 for a sixty-month period; and,

WHEREAS, Council approved Resolution No. 2013-31 approving the First Amendment to the airline operating agreement and terminal area lease effective July 1, 2013 for a sixty-month period; and,

WHEREAS, Council approved Resolution No. 2018-43 approving the Second Amendment to the airline operating agreement and terminal area lease effective July 1, 2018 for a period of twelve months in consideration of the terminal rehabilitation project; and,

WHEREAS, Council approved Resolution No. 2019-24 approving the Third Amendment to the airline operating agreement and terminal area lease effective July 1, 2019 for an additional twelve months due to delays in the terminal rehabilitation project; and,

WHEREAS, City administration, working with an airport consultant, developed the Fourth Amendment to the airline operating agreement and terminal area lease which extends the agreement for five years beginning July 1, 2020 through June 30, 2025; and,

WHEREAS, City administration consulted with Grant Aviation, Inc., a scheduled passenger airline currently operating at the Kenai Municipal Airport regarding the agreement; and,

WHEREAS, it is in the best interest of the City of Kenai to authorize the City Manager to enter into such agreement with Grant Aviation, Inc., on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the Kenai City Council approves the Fourth Amendment to the Airline Operating Agreement and Terminal Area Lease form as shown in Exhibit 1; and,

---



Resolution No. 2020-35

Page 2 of 2

**Section 2.** That the Kenai City Manager is authorized to enter into such an agreement with Grant Aviation, Inc.

**Section 3.** That this resolution takes effect immediately upon adoption.

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3<sup>rd</sup> day of June, 2020.

---

BRIAN GABRIEL SR., MAYOR

ATTEST:

---

Jamie Heinz, City Clerk

**FOURTH AMENDMENT  
TO THE KENAI MUNICIPAL AIRPORT AIRLINE  
OPERATING AGREEMENT AND TERMINAL AREA LEASE**

THIS FOURTH AMENDMENT to the Kenai Municipal Airport Airline Operating Agreement and Terminal Area Lease (the "Fourth Amendment") is made and entered into this 1st day of July, 2020, by and between the City of Kenai, Alaska (the "City"), a political subdivision of the State of Alaska, and Grant Aviation, Inc. ("Airline"), a corporation organized and existing under the laws of the State of Alaska and authorized to do business in the State of Alaska.

**RECITALS**

The circumstances surrounding the making of this Fourth Amendment are as follows:

A. City and Airline are parties to the Airline Operating Agreement and Terminal Area Lease (the "Agreement") dated June 1, 2008 as amended by the First Amendment dated June 1, 2013, Second Amendment dated July 1, 2016, and Third Amendment dated July 1, 2019 (herein referred to as the "Agreement"), under which Airline operates an Air Transportation business and leases property at the Kenai Municipal Airport.

B. Pursuant to Section 12.20 of the Agreement, the Agreement may be amended in whole or in part without further consideration upon mutual written consent of City and Airline who both herein wish to amend the Agreement.

C. Pursuant to Section 2.1 of the Agreement, the term originally began on June 1, 2008 and pursuant to Amendments is set to expire to June 30, 2020 unless further amended.

D. Pursuant to Section 5.2 of the Agreement, the Landing Fee charges shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

E. Pursuant to Section 5.3 of the Agreement, rentals for the Airline's Exclusive Use Space and Joint Use Space shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

F. Pursuant to Section 5.4 of the Agreement, the Terminal Apron Aircraft Parking and GSE Space rentals shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

Fourth Amendment - Airline Operating Agreement and Terminal Area Lease

LESSOR \_\_\_\_\_  
LESSEE   24

AMENDMENTS

- 1. Section 2.1 of the Agreement is amended to read in its entirety as follows:

The term of this Agreement (the "Term") shall begin on July 1, 2020 ("Commencement Date") and shall terminate on June 30, 2025 (except as it may be terminated or extended in accordance with this Agreement), and the rentals, fees, and charges shall be effective on the Commencement Date, but only in the event that the Premises are then tendered to Airline ready for use and occupancy in accordance with the terms and provisions of this Agreement.

- 2. Section 5.3 of the Agreement is amended to include two new subsections 5.3.3 and 5.3.4 as follow:

5.3.3 If at any time during the current Fiscal Year, the Airline's total passenger enplanements for the current calendar year are reasonably projected by the City to vary by twenty percent (20%) or more than the Airline's total passenger enplanements for the prior calendar year as provided in Exhibit C, then the Airline's allocated joint rental amount may be adjusted, at the City's option, for the remainder of the current Fiscal Year to reflect the Airline's percent of total enplanements which results from the City's revised enplanement projection. However, if only one commercial passenger airline provides service to the Airport for the remainder of the current Fiscal Year, such adjusted percentage shall not exceed 50% of total projected enplanements for the current calendar year.

5.3.4 City shall notify the Signatory Airlines of its intent to make such revision and adjustments and the effective date thereof which shall be no earlier than fifteen (15) days from the date of notice. Such notice shall provide a revised projection of the joint rent allocation for the remainder of such Fiscal Year in sufficient detail to allow the Signatory Airlines to make informed comments thereon. The Signatory Airlines may submit written comments on such notice to the City within ten (10) days of the notice date. City shall give due consideration to all comments submitted in a timely manner by the Signatory Airlines. If requested, the City shall convene a meeting with the Signatory Airlines to discuss such revisions and adjustments.

- 3. Exhibit C. From July 1, 2020 through June 30, 2021 Exhibit C will reflect no rate increase. For subsequent years of the Agreement (July 1 through June 30) the Exclusive Space Annual Rental Rate, the Joint Use Space Annual Rental Rate, the Apron/GSE Annual Rental Rate, and Signatory Landing Fee in Exhibit C will reflect a 5% annual rate increase and the Joint Rent Subsidy will be reduced by 2 percentage points each year.

- 4. All other terms and conditions of the Agreement shall continue in full force and effect

Fourth Amendment - Airline Operating Agreement and Terminal Area Lease

LESSOR \_\_\_\_\_  
LESSEE 12k

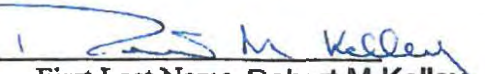
except as modified by this Fourth Amendment.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, the day and year stated in the individual acknowledgments below.

CITY OF KENAI


Grant AVIATION, INC.

By: \_\_\_\_\_  
Paul Ostrander  
Its: City Manager

By:   
First Last Name Robert M Kelley  
Its: President

(If Lessee is a Corporation)

ATTEST:

  
Name

\_\_\_\_\_  
Title

STATE OF ALASKA )  
 ) ss  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2020, by Paul Ostrander, City Manager of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY the foregoing instrument was acknowledged before me this 21<sup>st</sup> day of MAY, 2020, by Robert M Kelley, President of Grant Aviation, Inc., an Alaska corporation, on behalf of the corporation.

Joyce Andrews  
Notary Public in and for Alaska  
My Commission expires: 5/16/24



Approved by Kenai City Council \_\_\_\_\_

Approved as to lease form by City Attorney \_\_\_\_\_

Approved by Finance Director \_\_\_\_\_

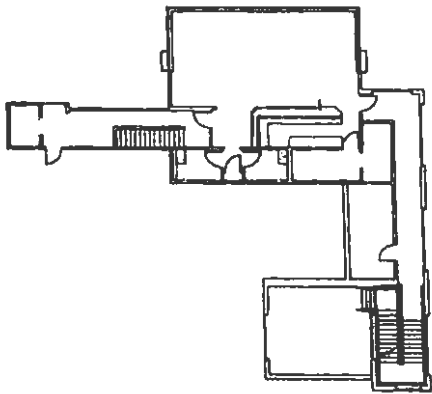
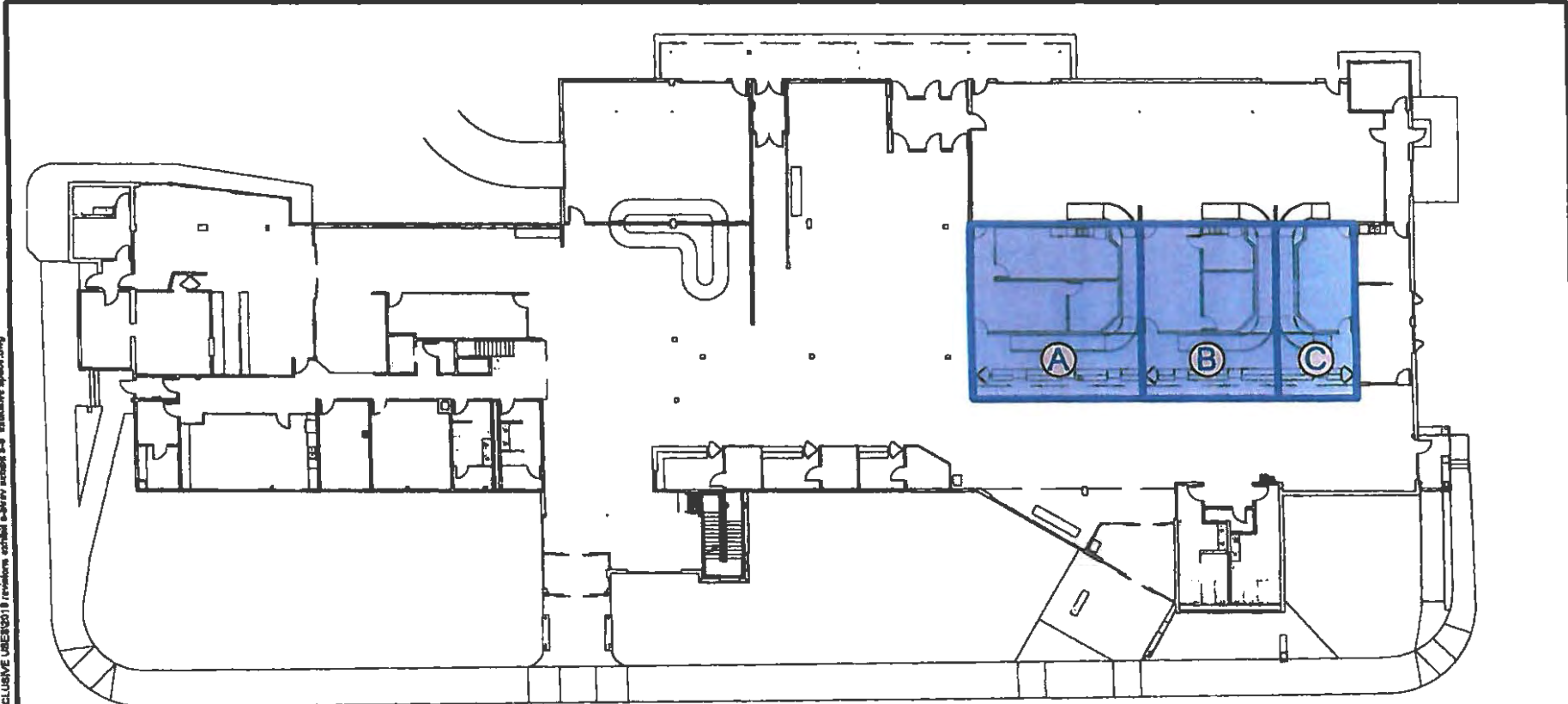
Approved by City Manager \_\_\_\_\_

Return to: **City Clerk**  
210 Fidalgo Ave.  
Kenai, AK 99611

Fourth Amendment - Airline Operating Agreement and Terminal Area Lease

LESSOR \_\_\_\_\_  
LESSEE [Signature]

V:\KENAI CERT MANUALS\CERTS A - B EXCLUSIVE USE\0019 revisions\schmitt 6-16-09 exhibit a-b estimate space.dwg



| AREA |            |
|------|------------|
| (A)  | 1,452 S.F. |
| (B)  | 1,155 S.F. |
| (C)  | 670 S.F.   |

THIS DRAWING IS NOT TO SCALE

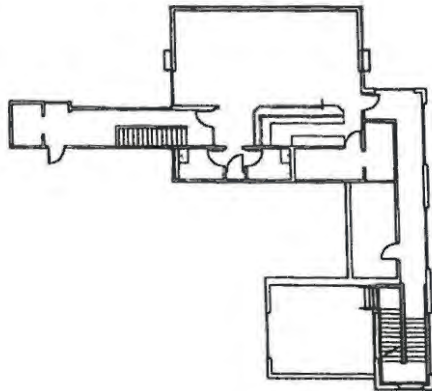
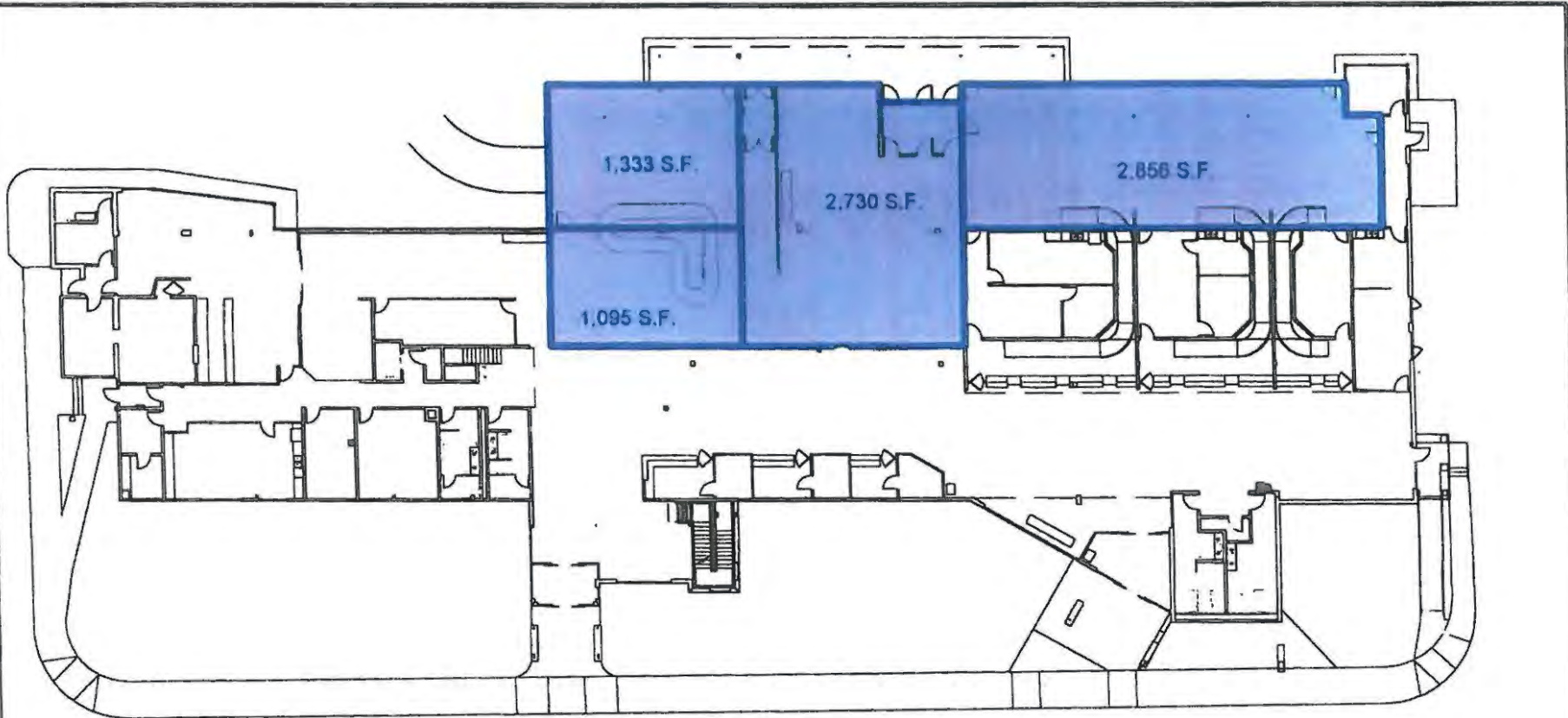
LESSOR \_\_\_\_\_  
 LESSEE \_\_\_\_\_

**WINCE-CORTHELL-BRYSON**

JOB NO \_\_\_\_\_ REVISED: Paper 11/04/19

**KENAI MUNICIPAL AIRPORT**  
**EXHIBIT A EXCLUSIVE SPACE**  
**KENAI, ALASKA**

V:\AIRPORT\CERT MANUAL\EXHIBITS A - B EXCLUSIVE USES\1-4-2020 REV EXHIBIT B REV EXHIBIT B JOINT USE SPA-E.dwg



|                                  |                   |
|----------------------------------|-------------------|
| BAGGAGE MAKE-UP AREA =           | 2,856 S.F.        |
| BAGGAGE BREAKDOWN AREA =         | 1,333 S.F.        |
| BAGGAGE CLAIM AREA =             | 1,095 S.F.        |
| ARRIVAL/DEPARTURE/WAITING AREA = | 2,730 S.F.        |
| <b>TOTAL JOINT USE SPACE =</b>   | <b>8,014 S.F.</b> |

THIS DRAWING IS NOT TO SCALE

LESSOR \_\_\_\_\_

LESSEE \_\_\_\_\_

**WINCE-CORTHELL-BRYSON**

---

JOB NO. \_\_\_\_\_ REVISED: PlotSet: 02/04/20

**KENAI MUNICIPAL AIRPORT**  
**EXHIBIT B JOINT USE SPACE**  
**KENAI, ALASKA**

RAVN Year 1

Kenai Municipal Airport

|                                       |          |   |                       |
|---------------------------------------|----------|---|-----------------------|
| Exclusive Space Annual Rate/Sq Ft.    | \$ 33.85 | <b>Enplanements: 2019 Calendar Year</b> |                       |
| Joint Use Space #2 Annual Rate/Sq Ft. | \$ 20.51 | Tenant 1                                | 72,575 76.39%         |
| Joint Use Space #1 Annual Rate/Sq Ft. | \$ 33.85 | Tenant 2                                | 22,429 23.61%         |
| Apron/GSE Space Rent                  | \$ 0.52  | Tenant 3                                | - 0.00%               |
| Signatory Landing Fee/(1,000#s)       | \$ 1.70  | Tenant 4                                | - 0.00%               |
|                                       |          |   | <u>95,004 100.00%</u> |
| Joint Rent Subsidy %                  | 20%      |   |                       |

RAVN Alaska

| Area Description                              | Leased /<br>Used Space<br>(sqft) | Base<br>Rental<br>Rate<br>(psfpy) | Prior Year<br>Enplanement<br>% | Allocated<br>Joint<br>Rental<br>Amount | Joint Rent<br>Subsidy<br>Reduction | Rental<br>Amount  |
|---|----------------------------------|-----------------------------------|--------------------------------|--|------------------------------------|-------------------|
| <b>Terminal Rent</b>                          |                                  |                                   |                                |  |                                    |                   |
| <b>Exclusive use space:</b>                   |                                  |                                   |                                |  |                                    |                   |
| Room A  | 1,452                            | \$ 33.85                          | N/A                            | N/A                                    | N/A                                | \$ 49,150         |
| <b>Joint use space:</b>                       |                                  |                                   |                                |  |                                    |                   |
| <b>Area #1</b>                                |                                  |                                   |                                |  |                                    |                   |
| Baggage claim area                            | 1,095                            | \$ 33.85                          | 76.39%                         | \$ 28,315                              | \$ (5,663)                         | \$ 22,652         |
| Passenger hold room, arrival & departure area | 2,730                            | \$ 33.85                          | 76.39%                         | \$ 70,592                              | \$ (14,118)                        | \$ 56,474         |
| Total Joint Use Space Area #1                 |                                  |                                   |                                |  |                                    | \$ 79,126         |
| <b>Area #2</b>                                |                                  |                                   |                                |  |                                    |                   |
| Baggage make-up area                          | 2,856                            | \$ 20.51                          | 76.39%                         | \$ 44,747                              | \$ (8,949)                         | \$ 35,798         |
| Baggage breakdown area                        | 1,333                            | \$ 20.51                          | 76.39%                         | \$ 20,885                              | \$ (4,177)                         | \$ 16,708         |
| Total Joint Use Space Area #2                 |                                  |                                   |                                |  |                                    | \$ 52,506         |
| Total Terminal Rent                           |                                  |                                   |                                |  |                                    | \$ 180,782        |
| Terminal Apron/GSE Space Rent                 | 31,755                           | \$ 0.52                           | N/A                            | N/A                                    | N/A                                | \$ 16,513         |
| Total Terminal & Apron GSE Space Rent         |                                  |                                   |                                |  |                                    | \$ 197,295        |
| <b>Projected Landed</b>                       |                                  |                                   |                                |  |                                    |                   |
|   | Wgt                              | Landing                           |                                |  |                                    |                   |
|   | (1,000#s)                        | Fee Rate                          |                                |  |                                    |                   |
| Landing Fees                                  | 115,624                          | \$ 1.70                           |                                |  |                                    | \$ 196,561        |
| <b>RAVN Alaska - Total Rents and Fees</b>     |                                  |                                   |                                |  |                                    | <b>\$ 393,856</b> |



Grant Year 1

Kenai Municipal Airport

|                                       |          |   |                       |
|---------------------------------------|----------|---|-----------------------|
| Exclusive Space Annual Rate/Sq Ft.    | \$ 33.85 | <b>Enplanements: 2019 Calendar Year</b> |                       |
| Joint Use Space #2 Annual Rate/Sq Ft. | \$ 20.51 | Tenant 1                                | 72,575 76.39%         |
| Joint Use Space #1 Annual Rate/Sq Ft. | \$ 33.85 | Tenant 2                                | 22,429 23.61%         |
| Apron/GSE Space Rent                  | \$ 0.52  | Tenant 3                                | - 0.00%               |
| Signatory Landing Fee/(1,000#s)       | \$ 1.70  | Tenant 4                                | - 0.00%               |
|                                       |          |   | <u>95,004 100.00%</u> |
| Joint Rent Subsidy %                  | 20%      |   |                       |

Grant Aviation

| Area Description                              | Leased /<br>Used Space<br>(sqft) | Base<br>Rental<br>Rate<br>(psfpy) | Prior Year<br>Enplanement<br>% | Allocated<br>Joint<br>Rental<br>Amount | Joint Rent<br>Subsidy<br>Reduction | Rental<br>Amount  |
|---|----------------------------------|-----------------------------------|--------------------------------|--|------------------------------------|-------------------|
| <b>Terminal Rent</b>                          |                                  |                                   |                                |  |                                    |                   |
| Exclusive use space:                          |                                  |                                   |                                |  |                                    |                   |
| Room B  | 1,155                            | \$ 33.85                          | N/A                            | N/A                                    | N/A                                | \$ 39,097         |
| Joint use space:                              |                                  |                                   |                                |  |                                    |                   |
| Area #1                                       |                                  |                                   |                                |  |                                    |                   |
| Baggage claim area                            | 1,095                            | \$ 33.85                          | 23.61%                         | \$ 8,751                               | \$ (1,750)                         | \$ 7,001          |
| Passenger hold room, arrival & departure area | 2,730                            | \$ 33.85                          | 23.61%                         | \$ 21,817                              | \$ (4,363)                         | \$ 17,454         |
| Total Joint Use Space Area #1                 |                                  |                                   |                                |  |                                    | \$ 24,455         |
| Area #2                                       |                                  |                                   |                                |  |                                    |                   |
| Baggage make-up area                          | 2,856                            | \$ 20.51                          | 23.61%                         | \$ 13,829                              | \$ (2,766)                         | \$ 11,063         |
| Baggage breakdown area                        | 1,333                            | \$ 20.51                          | 23.61%                         | \$ 6,455                               | \$ (1,291)                         | \$ 5,164          |
| Total Joint Use Space Area #2                 |                                  |                                   |                                |  |                                    | \$ 16,227         |
| Total Terminal Rent                           |                                  |                                   |                                |  |                                    | \$ 79,779         |
| Terminal Apron/GSE Space Rent                 | 10,730                           | \$ 0.52                           | N/A                            | N/A                                    | N/A                                | \$ 5,580          |
| Total Terminal & Apron GSE Space Rent         |                                  |                                   |                                |  |                                    | \$ 85,359         |
| <b>Projected Landed</b>                       |                                  |                                   |                                |  |                                    |                   |
|   | Wgt                              | Landing                           |                                |  |                                    | Landing Fees      |
| Landing Fees                                  | (1,000#s)                        | Fee Rate                          |                                |  |                                    | \$ 45,093         |
|   | 26,525                           | \$ 1.70                           |                                |  |                                    |                   |
| <b>Grant Aviation - Total Rents and Fees</b>  |                                  |                                   |                                |  |                                    | <b>\$ 130,452</b> |



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Mary Bondurant, Airport Manager

**DATE:** May 22, 2020

**SUBJECT:** **Resolution 2020-35 Fourth Amendment to Airline Operating Agreement and Terminal Area Lease for Grant Aviation, Inc.**

---

Attached to this memo is the Fourth Amendment to the Kenai Municipal Airport Airline Operating Agreement and Terminal Area Lease executed by Grant Aviation for Council approval.

With the completion of the Terminal Rehabilitation Project and the City having final airline allocations for exclusive and joint use space and operation costs, City Administration worked with an airline consultant to negotiate a five-year agreement that begins July 1, 2020 through June 30, 2025.

The first year of the agreement has no rate increase. The increase in airline rates and charges is based on increased square footage in areas of offices, ticket counters, baggage claim/makeup areas, and holding areas requested by the Lessee during the terminal rehabilitation project. Exclusive and joint use space areas reflect small increases in square footage, again related to facility expansion during the terminal rehabilitation project. There is no square footage change to the terminal apron/GSE space area. The terminal joint use space area calculations are based on the 2019 enplanement numbers. RAVN's market share of 76.39% and Grant's market share of 23.61%, and no reduction in the 20% Joint Use Space Subsidy. Each of the subsequent four years starting July 1, 2021 include a 5% increase to the Exclusive Use Space Annual Rental Rate, the Joint Use Space Annual Rental Rate, the Apron/GSE Space Rent, and the Signatory Landing Fee coupled with a 2% reduction to the Joint Use Space Subsidy from 20% to 18% effective July 1, 2021, from 18% to 16% July 1, 2022, and so on. Amendment Exhibit's A and B provide the delineation of exclusive and joint use space currently leased by airlines. Amendment Exhibit C provides the updated calculation rates effective July 1, 2020.

The agreement was also emailed to RAVN at their request but has not been returned.

I recommend approval of the Fourth Amendment to the Airline Operating Agreement with a term of five-years from July 1, 2020 through June 30, 2025.

Thank you for your consideration.



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2020-36**

A RESOLUTION OF THE CITY OF KENAI, ALASKA, AUTHORIZING A BUDGET TRANSFER IN THE AIRPORT FUND, AIRFIELD DEPARTMENT FOR COSTS IN EXCESS OF BUDGETED AMOUNTS.

WHEREAS, the Kenai Airport experienced heavy snowfall during the 2019-2020 winter season; and,

WHEREAS, budgeted overtime hours were not sufficient requiring supplemental funding of \$ 9,750 including overtime and benefits; and,

WHEREAS, airport administration has identified available budgeted money in another account sufficient for the needed amendment to overtime and benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the following budget transfer be made:

**Decrease Budgeted Amounts**

|                                      |         |
|--------------------------------------|---------|
| Airport Fund – Airfield Department – |         |
| Repair & Maintenance                 | \$9,750 |

**Increase Budgeted Amounts**

|                                     |                |
|-------------------------------------|----------------|
| Airport Fund – Airfield Department: |                |
| Overtime                            | \$8,250        |
| Leave                               | 210            |
| Medicare                            | 9              |
| Social Security                     | 1,206          |
| Workers' Compensation               | <u>75</u>      |
|                                     | <u>\$9,750</u> |


**Section 2.** That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3<sup>rd</sup> day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL, SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Approved by Finance: 

\_\_\_\_\_



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Mary Bondurant, Airport Manager  
**DATE:** May 22, 2020  
**SUBJECT:** Resolution No. 2020-36 Airfield Overtime Shortage

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Due to heavy snow and ice conditions over the 2019-2020 winter season, Airport Operations staff experienced early call-outs and long clean-up hours to ensure the airport had safe operating conditions for aircraft. This resulted in the Airfield overtime and benefit accounts to be short \$9,750.

To cover this shortage, funds may be transferred from the following account:

|                                |         |
|--------------------------------|---------|
| Airfield/Repairs & Maintenance | \$9,750 |
|--------------------------------|---------|

Thank you for your consideration.



Sponsored by: Vice Mayor Molloy

**CITY OF KENAI**

**RESOLUTION NO. 2020-37**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, SUPPORTING THE KENAI PENINSULA BOROUGH ASSEMBLY ESTABLISHING THE RESILIENCE AND SECURITY ADVISORY COMMISSION FOR THE KENAI PENINSULA BOROUGH.

WHEREAS, in accordance with the Borough Comprehensive Plan, proposed Kenai Peninsula Borough Ordinance 2020-25 would establish a Resilience and Security Commission ("Commission") to develop and recommend sustainability solutions for the borough; and,

WHEREAS, proposed Borough Ordinance 2020-25 provides that the purpose and scope of the proposed Commission is to advise the borough administration and assembly on developing sustainability solutions for the Kenai Peninsula Borough to promote the economic security, safety, self-reliance, and wellbeing of its inhabitants, while maintaining the ability of future generations to do the same; and,

WHEREAS, proposed Borough Ordinance 2020-25 further defines the scope of matters to be considered by the Commission, and establishes the Commission's duties, authority, memberships, officers, meetings, and duration; and,

WHEREAS, the Commission's membership is to consist of nine voting members appointed by the mayor and approved by the assembly, with appointed members to have experience in at least one of the ten areas defining the scope of the Commission; and,

WHEREAS, the Commission's appointed members will be from each of the geographic areas described in Borough Ordinance 2020-25; and,

WHEREAS, one of the geographic areas is "Central including areas of Sterling, Kenai, Soldotna, Kalifornsky"; and,

WHEREAS, the cities of Homer, Seldovia, and Soldotna all passed resolutions in support of the Commission; and,

WHEREAS, the City of Kenai engages in efficiency, hazard and mitigation planning, and it is in the best interest of the City of Kenai to participate in the Borough's Commission; and,

WHEREAS, the Assembly has set a public hearing on proposed Borough Ordinance 2020-25 for June 16, 2020;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

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**Section 1.** That the Kenai City Council supports the Kenai Peninsula Borough Assembly's establishing the Resilience and Security Advisory Commission for the Kenai Peninsula Borough.

**Section 2.** That the Mayor of the City of Kenai will recommend a resident of the City of Kenai to the Borough Mayor for consideration for appointment to the Commission and for approval by the Assembly.

**Section 3.** That a copy of this resolution be provided to the Borough Clerk for distribution to the Borough Mayor and Assembly.

**Section 4.** That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3<sup>rd</sup> day of June, 2020.

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BRIAN GABRIEL, SR., MAYOR

ATTEST:

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Jamie Heinz, CMC, City Clerk

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## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**CC:** City Manager and Administration  
**FROM:** Vice Mayor Molloy  
**DATE:** May 26, 2020  
**SUBJECT:** **RESOLUTION NO. 2020-37**

---

This resolution supports the Borough Assembly's establishing the Resilience And Security Advisory Commission ("Commission") for the Kenai Peninsula Borough in accordance with the Borough Comprehensive Plan. The purpose and scope of the proposed Commission is "to advise the borough administration and assembly on developing sustainability solutions for the Kenai Peninsula Borough to promote the economic security, safety, self-reliance, and wellbeing of its inhabitants, while maintaining the ability of future generations to do the same."

The Assembly has set a public hearing for June 16, 2020 on proposed Borough Ordinance 2020-25, establishing the Commission. The cities of Homer, Seldovia, and Soldotna all have passed resolutions in support of the Commission.

The Commission's membership is to consist of nine voting members appointed by the mayor and approved by the assembly, with appointed members to have experience in at least one of the ten areas defining the scope of the Commission. The Commission's appointed members will be from each of the geographic areas described in proposed Borough Ordinance 2020-25. One of the geographic areas is "Central including areas of Sterling, Kenai, Soldotna, Kalifornsky."

The City of Kenai engages in efficiency, hazard and mitigation planning. It is in the best interest of the City of Kenai to participate in the Borough's Commission with a membership seat at the table, and for the Mayor of the City of Kenai to recommend a resident of the City of Kenai to the Borough Mayor for consideration for appointment to the Commission and for approval by the Assembly.

Council's support of Resolution No. 2020-37 is not a statement of support for Borough Ordinance 2020-25 as currently written; Resolution No. 2020-37 simply supports the establishment of the Commission, which is in accordance with the Borough Comprehensive Plan, while including the message that the City of Kenai should have a membership seat on the Commission. Council's support is respectfully requested.

Introduced by: Cooper, Cox, Smalley  
Date: 05/05/20  
Hearing: 06/16/20  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2020-25**

**AN ORDINANCE ESTABLISHING THE RESILIENCE AND SECURITY ADVISORY  
COMMISSION FOR THE KENAI PENINSULA BOROUGH**

**WHEREAS,** annual air temperatures in the Kenai Peninsula Borough have risen by 3.4 degrees Fahrenheit since 1969 and July 2019 was the warmest month on record in Alaska; and

**WHEREAS,** over the past half-century, annual available water on the western Kenai Peninsula has declined 62%, according to the Kenai National Wildlife Refuge, U.S. Fish & Wildlife Service, and in 2019 Kenai Peninsula communities experienced severe drought and the Kenai Peninsula Borough declared an emergency disaster on behalf of Seldovia and Nanwalek due to severe water shortages; and

**WHEREAS,** significant warming trends in our rivers and ocean are beginning to harm tourism, subsistence, sport, and commercial fisheries, water temperatures in non-glacial Cook Inlet streams routinely exceed physiological thresholds for salmon during the month of July, according to Cook Inletkeeper, and in 2019 warm water conditions exceeded temperatures forecasted for 2069, causing high rates of pre-spawn mortality of salmon across the state. NOAA has determined that a recent series of collapses in Pacific Cod fisheries are linked to warming ocean conditions, and these same warming ocean conditions appear to be harming salmon survival. Warming of nearshore waters is increasing the rate of harmful algal blooms, such as PSP, hurting the mariculture industry. Ocean acidification will continue to damage vital nurseries for many fish stocks in Kachemak Bay and Cook Inlet, according to the National Estuarine Research Reserve; and

**WHEREAS,** according to USDA, Forest Service, current winter trends indicate that the southern Kenai Peninsula will lose 10-20% of its snowpack by 2030-2059, which threatens winter tourism, recreation, as well as fish and wildlife that are at the center of our culture and economies. As winters warm, private property values are threatened by increased instances of flash flooding, which results in erosion and bluff instability, according to new research by the University of Alberta. According to the Kachemak Bay National Estuarine Research Reserve, erosion rates on the eastern shores of Cook Inlet are 1 foot per year, and 2.3 feet per year in the western Homer area; and



**WHEREAS,** the Alaska Division of Forestry changed the official start date of the statewide fire season from May 1 to April 1 in response to the Tracy Avenue Fire that threatened Homer in 2005, the first spring grassland fire on the peninsula. There is a projected 66% increase in the estimated value of human structures (e.g. homes, businesses) that are at risk of fire in the next half century on the Kenai Peninsula, according to the Climate Change Vulnerability Assessment for the Chugach National Forest and the Kenai Peninsula. According to the Anchorage Daily News, the 2019 Swan Lake Fire on the Kenai Peninsula was far and away the most expensive fire in the country at an estimated cost to fight of \$46 million; this estimate does not include heavy losses to tourism revenue, losses to private property, or significant losses associated with repair of roads or power lines. A study in *Climatic Change* estimates that costs due to increased wildfires across Alaska are \$1.1 to \$2.1 billion annually from 2006 through the end of the century; and

**WHEREAS,** the Caribou Hills was the epicenter of an unprecedented spruce bark beetle outbreak that eventually culled about 1 million acres of Sitka, white and Lutz spruce on the southern and central Kenai Peninsula from the mid-1980s through the 1990s, sustained by consecutive summers of above-average temperatures, according to the Kenai National Wildlife Refuge. The northern peninsula and the MatSu have been hard hit by spruce bark beetle in the past couple years, and spruce bark beetle's range is expanding as the state warms, and the scale of outbreaks is increasing; and

**WHEREAS,** the Alaska Department of Fish and Game has determined that the effects of the changing climate are "beginning to impact Alaska's natural systems and the uses they sustain"; and

**WHEREAS,** a resilience and security commission is needed to guide and support the borough's programmatic responses to these challenges and to implement comprehensive strategic planning to mitigate known hazards, adapt to significant changes, and modernize and diversify our energy sector; and

**WHEREAS,** the 2019 Kenai Peninsula Comprehensive Plan, Focus Area: Land Use, Objective G, Strategy 1 states, "Form a Kenai Peninsula Borough Commission on Sustainability"; and

**WHEREAS,** the 2019 Kenai Peninsula Comprehensive Plan, Focus Area: Land Use, Objective G, Strategy 2 states, "Develop a climate change action plan..."; and

**WHEREAS,** the Borough Comprehensive Plan outlines strategies for renewable energy: Focus Area: Energy & Utilities, Objective C states, "Support residential, community and region-wide renewable energy initiatives and projects...Charge the commission with developing a renewable energy strategy to investigate and make recommendations for feasible renewable energies for Kenai Peninsula"; and

**WHEREAS,** the 2019 Kenai Peninsula Comprehensive Plan, Focus Area: Agriculture & Mariculture, Objective A states, “Support a more sustainable and resilient Kenai Peninsula by increasing production and distribution of quality, healthy agricultural products for local, state and export markets”; and

**WHEREAS,** the 2019 Kenai Peninsula Comprehensive Plan, Focus Area: Agriculture & Mariculture, Objective C states, “Encourage greater local and regional self-sufficiency”; and

**WHEREAS,** the 2019 Kenai Peninsula Comprehensive Plan, Focus Area: Agriculture & Mariculture, Objective B states, “Sustain and create new agriculture-related jobs and businesses”; and

**WHEREAS,** the 2019 Kenai Peninsula Comprehensive Plan, Focus Area: Solid Waste Services, Objective C states, “Increase awareness of and opportunities for waste reduction and landfill diversion, including Reduce, Recycle, Reuse”; and

**WHEREAS,** the City Councils of Seldovia, Homer and Soldotna all passed resolutions in support of the establishment of a commission to develop strategic responses to warming trends in our environment for the protection of public safety and welfare; and

**WHEREAS,** the City of Homer has a climate action plan and the City of Seward is working on a climate action plan; and

**WHEREAS,** a resilience and security commission supports the ongoing work within the borough to improve energy and climate security through such projects as Bradley and Grant Lake hydroelectric, the Soldotna landfill gas energy project; the Kenai Peninsula Agriculture Initiative; the installation of electric vehicle charging stations; the banning of single-use plastic bags in Soldotna, Kenai, Seward and Homer; the development of regional building efficiency standards by the Alaska Housing Finance Corporation; the development of the borough All-Hazard Mitigation Plan; the creation of climate action plans by the cities of Homer and Seward; as well as the ongoing monitoring of climate changes on the peninsula by such institutions as the Kenai National Wildlife Refuge and the University of Alaska; and

**WHEREAS,** the Kenai Peninsula Borough has over 148 facilities and investments in energy efficiency and renewable energy for these facilities represent enormous potential savings on electricity and maintenance costs over the mid- and long-term; and

**WHEREAS,** the Kenai Peninsula Borough Land Management Division is developing an agricultural initiative and pilot project with the strategy of managing borough land designated as agricultural land for long-term agricultural production and the initiative needs a commission to provide guidance and oversight; and

**WHEREAS,** it is in KPB’s interest to implement policies that mitigate against known hazards, invest in local agriculture, improve the efficiency of buildings and transportation, reduce solid waste, protect habitats of fish and wildlife, and invest in modern, clean, local sources of energy; and

**WHEREAS,** these policies will have additional benefits for residents, including cost savings, job creation, bolstering self-reliance, increased economic stability through market diversification, greater protection of public natural resources, and better public health outcomes; and

**WHEREAS,** investments in hazard mitigation, energy efficiency, grid diversification, food security, and waste reduction generally pay for themselves and create long-term jobs and,

**WHEREAS,** financial and technical support for the commission is available through numerous public and private institutions who support community resilience and security; and

**WHEREAS,** for these reasons, in accordance with the Borough Comprehensive Plan, the Kenai Peninsula Borough shall establish a Resilience and Security Commission to develop and recommend sustainability solutions for the borough;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** The assembly hereby establishes the Resilience and Security Commission for the borough subject to the provisions in this ordinance.

**SECTION 2. Purpose and Scope.** The commission will advise the administration and assembly on developing sustainability solutions for the Kenai Peninsula Borough to promote the economic security, safety, self-reliance, and wellbeing of its inhabitants, while maintaining the ability of future generations to do the same.

The scope of matters subject to consideration by the resilience and security commission includes:

1. Divert materials that would otherwise be discarded in landfills within the borough to extend the lifetime of landfills and save taxpayer dollars;
2. Improve cost and energy efficiency of buildings;
3. Improve cost and energy efficiency of transportation;
4. Increase use of local, clean energy to (a) modernize electricity generation, storage and distribution; (b) increase energy independence; (c) diversify the grid and reduce supply volatility;

5. Support hazard mitigation planning that accounts for changing environmental conditions;
6. Improve food security through support of local agriculture, protection of the ecological integrity of fish and wildlife habitat, protection of water resources, and other means;
7. Conduct cost-benefit analyses of sustainable resource initiatives;
8. Actively engage and communicate with borough communities to develop and institute sustainable resource initiatives through community workgroups, task-forces, online media, etc.;
9. Seek funding to support the work of the commission; and
10. Other similar efforts focused on protection of our natural resources, economy, security and wellbeing.

**SECTION 3. Duties.** The duties of the commission are as follows to the extent the duties performed are within the scope of the borough's legally authorized powers:

- A. Collaborate with borough staff, communities, utilities, agencies, universities, and the private sector to lead the development and modification of strategic planning to mitigate and adapt to significant changes in our environment;
- B. Develop programmatic strategies for sustainable development that anticipate, adapt to, and mitigate against changes in our natural systems;
- C. Collaborate with utility cooperatives to conduct energy assessments, evaluate borough investments in the energy sector, and diversify energy portfolios;
- D. Conduct cost-benefit analyses of strategic support of sectors with good long-term outlook, such as building and transportation efficiency, renewable energy, agriculture, tourism, and fishing;
- E. Lead implementation of strategies through continued collaboration with the mayor, assembly, staff, agencies, utilities, universities, the private sector, and communities;
- F. Provide metrics for monitoring progress toward meeting goals, and report annually to the mayor and assembly at the end of January on the progress made for the previous year along with recommendations on how to support or improve those efforts;

- G. Actively engage and communicate with borough communities to collaboratively develop and institute sustainable resource initiatives through citizen workgroups, task-forces, online media, etc.; and
- H. Make recommendations to the mayor on public purpose grants that promote sustainability goals of the borough.

**SECTION 4. Memberships.** The resilience and security commission shall consist of nine voting members appointed by the mayor and approved by the assembly. Appointed members shall have experience in at least one of the ten areas defining the scope of the commission and shall serve overlapping three-year terms for no more than two consecutive terms.

Sustainability commissioners shall be appointed by the mayor and approved by the assembly from each of the following geographic areas as generally described below.

1. East Peninsula including areas of Seward, Moose Pass, Cooper Landing
2. Southwest Borough including areas of Seldovia, Port Graham, Homer, Kachemak City, Nanwalek
3. South Central including areas of Anchor Point, Ninilchik, Kasilof, Clam Gulch
4. Central including areas of Sterling, Kenai, Soldotna, Kalifornsky
5. Northwest Borough including areas of Hope, Tyonek, Nikiski
6. Four At-Large Seats

In addition, the commission may appoint two non-voting youth members. Youth members shall serve one-year terms.

**SECTION 5. Officers.** A chair and vice-chair of the commission shall be selected annually from and by the appointed members of the commission.

The Commission shall be staffed by the planning department to publicize meetings, take minutes, etc. The Assembly President may appoint an assembly member to be the assembly representative for this advisory commission.

**SECTION 6. Meetings.** Meetings shall occur once a month at assembly chambers.

**SECTION 7. Duration.** The commission shall continue until disbanded by the assembly by ordinance.

**SECTION 8. Investigation and recommendation authority.** The resilience and security commission may consider and investigate subject matter tending to the development and betterment of the borough, now and in the future. It may make recommendations as it considers advisable to the planning commission, administration and the assembly. The commission must request approval to make or have made energy assessments, analyses, surveys, maps or plans through the budget process.

**SECTION 9.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \* DAY OF \*, 2020**

\_\_\_\_\_  
Kelly Cooper, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2020-38**

A RESOLUTION OF THE CITY OF KENAI, ALASKA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE CITY OF SOLDOTNA TO PROVIDE ANIMAL SHELTER SERVICES FOR THE CITY OF SOLDOTNA AT THE KENAI ANIMAL SHELTER.

WHEREAS, the City of Kenai provides animal control services within the City and operates the Kenai Animal Shelter, providing the sheltering of animals from both the City of Kenai and areas around the City within the Kenai Peninsula Borough; and,

WHEREAS, the mission of Kenai Animal Control is to provide humane care and shelter to all animals housed at the Kenai Animal Shelter, and to fairly enforce the City’s code of animal ordinances throughout the City of Kenai; and,

WHEREAS, the City of Soldotna previously provided similar services within the City of Soldotna until the Councils of both Cities approved an Agreement for one year for the city of Kenai to provide animal shelter services for the City of Soldotna; and,

WHEREAS, the Agreement between the Cities expires on June 30, 2020; and,

WHEREAS, continued consolidation of animal shelter services in Kenai will continue to improve consistency across jurisdictional boundaries, enable more cost-effective animal services by utilizing economies of scale, and improve ease of access for the public by providing a single location for shelter services in the central Kenai Peninsula; and,

WHEREAS, the City of Kenai Administration recommends the City enter into a new longer-term agreement to provide animal shelter services for the City of Soldotna.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the City Manager is hereby authorized to enter into an Agreement with the City of Soldotna to provide animal shelter services at the Kenai Animal shelter for a period of three years with the possibility of two one year extensions. The City Manager may execute the two future extension without further Council approval.

**Section 2.** That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3 day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL, SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members  
**FROM:** Scott Bloom, City Attorney  
**DATE:** May 27, 2020  
**SUBJECT:** **Resolution 2020 – 38 Animal Shelter Agreement**

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Council passed Resolution 2019-53 on July 3, 2019, approving a one year agreement for Kenai to provide animal shelter services for Soldotna. The arrangement has worked well for both parties, and administration recommends Council authorize a longer term agreement, three years with an option for two one year extensions. The City will receive a base compensation of \$42,588 the first year (a CPI increase of \$588 over the prior year) annually adjusted by CPI thereafter. Other changes to the proposed agreement have been negotiated by the parties, none of which affect services provided, but are related to dispute resolution and the relationship of the parties.

Your consideration is appreciated.



**AGREEMENT FOR ANIMAL CONTROL SHELTER SERVICES**

**THIS AGREEMENT** is entered into this \_\_\_ day of June, 2020, by and between the CITY OF KENAI (“**Kenai**”) and the CITY OF SOLDOTNA (“**Soldotna**”).

WHEREAS, the provision of animal control, sheltering and licensing services protects public health and safety and promotes animal welfare; and

WHEREAS, providing such services on a regional basis allows for enhanced coordination and tracking of public and animal health issues, consistency of regulatory approach across jurisdictional boundaries, economies of scale, and ease of access for the public; and

WHEREAS, the Cities of Kenai and Soldotna desire to partner, in making regional animal shelter services work effectively.

NOW THEREFORE, for good and valuable consideration, the receipt whereof is hereby acknowledged, Kenai and Soldotna agree as follows:

**1. Term.** The initial term of this Agreement shall be from July 1, 2020 through and including June 30, 2023, unless terminated earlier in accordance with the terms of this Agreement. This agreement may be extended for two additional one-year terms, upon the mutual agreement of both parties.

**2. Services Provided.** Kenai shall perform/provide the following services in accordance with the provisions of this Agreement:

- a. Shelter Services. Kenai shall provide shelter services for animals; 1) impounded by Soldotna; 2) owned or in the custody of Soldotna residents who voluntarily relinquish custody; 3) taken into custody by members of the public within Soldotna boundaries; or 4) ordered quarantined at the animal shelter by Soldotna (collectively “Soldotna Animals”). Shelter Services include the general care, cleaning and nourishment of owner-released, lost or stray dogs, cats and other animals at the Kenai Animal Shelter (the “Shelter”) located at 510 N. Willow Street in Kenai. The Shelter shall generally be open to the public not less than 30 hours per week, and not less than 5 days per week excluding holidays, for purposes of pet redemption, adoption, license sales services and pet surrenders subject to staffing issues, maintenance and unforeseen events.

In accordance with Kenai’s ordinances, policies and procedures, and subject to the provisions of Section 3 of this Agreement (Appeal), the following services shall be provided under this Agreement:

- i. exercise, care and feeding, and reasonable medical attention for Soldotna Animals impounded at the Shelter;
- ii. provide for and manage adoptions and related activities leading to the placement

of animals in appropriate homes.

- iii. Kenai shall provide euthanasia services.
  - iv. Kenai shall provide for the quarantine of animals.
  - v. Kenai shall provide the Soldotna Chief of Police a key and alarm code to the Shelter and allow Soldotna after hours access to the Shelter for the limited purpose of impounding or quarantining Soldotna Animals when the Shelter is not open to the public. Only Soldotna employees that have received an orientation on after hours drop off procedures by Kenai staff may have access to the Shelter Key and alarm code. Soldotna employees must follow after hours drop off procedures.
- b. **Licensing Services.** Kenai shall provide for the sale of Soldotna pet licenses, available to the public in person, at the Kenai Shelter during regular business hours. Kenai may collect and retain the Soldotna's animal licensing fee for each Soldotna Animal licensed by Kenai. Soldotna licenses shall be provided to Kenai by the City of Soldotna.
- c. **Record Keeping and Reporting.** Kenai will keep appropriate records of Soldotna Animals, and will provide Soldotna with an electronic report not less than quarterly summarizing data for Soldotna Animals impounded at the Kenai Animal Shelter. Kenai will maintain a database and will provide current pet license data files (or otherwise provide shared electronic access to such files) upon request of Soldotna. Data files will include pets owned, owners, addresses, phone numbers, E-mail addresses, violations, license renewal status, and any other relevant or useful data maintained in the Kenai's database on licensed Soldotna Animals. Soldotna will provide Kenai records of licenses sold by Soldotna.

**3. Appeal.** Kenai shall conduct administrative appeals related to impoundment or quarantining of Soldotna Animals in accordance with the Kenai administrative appeals procedure, whereby persons who own an impounded or quarantined animal may be able to request a hearing to determine whether the animal was lawfully impounded and/or if the animal was lawfully withheld from redemption or disposed of except appeals challenging the decision of a City of Soldotna employee to impound or quarantine a Soldotna Animal ("Soldotna Appeals"). Soldotna Appeals shall be conducted by the City of Soldotna in accordance with the City of Soldotna administrative appeals procedure.

**4. Compensation.** Soldotna shall pay Kenai as compensation for the services rendered under this Agreement, a lump sum of Forty-Two-Thousand, Five Hundred and Eighty Eight Dollars (\$42,588.00). This amount shall be adjusted annually for the years beginning July 1, 2021 and July 1, 2022 by 100% of the annual Alaska Urban CPI. Compensation for services beyond the initial three-year term, if extended, shall be determined by mutual agreement of the parties.

Should more than one hundred fifty animals be placed with Kenai by Soldotna during the initial

term, Kenai shall be paid an additional sum of Three Hundred Eighty Four Dollars per animal (\$384/animal) (“Surcharge”). The amounts payable to Kenai shall not exceed the sums identified in this paragraph without the prior written approval of the City of Soldotna.

Soldotna agrees to make quarterly payments of the pro-rated annual amount, payable on July 15, October 15, January 15, and April 15. Quarterly payments and any Surcharge due to Kenai shall be payable, provided Kenai submits a proper invoice for each billing, in such form accompanied by such evidence in support thereof as may be reasonably required by Soldotna. All invoices are otherwise due and payable within thirty (30) days of receipt by Soldotna.

**5. Shelter and Licensing Fees.** Kenai may collect applicable fees in accordance with Kenai’s ordinances, policies and procedures and may collect applicable Soldotna licensing fees (collectively “Kenai Fees”). Kenai may retain all Kenai Fees. Under no circumstances may Kenai collect Kenai Fees from Soldotna.

**6. Services Supplied by Soldotna.** Soldotna shall:

- a. transport impounded Soldotna Animals to and from the Shelter.
- b. impound or quarantine Soldotna Animals transported to the Shelter at times the Shelter is not open to the public.
- c. conduct Soldotna Appeals and notify Kenai of the decision on appeal.
- d. enforce violations of Soldotna animal control ordinances,
- e. perform neighborhood patrol and response to calls for service within Soldotna city limits.
- f. participate in the updating and sharing of information and data regarding pets, owners, addresses and violations, to be shared with Kenai or maintained in a way that is accessible to both parties.

**7. Independent Contractor Status.** In Performing under this Agreement, Kenai acts as an independent contractor and shall have responsibility for and control over the details and means for performing the services required hereunder.

**8. Indemnification.** Soldotna shall defend and indemnify Kenai or any employee or other representative thereof from and against losses, damages, liabilities, expenses, claims and demands (collectively “Claim”) arising out of Kenai’s performance of this Agreement unless the Claim arises out of Kenai’s failure to follow Kenai’s ordinances, policies or procedures or Kenai’s failure to comply with the provisions of this Agreement.

**9. Assignment.** Kenai shall not assign this Agreement or any of the monies due or to become due thereunder without the prior written consent of Soldotna.

**10. Subcontracting.** Kenai may not subcontract its performance under this Agreement without the prior written consent Soldotna. Any subcontractor must agree to be

bound by the terms of this Agreement.

**11. Designation of Representatives.** The parties agree, for the purposes of the Agreement, that the Cities of Kenai and Soldotna shall be represented by and may act only through the following representatives and their successors who shall have the authority to act and bind the parties in connection with this Agreement:

For the City of Soldotna: Stephanie Queen, City Manager  
177 N. Birch Street  
Soldotna, AK 99669  
[squeen@soldotna.org](mailto:squeen@soldotna.org)

For the City of Kenai: Paul Ostrander, City Manager  
210 Fidalgo Ave.  
Kenai, AK 99611  
[postrander@kenai.city](mailto:postrander@kenai.city)

**12. Insurance.** Kenai shall, at all times, at its own expense, keep in force the following described insurance for protection against the claims of employees or other persons, insuring both Kenai and Soldotna against liability that may accrue against them or either of them in connection with the performance of Kenai under this Agreement:

- a. Insurance in at least the required statutory amounts covering claims under worker's compensation, disability benefits and other similar employee benefit acts; and
- b. General liability insurance covering bodily injury, death, and property damage with a combined single limit of not less than \$500,000.

**13. Compliance with Applicable Laws.** Kenai and Soldotna shall, in the performance of this Agreement, comply with all applicable federal, state and local laws, ordinances, orders, rules and regulations applicable to their respective performance hereunder.

**14. Venue and Applicable Law.** The venue of any legal action between the parties arising as a result of this Agreement shall be laid in the Third Judicial District of the Superior Court of the State of Alaska, and this Agreement shall be interpreted in accordance with the laws of the State of Alaska.

**15. Waiver.** No failure on the part of either party to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by either party, unless in writing and signed by the parties sought to be bound, shall discharge or invalidate such covenants or provisions or affect the right of either party to enforce the same or any other provision in the event of any subsequent breach or default.

**16. Binding Effect.** The terms, conditions and covenants contained in this

Agreement shall apply to, insure to the benefit of, and bind the parties and their respective successors.

**17. Termination.** Either party may terminate this Agreement upon failure by the other party to comply with any terms or conditions of this Agreement. Prior to termination, the terminating party must provide the other party with written notice and a minimum of ten days opportunity from the date of the notice to cure the violation. If the violation is not cured within ten days, or additional time provided at the sole discretion of the terminating party, the terminating party may terminate the agreement in writing.

**18. Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and all prior negotiations and understandings are superseded and replaced by this Agreement and shall be of no further force and effect. No modification of this Agreement shall be of any force or effect unless reduced to writing, signed by both parties and expressly made a part of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed, or caused to be executed by their duly authorized representatives, this Agreement on the respective date indicated below.

**CITY OF SOLDOTNA**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Stephanie Queen  
ITS: City Manager

**CITY OF KENAI**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Paul Ostrander  
ITS: City Manager



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2020-39**

A RESOLUTION OF THE CITY OF KENAI, ALASKA, APPROVING A GRANT DISBURSEMENT PROGRAM FOR SMALL BUSINESSES AND NON-PROFIT ORGANIZATIONS UTILIZING FUNDS FROM THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

WHEREAS, on April 9, 2020 President Donald J. Trump approved a Disaster Declaration for the State of Alaska; and,

WHEREAS, on May 20, 2020, the City Council enacted Ordinance 3130-2020 accepting Federal CARES ACT funding passed through the State of Alaska for expenditures in response to the COVID-19 Public Health Emergency; and,

WHEREAS, the administration developed a grant disbursement program (Attachment A) for small businesses and nonprofit organizations utilizing funds from the CARES Act to best support meaningful and long-term recovery of our local economy where help is needed due to impacts associated with the COVID-19 Public Health Emergency; and,

WHEREAS, the grant disbursement program meets the intent of the CARES Act to provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic and were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, the grant disbursement program follows guidance for local governments issued by the federal government that requires expenditures provide economic support to those suffering from employment or business interruptions due to COVID-19-related business closures; and,

WHEREAS, it is in the best interests of the City of Kenai to approve a grant disbursement program to ensure that relief funds are granted to businesses and nonprofits in need of critical funding now.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the Grant Disbursement Program for Small Businesses and Non-Profit Organizations Utilizing Funds from The Coronavirus Aid, Relief, and Economic Security (Cares) Act is Approved as Attached or modified in similar form.

**Section 2.** That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3<sup>rd</sup> day of June, 2020.

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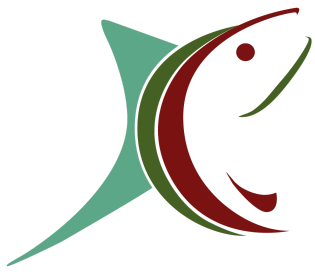
Resolution No. 2020-39  
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\_\_\_\_\_  
BRIAN GABRIEL, SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

\_\_\_\_\_



## Establishing City of Kenai COVID-19 Relief and Recovery Grant Programs



**CITY OF KENAI**  
**CITY HALL**  
210 FIDALGO AVENUE  
KENAI, AK 99611

**PAUL OSTRANDER**  
**CITY MANAGER**  
POSTRANDER@KENAI.CITY  
907.283.8222

**LARRY PERSILY**  
**PROJECT LEAD**  
LPERSILY@KENAI.CITY  
907.283.8226



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*We're focused on getting relief funds into the community we serve*



**410**  
small businesses in Kenai\*



**106**  
nonprofits serving the community



**3,117**  
individual households

\*Businesses with more than \$50,000 in gross revenues reported on 2019 sales tax returns

# Introduction

The Kenai City Council on May 20 approved an approach to distributing CARES Act funds received by the City, identifying broad categories, governmental, private, and nonprofit to help provide economic relief due to the public health emergency. The Administration focused on developing the three grant programs outlined in this document to provide meaningful impact in the community in an expeditious manner.

Along with myself, the team included Project Lead Larry Persily (hired as a temporary employee for this effort), Finance Director Terry Eubank, City Attorney Scott Bloom, and Assistant to City Manager Christine Cunningham. We considered a wide range of programs and guidance along with the need for timely relief support with as few restrictions as possible to ensure relief funds can be spent as needed, balanced with accountability, and a simplified process that is in the best interests of both the City and applicant.

I believe we have assessed the requirements and needs of the City soundly, producing a set of responsive programs to ensure we, as a City, succeed in expending funds to best serve the citizens of Kenai with responsible management.

*Paul Ostth*

# Overview

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The City of Kenai expects to receive \$7,700,832 from the Federal Government passed through the State of Alaska for expenditures in response to and to aid in the economic recovery from the COVID-19 Public Health Emergency. The Administration has evaluated an approach to distributing the economic recovery funds identifying how to best support the long-term recovery of our local economy. This approach includes an allocation plan for expenditure of these funds approved by City Council and designed to identify broad categories, governmental, private, and nonprofit where help is needed due to impacts associated with the COVID-19 Public Health Emergency.

\$2,500,000 – First Responder and Incident Management Team Payroll. This allocation includes a reimbursement of City payroll expenses for Fire Department, Police Department, Public Safety Dispatch, and Incident Management Team.

\$3,000,000 – Business and Nonprofit Entity Recovery Grants. This allocation includes grant awards to qualifying City of Kenai businesses or nonprofits affected by COVID-19 to offset impacts or to provide mitigation. The City will administer a grant program to determine eligibility and requirements that may apply. The grant program guidelines are included in this document.

\$300,000 – CARES Act Administration & Non-Payroll Expenditures. This allocation includes reimbursement of City expenses related to COVID-19, which have been documented. These expenses include City purchases to ensure the health and safety of City employees and residents due to the disaster. All expenditures from this department will follow all City code requirements.

\$900,832 – Individual Assistance Grants. This allocation will include grants to nonprofits to assist Kenai households impacted by COVID-19. The City will administer a grant program to determine eligibility restrictions and requirements that may apply. Once fully developed, the grant program guidelines will be brought to Council in the form of a resolution for consideration.

\$1,000,000 – City Resiliency and Recovery. This allocation will include City of Kenai capital projects or expenses intended to mitigate the impacts of COVID-19. All expenditures from this department will follow all City code requirements.

# Small Business



The grant categories for small businesses will be divided into four levels, based on each business' 2019 total gross sales for four quarters as reported on their tax returns to the Borough:

- Up to \$2,500 for businesses with 2019 revenues of \$50,000 to \$100,000
- Up to \$5,000 for businesses with 2019 revenues of \$100,000 to \$250,000
- Up to \$7,500 for businesses with 2019 sales of more than \$250,000
- Up to \$10,000 for businesses with 2019 sales of more than \$500,000

If the demand for grants exceeds the City's available funds, the City reserves the right to prorate the grants equally to all recipients to stay within available funding.

A business must have been in existence as of January 1, 2020, to qualify. That would not exclude an existing business with a state license, and that has previously filed tax returns with the Borough even though it may have reported no operations in January 2020 (such as a seasonal business).

For purposes of determining eligibility for a new business without a full year's tax returns for 2019, the City would take gross sales reported for any quarters in 2019 or the first quarter 2020 and extrapolate the numbers to estimate a full year's sales for the business.

Businesses that are not required to file sales tax returns with the Borough must provide a copy of their most recent federal income tax return or other proof of revenues as deemed suitable by the City review committee to determine the level of grant award they might qualify to receive.

The business must be located within the City of Kenai, with a valid state business license and be current in its sales tax registration with the Kenai Peninsula Borough. The business owner(s) does not have to be a resident of the City of Kenai.

The program is open to all qualifying businesses, regardless of whether they have applied for or have obtained any other state or federal COVID-19-related assistance.

The program will exclude from eligibility:

- C Corporations traded on a U.S. stock exchange or a corporate-equivalent entity traded on a foreign stock exchange, and businesses owned in whole or majority-owned by such a publicly traded corporation
- National chains that own and operate their premises in Kenai; franchise owned-and-operated businesses in Kenai would be eligible
- Businesses with a City lien for code enforcement
- Businesses with a Borough lien for unpaid sales taxes. A sales tax delinquency would not disqualify a business from the grant program unless the borough has initiated a lien on that debt. Businesses that have entered into a payment plan with the Borough and are adhering to that plan would be eligible for the grant, so long as the lien has been lifted
- Businesses currently in bankruptcy proceedings

(continued on next page)

# Small Business

- Businesses that lack a permanent physical presence in the City for the sale of goods or the provision of services with at least one employee assigned to that facility
- Marijuana businesses

Businesses sharing physical quarters may each apply and qualify for their own grant, so long as each business has its own state license, files a sales tax return under its own name and does not share the same ownership with the other co-located businesses.

Applicants are required to self-certify that they have been affected by the COVID-19 public health emergency and resulting economic impacts. The intent of the federally funded CARES Act program is to assist communities and businesses that suffered economic harm from the public health emergency. Impacts could include, though are not limited to, loss of sales due to mandatory shutdown, inventory loss, additional operating expenses of reopening and protecting staff and customers, including funds already spent for those purposes.

Businesses will not be required to detail specifically (in dollars) how they have been affected.

Business will be asked how they might use the money, making clear that the application question is voluntary and for informational purposes only to gauge community need and effectiveness of the program.

Applicants will be required to check a box that states they intend to remain in business into 2021.

The grant funds must be fully expended by December 30, 2020.

The applicant must certify that the information provided is true and accurate and that they agree to assist in the verification of information provided in the application and to provide additional information to the City, if requested.

The application period will be open for two weeks. The City review committee will verify the information as the applications come in, but the City will hold off paying out any funds until after the deadline period has closed and the total amount of eligible requests is known.

The review committee will determine whether the application is complete and the business is eligible under the program requirements. The committee will not judge the need or use of the money.

An applicant denied by the review committee may appeal to the City Manager (in writing). Any appeal must be filed in writing by 5 p.m. the 10th calendar day after the day the applicant received notice from the City.

It is the City's intent, to the extent allowed by law, that the review committee's work and discussions, and the applications themselves, will not be available to the public. The names of businesses that receive grants and the amount each receives will be considered a public record.

The City reserves the right to amend any criteria or procedures as may be required if new state or federal guidelines are issued.

# Nonprofits



The grants for nonprofits would be divided into three levels to help meet the needs of repairing the economic damage to nonprofits caused by the COVID-19 public health emergency:

- Up to \$10,000 for nonprofits of less than \$50,000 in annual income
- Up to \$25,000 for nonprofits of between \$50,000 and \$250,000 in annual income
- Up to \$50,000 for nonprofits of more than \$250,000 in annual income

If the demand for grants exceeds the City's available funds, the City reserves the right to prorate the grants equally to all recipients to stay within available funding.

Annual income will be determined by the nonprofit's most recent IRS Form 990 from 2018 or 2019. For those nonprofits that do not file with the IRS, the City will accept an audited financial statement or an unaudited statement by a third-party preparer.

The program is open to nonprofits that provide services to residents of the City, regardless of where the nonprofit has its main office — though the nonprofit must have a physical or service presence within the City of Kenai — and regardless of whether the local chapter or affiliate is part of a larger statewide or national organization.

Additional eligibility rules:

- The grants will be available only to IRS-certified 501 nonprofits (the full list of IRS 501 nonprofit categories will be on the application)
- The nonprofit must have been in operation serving City of Kenai residents since at least January 1, 2019
- A majority of the group's local board of directors or local advisory board and its officers must be Alaska residents. A local affiliate of a national organization must have a local advisory or governing board
- Faith-based nonprofits are eligible, so long as they provide services which are promoted and available to the general public without regard to religious affiliation.
- Nonprofit organizations "that are principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting, or primarily engaged in political or lobbying activities" are not eligible (as per 13 CFR § 120.110(k) in the Code of Federal Regulations)

The grant funds must be fully expended by December 30, 2020.

The program is limited to nonprofits economically damaged by the COVID-19 public health emergency. The nonprofit will be required to certify and briefly describe how it and/or its work has been affected, but will not be required to provide financial statements, budgets, receipts or other records detailing the financial damages.

# Nonprofits

The program is open to all qualifying nonprofits, regardless of whether they applied or obtained any other state or federal COVID-19-related assistance.

Applicants will be asked to provide a brief report to the City no later than one year after receipt of the grant funds, reviewing the use of the money. This is voluntary and is requested to assist the City in evaluating the impact of the program.

A nonprofit cannot obtain a grant through the City's CARES Act-funded grant program for nonprofits while also receiving a grant as a small business, even if the nonprofit also operates a business enterprise in Kenai.

The applicant will need to certify that the information provided is true and accurate, and they agree to assist in the verification of information provided in the application and to provide additional information to the City, if requested.

The application period would be open for two weeks. The City review committee will verify the information as the applications come in, but the City will hold off paying out any funds until after the deadline period has closed and the total amount of eligible requests is known.

The review committee will determine whether the application is complete and the nonprofit is eligible under the program requirements. The committee will not judge the need or use of the money.

An applicant denied by the review committee may appeal to the City Manager (in writing). Any appeal must be filed in writing by 5 p.m. the 10th calendar day after the day the applicant received notice from the City.

It is the City's intent, to the extent allowed by law, that the review committee's work and discussions, and the applications themselves, will not be available to the public. The names of businesses that receive grants and the amount each receives will be considered a public record.

The City reserves the right to amend any criteria or procedures as may be required if new state or federal guidelines are issued.

# Individual Assistance

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Individual Assistance grants will include grants to nonprofits to assist City of Kenai households impacted by COVID-19. The City will administer a grant program to determine eligibility restrictions and requirements that may apply. Once fully developed, the grant program guidelines will be brought to Council in the form of a resolution for consideration.

This program is currently being developed by Administration.



# Conclusion

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The City of Kenai will administer the grant programs without incurring the additional cost of an outside group or foundation to screen, process or assist in administration of the grant program.

In order to reach the small businesses and nonprofit organizations in the City that may be eligible, a successful community outreach strategy is necessary. This strategy will include the following:

- Press Releases to local media
- Direct mail to small businesses and nonprofits
- Coordination with the Kenai Peninsula Economic Development District (KPEDD), Kenai Chamber of Commerce and Visitor Center (KCCVC), and Small Business Development Center (SBDC)
- Social Media posts

Information about the program as well as application forms, FAQs, a summary of the program and application process, and timetable will be provided on the City's website at [www.kenai.city](http://www.kenai.city) as well as a direct contact email and phone number for inquiries.



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**FROM:** Paul Ostrander, City Manager

**DATE:** May 28, 2020

**SUBJECT:** **Resolution No. 2020-39 – Grant Disbursement Program for Small Businesses and Nonprofits Utilizing CARES Act Funding**

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The City Council discussed CARES Act funding at its Work Session on May 18, and at the May 20 City Council Meeting, enacted Ordinance 3130-2020 accepting Federal CARES ACT funding passed through the State of Alaska for expenditures in response to the COVID-19 Public Health Emergency.

Since that time, the Administration has worked diligently to develop the grant disbursement program included in Resolution No. 2020-39. Larry Persily, hired as a temporary employee for this effort, has worked tirelessly to research and assess a wide range of programs and guidance that meet the intent of the funding, serve the best interests of the City, and address the concerns expressed by City Council.

In addition to Mr. Persily's efforts, the City has attended meetings with other municipalities as well met with the City of Soldotna to best understand how other local municipalities plan to develop programs in accordance with CARES Act guidance. The proposed grant disbursement program meets the intent of the CARES Act to provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic and were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. The program also follows guidance for local governments issued by the federal government that requires expenditures provide economic support to those suffering from economic harm due to COVID-19-related business closures.

The proposed City of Kenai grant disbursement program for small businesses and nonprofit organizations provides a sound approach to expend funds in an expeditious manner to ensure that our local economy recovers and receives these necessary funds when and where help is needed.

Your consideration is appreciated.



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2020 - 40**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, FURTHER EXTENDING THE DISASTER EMERGENCY DECLARATION FOR THE CITY OF KENAI MADE ON MARCH 18, 2020 IN RESPONSE TO THE COVID-19 PANDEMIC.

WHEREAS, pursuant to AS 26.23.140 the City Manager, as the principal executive officer of the City, issued a Disaster Emergency Declaration on March 18, 2020 for a period not to exceed 7 days in response to the COVID-19 public health emergency; and,

WHEREAS, that same day, the City Council extended the Disaster Emergency Declaration for 90 days, which is set to expire on June 16, 2020; and,

WHEREAS, while the City, State and Nation move towards reopening business and resuming certain activities the City Council expects that the continued impact of COVID-19, including public health risks, restrictions on travel, and economic impacts will be of a severity and magnitude that is beyond the authority and capacity of the City to provide effective response without assistance; and,

WHEREAS, many public and private facilities remain closed or only partially opened, gatherings, and other events remain cancelled or postponed in order to prevent the transmission of COVID-19; and,

WHEREAS, these events continue to have a significant impact on business, commerce, and the local economy now and likely in the future, as there is still no projected date for a potential vaccine or other treatment for COVID-19 and impacts from restrictions imposed to reduce transmission will impact the City into the summer; and,

WHEREAS, it is in the best interest of the City to further extend the Disaster Emergency Declaration emergency issued by the City manager for another 90 days.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the City Council of Kenai further extends for 90 days, beginning on June 16 2020, or until repealed sooner, the Disaster Emergency Declaration issued by the City Manager on March 18, 2020 pursuant to AS 26.23.140, and subsequently previously extended by this Council, due to the current and expected imminent impacts of the COVID-19 pandemic.

**Section 2.** That the City requests that the State of Alaska provide disaster assistance to the City by making available resources as needed in the ongoing response and recovery from the current and potential impacts of this pandemic, to provide individual assistance for affected businesses and individuals, and to provide technical expertise and guidance, to help the City in its response and recovery from this event.

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Resolution No. 2020-40  
Page 2 of 2

**Section 3.** That the City additionally requests assistance from federal agencies where state capability is not adequate.

**Section 4.** That a copy of this declaration will be promptly filed with the Alaska Division of Homeland Security and Emergency Management.

**Section 5.** That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3<sup>rd</sup> day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL, SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

**KENAI CITY COUNCIL JOINT WORK SESSION  
 CARES ACT FUNDING  
 MAY 18, 2020 – 6:00 P.M.  
 KENAI CITY HALL  
 210 FIDALGO AVE., KENAI, AK 99611  
 MAYOR BRIAN GABRIEL, PRESIDING**

**NOTES**

Council present: G. Pettey, B. Gabriel, R. Peterkin, J. Glendening, T. Navarre, B. Molloy, H. Knackstedt  
 Others present: City Manager P. Ostrander, Assistant to the City Manager C. Cunningham, City Attorney S. Bloom, City Clerk J. Heinz, Finance Director T. Eubank, and Project Lead L. Persily

**A. Call to Order**

Mayor Brian Gabriel called the work session to order at approximately 6:00 p.m.

**B. Introduction – Mayor Gabriel**

Mayor Gabriel noted the purpose of the work session was to hear and discuss CARES Act Funding.

**C. CARES Act Funding Presentation – City Manager, Paul Ostrander, Finance Director, Terry Eubank**

City Manager, Paul Ostrander noted Congress had passed funding legislation in April which was intended to assist the City through the pandemic and ensure the tax base was reinforced as best as possible. He explained that with these funds, which were to be passed through the state, a Special Revenue Fund and departments would be established upon enactment of Ordinance No. 3130-2020. An overview of each department was provided.

It was noted that the state was requiring unspent funds be returned by March 2021 and the goal was to spend the funds, not just encumber them, by December 2020.

**D. Discussion**

There was discussion regarding individual assistance noting a reluctance to offer it; the suggestion was made that mental health may be an appropriate way to offer individual assistance.

Needs related to the Personal Use Fishery and businesses and non-profits outside the city limits that provide benefits to the city were discussed.

It was noted the Kenai Peninsula Borough was receiving \$38 million; also noted that unless a project was shovel ready there might not be enough time to spend the money before the deadline.

Clarification was provided that the funding previously added to the general revenue fund in anticipation of receiving funding was being moved to the special revenue fund as it was initially put into the general fund to replenish departments that were utilizing their budgets and, with the new funding, journal entries for COVID-19 related expenses would be made to this fund; added there was no requirement in code to create the fund but an amendment could be offered to the ordinance to create the fund.

Clarification was also provided regarding the Payroll Department of the Special Revenue Fund noting that it would be used for public safety staff and savings in the FY20 budget would revert to the fund balance. It was noted that funding levels could be adjusted as needs became more clear.

The Kenai Peninsula Borough and the cities within the borough working together was discussed and it was noted that working together was not prohibited.

The suggestion was made that “Public Health Emergency” replace “pandemic” throughout the ordinance.

It was noted that both marketing the City and advertising the availability of the grants would be paid for from the Resiliency and Recovery Department of the fund.

Clarification was provided that the state legislature agenda had been set to approve a resolution dispersing the funds which had already been reviewed and approved by the Legislative Budget and Audit Committee

Larry Persily was provided an opportunity to give overview of his work history and how he intended to move forward with this project.

**E. Public Comment** (limited to 3 minutes per individual; 20 minutes aggregate)

None.

**F. Adjournment**

The work session adjourned at approximately 7:20 p.m.

Notes were prepared by:

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Jamie Heinz, CMC  
City Clerk

**KENAI CITY COUNCIL – REGULAR MEETING  
MAY 20, 2020 – 6:00 P.M.  
KENAI CITY HALL  
210 FIDALGO AVE., KENAI, AK 99611  
MAYOR BRIAN GABRIEL, PRESIDING**

**MINUTES**

**A. CALL TO ORDER**

A Regular Meeting of the Kenai City Council was held virtually on May 20, 2020, in City Hall, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

**1. Pledge of Allegiance**

Mayor Gabriel led those assembled in the Pledge of Allegiance.

**2. Roll Call**

There were present:

|                      |                 |
|----------------------|-----------------|
| Brian Gabriel, Mayor | Robert Molloy   |
| Henry Knackstedt     | Tim Navarre     |
| Jim Glendening       | Robert Peterkin |
| Glenese Pettey       |                 |

A quorum was present.

Also in attendance were:

Paul Ostrander, City Manager  
Scott Bloom, City Attorney  
Jamie Heinz, City Clerk

**3. Agenda Approval**

Mayor Gabriel noted the following revisions to the agenda and packet:

- |                  |  |
|------------------|--|
| Add to item D.1. | <b>Ordinance No. 3117-2020</b>                                   |
|                  | • Memo Requesting Postponement                                   |
| Add to item D.7. | <b>Ordinance No. 3130-2020</b>                                   |
|                  | • Amendment Memo   |
| Add item G.12.   | <b>Action/Approval</b> – Systems Designs West Contract Amendment |

**MOTION:**

Vice Mayor Molloy **MOVED** to approve the agenda with the requested additions to the agenda and packet and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion.

**VOTE:** There being no objections, **SO ORDERED.**

**4. Consent Agenda**

**MOTION:**

Council Member Knackstedt **MOVED** to approve the consent agenda and requested **UNANIMOUS CONSENT**. Vice Mayor Molloy **SECONDED** the motion.

The items on the Consent Agenda were read into the record.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

**VOTE:** There being no objections, **SO ORDERED.**

\*All items listed with an asterisk (\*) are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a councilmember so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

**B. SCHEDULED PUBLIC COMMENTS** – None.

**C. UNSCHEDULED PUBLIC COMMENTS**

Robert Ruffner summarized the ongoing efforts with COVID-19 in the Seafood Processing Industry. He reported that he was hired by the Alaska Salmon Alliance to work on COVID-19 response, helping processors, verifying the mandates and recommendations were followed for a safe working environment, to work on the message ensuring products produced out of Kenai and the Peninsula were safe to eat, and the policy side of things. He added that as of today, the first set of test kits were secured for use with incoming out of state workers arriving this week. Mr. Ruffner thanked the City Manager for assistance in securing those resources and he noted he would keep Council updated.

**D. PUBLIC HEARINGS**

- 1. **Ordinance No. 3117-2020** - Appropriating Funds in the Airport Fund, Accepting a Grant From the Federal Aviation Administration and Appropriating Funds in the Airport Equipment Capital Project Fund for the Purchase of Snow Removal Equipment (SRE) – Loader With Attachments. (Administration)  
*[Clerk’s Note: This Item was Postponed to this Meeting from the May 6, 2020 Meeting; A Motion to Enact is on the Floor.]*

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

**MOTION TO POSTPONE:**

Council Member Knackstedt **MOVED** to postpone Ordinance No. 3117-2020 to the June 17, 2020 Council meeting and requested **UNANIMOUS CONSENT**. Vice Mayor Molloy **SECONDED** the motion.



**VOTE:** There being no objections, **SO ORDERED.**

- 2. **Ordinance No. 3120-2020** - Accepting \$26,545.90 in Asset Forfeiture Sharing Funds and Appropriating those Funds into the Police Machinery & Equipment and Small Tools Accounts for the Purpose of Purchasing Law Enforcement Equipment. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to enact Ordinance No. 3120-2020 and Council Member Pettey **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

**VOTE:**

YEA: Gabriel, Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening  
NAY:

**MOTION PASSED UNANIMOUSLY.**

- 3. **Ordinance No. 3121-2020** - Adopting the Annual Budget for the Fiscal Year Commencing July 1, 2020 and Ending June 30, 2021, Amending the Salary Schedule in Kenai Municipal Code Chapter 23.55- Pay Plan and Amending Employee Classifications in Kenai Municipal Code Chapter 23.50. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to enact Ordinance No. 3121-2020 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

It was noted a recommendation memo was provided in the packet.

**MOTION TO AMEND:**

Vice Mayor Molloy **MOVED** to move the recommended amendments to Ordinance No. 3121-2020 and to the FY2021 Draft Budget as set out in the memorandum by the Finance Director in the meeting packet and Knackstedt seconded. **UNANIMOUS CONSENT** was requested.

**VOTE ON THE AMENDMENT:** There being no objections, **SO ORDERED.**

The City Manager clarified that a memo was sent to employees and there was no negative feedback received. Thanks was expressed for the work put into preparing the budget.

**VOTE ON MOTION AS AMENDED:**

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel  
NAY:

**MOTION PASSED UNANIMOUSLY.**

- 4. **Ordinance No. 3122-2020** - Accepting and Appropriating a Volunteer Fire Assistance (VFA) Grant From the United States Department of Agriculture Forest Service Passed Through the State of Alaska Division of Forestry for the Purchase of Forestry Firefighting Equipment. (Administration)

**MOTION:**

Vice Mayor Molloy **MOVED** to enact Ordinance No. 3122-2020 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

**VOTE:**

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel  
NAY:

**MOTION PASSED UNANIMOUSLY.**

- 5. **Ordinance No. 3124-2020** - Accepting and Appropriating a Meals on Wheels COVID-19 Response Fund Grant from Meals on Wheels America for Kenai Senior Center Expenditures in Support of COVID-19 Pandemic Response. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to enact Ordinance No. 3124-2020 and Council Member Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Appreciation was noted for the Senior Center Director’s work on bringing this grant forward.

**VOTE:**

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel  
NAY:

**MOTION PASSED UNANIMOUSLY.**

- 6. **Ordinance No. 3125-2020** - Accepting and Appropriating Additional Nutrition, Transportation and Support Services Grant Funds From the United States Department of Health and Human Services Passed Through the State of Alaska Department of Health and Social Services for Kenai Senior Center Expenditures in Support of COVID-19 Pandemic Response. (Administration)

**MOTION:**

Council Member Navarre **MOVED** to enact Ordinance No. 3125-2020 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

**VOTE:**

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel  
NAY:

**MOTION PASSED UNANIMOUSLY.**

- 7. **Ordinance No. 3130-2020** - Decreasing Estimated Revenues and Appropriations in the General Fund, Increasing Estimated Revenues and Appropriations in the COVID-19 CARES Act Recovery Fund and Accepting Federal Cares Act Funding Passed Through the State of Alaska for Expenditures in Response to the COVID-19 Pandemic, Waiving the \$5,000 Limitation in KMC 7.25.020 (A) on These Funds to Allow the City Manager to Allocate the Funds to the Proper Account As Needs Arise and Declaring an Emergency. (Administration)
  - 1. Motion for Introduction
  - 2. Motion for Second Reading (Requires a Unanimous Vote)
  - 3. Motion for Adoption (Requires Five Affirmative Votes)

**MOTION FOR INTRODUCTION:**

Council Member Navarre **MOVED** to introduce Ordinance No. 3130-2020 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

**VOTE ON INTRODUCTION:**

YEA: Peterkin, Navarre, Glendening, Gabriel, Knackstedt, Pettey, Molloy  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**MOTION FOR SECOND READING:**

Council Member Navarre **MOVED** to hold the second reading on Ordinance No. 3130-2020 and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion.

**VOTE ON SECOND READING:** There being no objections, **SO ORDERED.**

**MOTION FOR ENACTMENT:**

Council Member Knackstedt **MOVED** to enact Ordinance No. 3130-2020 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

**MOTION TO AMEND:**

Council Member Peterkin **MOVED** to amend Ordinance No. 3130-2020 title, 8<sup>th</sup> and 13<sup>th</sup> whereas clauses, and Section 2 and Section 3 by replacing “pandemic” with “public health emergency” with the Sections to read: “Section 2. Declaration of Emergency: That the COVID-19 public health emergency has created an emergency recognized on the federal, state and local level and that this Ordinance is necessary to immediately preserve public peace, health and safety” and “Section 3. That the City Manager is authorized to accept a grant in the amount of \$7,700,832 from the Federal Government passed through the State of Alaska for expenditures in response to and recovery from the COVID-19 Public Health Emergency.” Council Member Knackstedt **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE ON THE AMENDMENT:** There being no objections, **SO ORDERED.**

**MOTION TO AMEND:**

Vice Mayor Molloy **MOVED** to amend Ordinance No. 3130-2020 by adding a last whereas clause to read: “Whereas, consistent and scheduled reports from administration providing updates on the progress of any grant programs or other disbursement of funds, along with additional special Council meetings as needed, will assure that funds are utilized in a manner that maximizes the economic benefit of these funds to the residents of the City.” Council Member Knackstedt **SECONDED** the motion and requested **UNANIMOUS CONSENT.**

**VOTE ON THE AMENDMENT:** There being no objections, **SO ORDERED.**

**VOTE ON MAIN MOTION AS AMENDED:**

YEA: Navarre, Glendening, Gabriel, Knackstedt, Pettey, Molloy, Peterkin  
NAY:

**MOTION PASSED UNANIMOUSLY.**

- 8. **Resolution No. 2020-25** - Fixing The Rate Of Levy Of Property Tax For The Fiscal Year Commencing July 1, 2020 And Ending June 30, 2021. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-25 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Administration was thanked on keeping the mill rate from rising, the work on this and recognition that this was put together before the pandemic funds became available.

**UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objections, **SO ORDERED.**

- 9. **Resolution No. 2020-26** - Amending its Comprehensive Schedule of Rates, Charges, and Fees to Incorporate Changes Included in the FY2021 Budget to Include Adjusting the Kenai Municipal Airport Apron Rental Rates, Airport Reserve Land Annual Lease Rates, and Adjusting the Monthly Rental Rates at Vintage Pointe. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-26 and Council Member Glendening **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager clarified that a market rate study was done that determined the current rates were low, and a plan was implemented to increase rates by a maximum of \$35 annually until all units reached the market rate.

**VOTE:** There being no objections, **SO ORDERED.**

- 10. **Resolution No. 2020-27** - Encouraging the Governor to Modify COVID-19 Health Mandate 010: International and Interstate Travel - Order for Self Quarantine, by Allowing Interstate Travel and Implementing Alternative Safety Measures to Support Alaskan Businesses that Rely on Seasonal Tourism While Recognizing the Successful Efforts of the State Leadership and Alaskan Residents to Slow the Spread of COVID-19. (Council Members Peterkin and Pettey)

**MOTION:**

Council Member Peterkin **MOVED** to adopt Resolution No. 2020-27 and Council Member Pettey **SECONDED** the motion.

Mayor Gabriel opened for public hearing.

A letter by the Uptown Motel was read into the record regarding concern of the continued 14-day quarantine for out of state travelers.

There being no one else wishing to be heard, the public hearing was closed.

Council members expressed support, reiterating this resolution offered the Governor insight as to the magnitude in how the mandate affected the community, as well as showed sympathy and support for the Kenai community and local businesses.

**VOTE:**

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel  
NAY:

**MOTION PASSED UNANIMOUSLY.**

- 11. **Resolution No. 2020-28** - Authorizing Contracts for Employee Health Care and Other Benefits Effective July 1, 2020. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-28 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

**UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objections, **SO ORDERED.**

12. **Resolution No. 2020-29** - Adopting the Capital Improvement Project Plan (CIP) for Fiscal Years 2021-2025. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-29 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Support was expressed by Council Members. The City Manager clarified several things were shifted, deferring one more year, due to COVID-19 unplanned expenses.

**UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objections, **SO ORDERED.**

13. **Resolution No. 2020-30** - Recommending the Kenai Peninsula Borough Assembly Enact Ordinance 2020-24 which would Provide for Vote by Mail Elections, More Time Between a Regular Election and Run-Off Election and Removal of Proposition Statements. (Council Member Peterkin)

**MOTION:**

Council Member Peterkin **MOVED** to adopt Resolution No. 2020-30 and Council Member Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Concerns were expressed around fraud, not having enough information to completely support vote by mail, removal of proposition statements, and not having a signed Ordinance in place by the Borough. It was requested to hold a work session offering more public education to help residents understand the benefit of vote by mail and increased voter turnout.

It was clarified that if the Borough approved this route, they would no longer provide for or against statements in the mail while the City of Kenai could do their own method.

**MOTION TO POSTPONE:**

Council Member Navarre **MOVED** to postpone Resolution No. 2020-30 to the June 17 Council meeting and Vice Mayor Molloy **SECONDED** the motion.

The City Clerk clarified the public hearing date for the Borough Ordinance and upcoming deadlines. Concern was expressed regarding supporting an ordinance that had not yet had a public hearing.

**VOTE:**

YEA: Knackstedt, Pettey, Molloy, Glendening  
NAY: Peterkin, Navarre, Gabriel

**MOTION PASSED.**

- 14. **Resolution No. 2020-31** - Approving a Conversion of a Lease of Airport Reserve Lands Described as Lot 4, FBO Subdivision No. 7 with the State of Alaska, Division of Forestry, on a Non-Standard Lease Form. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-31 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

**UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objections, **SO ORDERED.**

- 15. **Resolution No. 2020-32** - Approving a Memorandum of Understanding with the Kenai Historical Society, Inc. to Preserve and Promote the History of Kenai through the Kenai Cabin Park. (Legal)

**MOTION:**

Council Member Peterkin **MOVED** to adopt Resolution No. 2020-32 and Council Member Navarre **SECONDED** the motion and requested **UNANAMIOUS CONSENT.**

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Council Members Knackstedt and Glendening declared they were volunteer board members of the Kenai Historical Society with no financial gain; it was ruled no conflict.

**VOTE:** There being no objections, **SO ORDERED.**

- 16. **Resolution No. 2020-33** - Approving an Agreement for Use of the Cranes, Offices, and Operating Area at the City Boating Facility. (Administration)

**MOTION:**

Council Member Peterkin **MOVED** to adopt Resolution No. 2020-33 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

**MOTION TO AMEND:**

Council Member Glendening **MOVED** to amend Resolution No. 2020-33 by adding a 6<sup>th</sup> whereas clause to read, "Whereas, on May 11, 2020 the Harbor Commission discussed and supported awarding an agreement to Pacific Star Seafoods;" and Council Peterkin **SECONDED. UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objections, **SO ORDERED.**

**VOTE ON MOTION AS AMENDED:**

**YEA:** Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel  
**NAY:**

**MOTION PASSED UNANIMOUSLY.**

THE MAYOR ORDERED A 5-MINUTE RECESS; MEETING RECONVENED AT 8:18 PM.

**E. MINUTES**

- 1. \*Regular Meeting of May 6, 2020. (City Clerk)

Approved by the consent agenda.

**F. UNFINISHED BUSINESS – None.**

**G. NEW BUSINESS**

- 1. \***Action/Approval** – Bills to be Ratified. (Administration)

Approved by the consent agenda.

- 2. \***Ordinance No. 3127-2020** - Repealing and Replacing Kenai Municipal Code Title 6 - Elections to Provide Clarity, Process Improvements, and Increase Voter Accessibility through Vote By Mail Elections. (Council Member Peterkin)

Introduced by the consent agenda and public hearing set for June 3, 2020.

- 3. \***Ordinance No. 3128-2020** - Amending Kenai Municipal Code Section 1.85.040 – Records Public, To Provide For a Record Retention Length. (City Clerk)

Introduced by the consent agenda and public hearing set for June 3, 2020.



- 4. **\*Ordinance No. 3129-2020** - Accepting and Appropriating Private Donations to the Kenai Animal Shelter for the Care of Animals. (Administration)

Introduced by the consent agenda and public hearing set for June 3, 2020.

- 5. **Action/Approval** - Purchase Orders Over \$15,000. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to approve purchase orders over \$15,000 and requested **UNANIMOUS CONSENT**; Vice Mayor Molloy **SECONDED** the motion.

**VOTE:** There being no objections, **SO ORDERED.**

- 6. **Action/Approval** - Special Use Permit to James Doyle D/B/A Weaver Brothers for Truck Trailer Storage. (Administration)

**MOTION:**

Council Member Peterkin **MOVED** to approve the Special Use Permit to James Doyle D/B/A Weaver Brothers for truck trailer storage and Vice Mayor Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objections, **SO ORDERED.**

- 7. **Action/Approval** - Special Use Permit to Axtel Enterprises, LLC for Fuel Reduction. (Administration)

**MOTION:**

Vice Mayor Molloy **MOVED** to approve the Special Use Permit to Axtel Enterprises, LLC for fuel reduction and Council Member Knackstedt **SECONDED** the motion and requested **UNANIMOUS CONSENT.**

**VOTE:** There being no objections, **SO ORDERED.**

- 8. **Action/Approval** - Lease Assignment of Lot 2, Kenai Spit Subdivision from North Pacific Seafoods, Inc. to E&E Foods, Inc. d/b/a Pacific Star Seafoods. (Administration)

**MOTION:**

Council Member Peterkin **MOVED** to approve the Lease Assignment of Lot 2, Kenai Spit Subdivision from North Pacific Seafoods, Inc. to E&E Foods, Inc. d/b/a Pacific Star Seafoods and Council Member Glendening **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

Mayor Gabriel declared he and his wife were commercial fisherman in Cook Inlet and sold fish to Inlet Salmon Fish, do not have any financial obligation to them or vice versa nor any contract in place. It was determined there was no conflict.

**VOTE:** There being no objections, **SO ORDERED.**

#### 9. **Discussion** - City Response to COVID-19. (Administration)

The City Manager reported there was no change in employee status since the last Council meeting. Regarding City facilities, the Visitor Center opened on Monday (18<sup>th</sup>), City Hall was scheduled to open tomorrow on a limited basis, by reservation only, the Senior Center was still mandated to stay closed, and the Recreation Center is hoped to open on June 1<sup>st</sup> as well as the Boys and Girls Club. Library books curbside pick-up continues and was going successfully. The Library planned to open for computer usage only on June 1<sup>st</sup> by reservation. Lastly, there was a large order request of PPE through the Borough but supplies were still limited and it has only been filled partially.

#### 10. **Discussion** - Resuming In-Person Council Meetings. (Mayor Gabriel)

Council Members discussed options forward for resuming in-person Council Meetings. It was agreed to hold the next few meetings with Council participation as split between in-person and Zoom, keep six feet social distancing in place, masks would be voluntary, liability signs posted and screening questions would be asked of the public before entering the building.

#### 11. **Discussion** – Set a Work Session to Review Election Processes and Ordinance No. 3127-2020. (City Clerk)

A work session was set for Friday, May 29 at 5 – 7 p.m. to review and discuss the vote by mail process and Borough Ordinance No. 3127-2020.

#### 12. **Action/Approval** – Systems Design West Contract Amendment

##### **MOTION:**

Vice Mayor Molloy **MOVED** to approve the Systems Design West contract amendment and Council Member Knackstedt **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objections, **SO ORDERED.**

#### **H. COMMISSION/COMMITTEE REPORTS**

1. Council on Aging – It was reported the Council met on May 14, noting the increased home delivery meals were successful, staff was diligently working on the CARES Act grant application and the next meeting is June 11.
2. Airport Commission – It was reported the Commission met on May 14, noting there were many questions regarding Ravn Airlines replacement or return, and the next meeting is June 11.
3. Harbor Commission – It was reported the Commission met on May 11 and discussed and made a recommendation regarding a change of use and assignment of lease with Pacific Star Seafoods, and a contract for crane use at the City Dock; the next meeting is June 8.
4. Parks and Recreation Commission – It was reported the Commission met on May 7 and as a first time Zoom Commission meeting it was very smooth and successful, noting the main item for discussion and recommendation was the Capital Improvement Plan; the next meeting is June 4.

5. Planning and Zoning Commission – It was reported the Commission met on May 13 and approved a preliminary Subdivision Plat, an application for rezoning a parcel from Rural Residential to Limited Commercial, an application for a conditional use permit and for a variance of KMC maximum lot coverage; the next meeting is May 27.
6. Beautification Committee – It was reported the Committee met on May 12 and discussed the annual Volunteer Plant Day being spread over a few days of May 26 – 31 to offer social distancing and participation in the event; the next meeting is September 8.
7. Mini-Grant Steering Committee – No report.

#### **I. REPORT OF THE MAYOR**

Mayor Gabriel reported on the unique and unorthodox high school graduations occurring this week due to COVID-19, he would be attending a meeting with the Governor's Office via Zoom regarding fisheries protocols and moving forward, and recognizing Memorial Day on Monday, May 25, honoring those that sacrificed while serving in the U.S. military. He encouraged attendance to the lowering of the flags ceremony by the American Legion at the Kenai Cemetery at 10:30 a.m. on Memorial Day.

#### **J. ADMINISTRATION REPORTS**

1. City Manager – City Manager P. Ostrander reported on the following:
  - Provided an update of the Kenai Municipal Airport Terminal project;
  - The State of Alaska was designing washing stations for fisheries and it is hoped to obtain some or construct them through a local business for use with the personal use fishery;
  - The Kenai Peninsula Economic Development District (KPEDD) will be accepting applications for distribution of CARES Act funding to the local small businesses and they nominated the City of Kenai for \$5 million in match funds for the Bluff Erosion project; more information to come;
  - He was seeking guidance from the Department of Health and Human Services regarding the annual Fourth of July event to determine best way forward;
  - The Kenai Eagle Cam was up and running, streaming live on YouTube;
  - Administration has initiated the process at the airport to accept Commercial Fleet Cards; timeline undetermined at this time;
  - The first Grant Writer Report and the Department Efficiencies Report were in the packet;
  - An update on Bridge Access Road bike path was provided; and
  - Sales tax revenue for First Quarter this year was up by 11 percent.
2. City Attorney – No report.
3. City Clerk – City Clerk J. Heinz reported she was finalizing the elections ordinance and that the forms portal approved at the previous meeting was currently being installed, with a goal of its use for applications submittal by end of fiscal year.

#### **K. ADDITIONAL PUBLIC COMMENT**

1. Citizens Comments (*Public comment limited to five (5) minutes per speaker*) - None.
2. Council Comments

Council members expressed appreciation for all the work done by Administration with the budget.

Council Member Peterkin congratulated the graduates of 2020 noting the memorable graduation during this time and he thanked everyone for the good discussion and smooth meeting.

Council Member Pettey expressed gratitude for the work done by Administration with the CARES Act grants, and to the City Clerk for the work on the upcoming election possibility.

Council Member Knackstedt noted caution with Beaver Loop in process of being paved, one lane currently paved and he would be participating in the experience of his daughter’s graduation over Zoom on Friday.

Vice Mayor Molloy provided congratulations to graduates, thanked the Incident Management Team for their diligence, and recognition to KPEDD for moving forward so quickly to distribute funds to local businesses; looking forward to the work session next week.

Council Member Glendening noted he was at a Census meeting last week, noting the response rate in the U.S. was at 59 percent, in Alaska at 39.8 percent, while generally in the Borough at 29.7 percent, Soldotna at 49 percent, Kenai at 46 percent, and Seldovia at 10 percent. He positively recognized Kenai’s participation and encouraged more participation in the Census.

Council Member Navarre congratulated all high school graduates and families, looking forward to them being a huge part in our community moving forward, and noted recognition of Memorial Day and the sacrifices made.

**L. EXECUTIVE SESSION**

1. Discussion of the Facility Management Agreement for the Kenai Visitor and Cultural Center, pursuant to AS 44.32.310(c)(1)(3) a matter of which the immediate knowledge may have an adverse effect upon the finances of the City, and a matter by which law, municipal charter, or ordinance are required to be confidential.

**MOTION:**

Vice Mayor Molloy **MOVED** to enter into executive session to discuss the Facility Management Agreement for the Kenai Visitor and Cultural Center, pursuant to AS 44.32.310(c)(1)(3) a matter of which the immediate knowledge may have an adverse effect upon the finances of the City, and a matter by which law, municipal charter, or ordinance are required to be confidential. Council Member Knackstedt **SECONDED** the motion.

**VOTE:**

YEA: Gabriel, Peterkin, Glendening, Pettey, Molloy, Navarre, Knackstedt

NAY:

**MOTION PASSED UNANIMOUSLY.**

Council reconvened in open session and it was noted for the record that Council met in executive session and reviewed and discussed the Facility Management Agreement for the Kenai Visitor and Cultural Center and gave directions to Administration to continue discussions.

2. **PENDING ITEMS** – None.

N. **ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 10:27 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of May 20, 2020.

---

Jamie Heinz, CMC  
City Clerk

**PAYMENTS OVER \$15,000.00 WHICH NEED COUNCIL RATIFICATION**  
**COUNCIL MEETING OF: JUNE 3, 2020**

| <b>VENDOR</b>        | <b>DESCRIPTION</b>         | <b>DEPARTMENT</b> | <b>ACCOUNT</b>       | <b>AMOUNT</b> |
|----------------------|----------------------------|-------------------|----------------------|---------------|
| PERS                 | PERS                       | VARIOUS           | LIABILITY            | 90,696.38     |
| HOMER ELECTRIC       | ELECTRIC USAGE             | VARIOUS           | UTILITIES            | 95,959.97     |
| ENSTAR NATURAL GAS   | GAS USAGE                  | VARIOUS           | UTILITIES            | 23,886.05     |
| INTEGRITY JANITORIAL | APRIL SERVICE AT CITY HALL | NON-DEPT.         | REPAIR & MAINTENANCE | 1,389.00      |
| PRECIOUS JANITORIAL  | APRIL SERVICE AT LIBRARY   | LIBRARY           | REPAIR & MAINTENANCE | 2,795.00      |
| PRECIOUS JANITORIAL  | APRIL SERVICE AT TERMINAL  | AIRPORT           | REPAIR & MAINTENANCE | 4,495.00      |
| PRECIOUS JANITORIAL  | APRIL SERVICE AT POLICE    | POLICE            | REPAIR & MAINTENANCE | 978.00        |

**INVESTMENTS**

| <b>VENDOR</b> | <b>DESCRIPTION</b> | <b>MATURITY DATE</b> | <b>AMOUNT</b> | <b>Effect. Int.</b> |
|---------------|--------------------|----------------------|---------------|---------------------|
|---------------|--------------------|----------------------|---------------|---------------------|



# KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Mary Bondurant, Airport Manager  
**DATE:** May 15, 2020  
**SUBJECT:** Action/Approval – Special Use Permit to Crowley Fuels, LLC

Crowley Fuel, LLC is requesting renewal of a Special Use Permit effective July 1, 2020 through June 30, 2021

The Permit is for approximately 35,000 square feet of apron area for aviation fueling.

The rate is based on the table below passed by City Council at the May 18, 2016 Council meeting.

| <b>Apron Rate Increases to Arrive at Market in 6 years</b> |          |
|--|----------|
| Apron Lease Rate FY15 \$1.80s.f. x .08                     | \$ 0.144 |
| FY2016   | \$ 0.357 |
| FY2017   | \$ 0.528 |
| FY2018   | \$ 0.699 |
| FY2019   | \$ 0.870 |
| FY2020   | \$ 1.041 |
| FY2021   | \$ 1.210 |

Crowley Fuels, LLC is current on all fees owed and we have a current Certificate of Insurance.

Airport Commission reviewed the request at the May 14, 2020 Commission meeting and recommends Council approval.

Thank you for your consideration.

Attachment

## SPECIAL USE PERMIT – 2020

The CITY OF KENAI (City) grants to CROWLEY FUELS LLC (Permittee), whose address is 201 Arctic Slope Ave., Anchorage, AK 99518, a Special Use Permit for the fueling area on the apron at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

1. **Premises.** Permittee shall have the non-exclusive right to use 35,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
  
2. **Term.** The term of this Permit shall be for 1 year commencing on July 1, 2020 and ending on June 30, 2021. Regardless of the date of signature, this Permit shall be effective as of July 1, 2020.
  
3. **Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
  - A. **Permit:** Permittee shall pay a monthly fee of \$3,529.16 plus applicable sales tax.
  
  - B. **Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of One Hundred Dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
  
  - C. **Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of 10% per annum, and penalty of 10% shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. **Use.** City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):



Aviation Fueling on Apron Fueling Area. **NOTE:** This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

**5. Airport Operations.** Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

**6. Inspection.** The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

**7. Coordination with Airport Management.** Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

**8. Radio Transmitting Equipment.** Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

**9. Insurance.** Permittee shall secure and keep in force adequate insurance, as stated below, to protect City and Permittee. Where specific limits are stated, the limits are the minimum acceptable limits. If Permittee's insurance policy contains higher limits, City is entitled to coverage to the extent of the higher limits.

**A.** Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee's fuel handling activities. The policy must name the City as an additional insured.

**B.** Worker's compensation insurance with coverage for all employees engaged in work under this Permit or at the Premises as required by AS 23.30.045. Permittee is further responsible to provide worker's compensation insurance for any subcontractor who directly or indirectly provides services to Permittee under this Permit.

**C.** Commercial Automobile Coverage with not less than \$1,000,000 combined single limit per occurrence. This insurance must cover all owned, hired, and non-owned motor vehicles the Permittee uses on the Airport. The policy must name the City as an additional insured.

**D.** All insurance required must meet the following additional requirements:

- i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee’s insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2020. The effective date of the insurance shall be no later than July 1, 2020.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

**10. Assumption of Risk.** Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

**11. Indemnity, Defend, and Hold Harmless Agreement.** Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City’s staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as “Liabilities”), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee’s activities on or use of the Premises, Permittee’s access to the Kenai Municipal Airport, and/or Permittee’s exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

**12. Fuel Spill Prevention and Response Plan.** Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for

any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within 50' of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

**13. Hazardous Substances and Materials.** Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

**14. No Discrimination.** Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly

discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

**15. Licenses and Permits.** Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

**16. Compliance with Law/Grant Assurances.** This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

**17. No Exclusivity.** The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

**18. Assignment.** The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

**19. No Joint Venture.** City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

**20. No Waiver.** Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

**21. Personalty.** Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

**22. Termination; Default.** This Permit may be terminated by either party hereto by giving 30 days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than 30 days, to protect public health and safety or due

to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

**23. Landing Fees; Fee Schedule.** Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City’s comprehensive schedule of rates, charges and fees. Permittee shall make payment within 30 days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

**24. Impoundment.** At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within 90 days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three consecutive weeks not more than 30 days nor less than seven days before the time of the auction.

**25. Definitions.** As used in this Permit, “Permittee” means Crowley Fuels LLC., and where the context reasonably indicates, its officers, agents, and employees. “Airport” means the Kenai Municipal Airport.

**CITY OF KENAI**

**CROWLEY FUELS LLC**

By: \_\_\_\_\_  
Paul Ostrander Date  
City Manager

By: \_\_\_\_\_  
Richard W. Meidel Date  
Vice President

ACKNOWLEDGMENTS

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, the foregoing instrument was acknowledged before me by Paul Ostrander, City Manager, of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, the foregoing instrument was acknowledged before me by Richard W. Meidel, Vice President, Crowley Fuels LLC, on behalf of the State of Alaska.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

SEAL:

APPROVED AS TO FORM:

\_\_\_\_\_  
Scott M. Bloom, City Attorney

EXHIBIT A

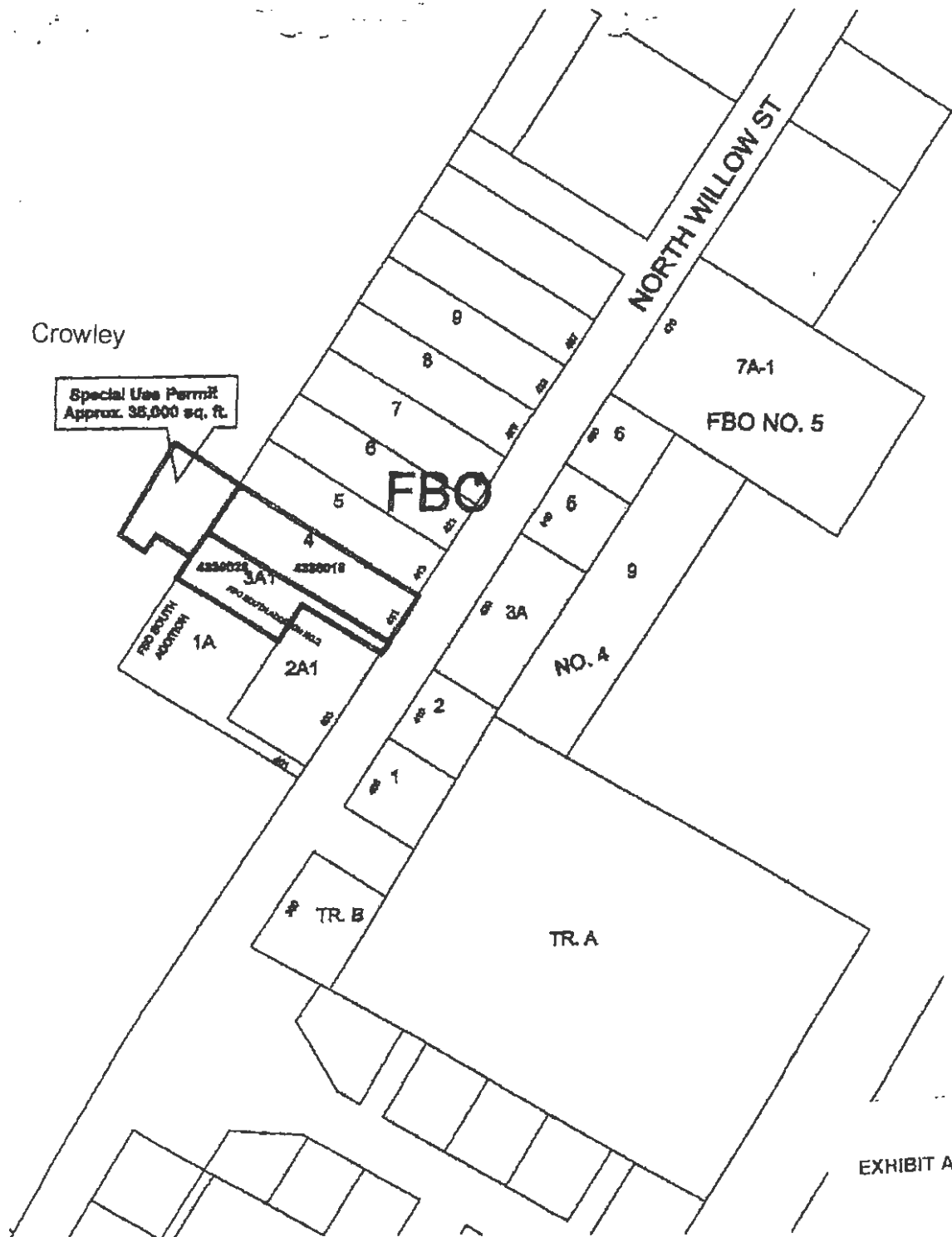


EXHIBIT A





# KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Mary Bondurant, Airport Manager

**DATE:** May 15, 2020

**SUBJECT:** **Action/Approval – Special Use Permit to Empire Airlines, Inc.**

Empire, Inc. is requesting renewal of a Special Use Permit effective July 1, 2020 through June 30, 2021

The Permit is for approximately 11,250 square feet of apron area for aircraft parking.

The rate is based on the table below passed by City Council at the May 18, 2016 Council meeting.

| <b>Apron Rate Increases to Arrive at Market in 6 years</b> |          |
|--|----------|
| Apron Lease Rate FY15 \$1.80s.f. x .08                     | \$ 0.144 |
| FY2016   | \$ 0.357 |
| FY2017   | \$ 0.528 |
| FY2018   | \$ 0.699 |
| FY2019   | \$ 0.870 |
| FY2020   | \$ 1.041 |
| FY2021   | \$ 1.210 |

Empire Airlines, Inc. is current on all fees owed and we have a current Certificate of Insurance.

Airport Commission reviewed the request at the May 14, 2020 Commission meeting and recommends Council approval.

Thank you for your consideration.

Attachment

### SPECIAL USE PERMIT- 2020

The CITY OF KENAI (City) grants to EMPIRE AIRLINES, INC. (Permittee), whose address is 11559 N. Atlas Road, Hayden, ID 83835, a Special Use Permit for the purpose of aircraft parking at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

- 1. Premises.** Permittee shall have the non-exclusive right to use 11,250 square feet as described in the attached Exhibit A for the uses identified in this Permit.
  
- 2. Term.** The term of this Permit shall be for 1 year commencing on July 1, 2020 and ending on June 30, 2021. Regardless of the date of signature, this Permit shall be effective as of July 1, 2020.
  
- 3. Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
  - A. Permit:** Permittee shall pay a monthly fee of \$1,134.37 plus applicable sales tax.
  
  - B. Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of one hundred dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
  
  - C. Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of ten percent (10%) per annum, and penalty of ten percent (10%) shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

**4. Use.** City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Parking. **NOTE:** *This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.*

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

**5. Airport Operations.** Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

**6. Inspection.** The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

**7. Coordination with Airport Management.** Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

**8. Radio Transmitting Equipment.** Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

**9. Insurance.** Permittee shall secure and keep in force adequate insurance, as stated below, to protect City and Permittee. Where specific limits are stated, the limits are the minimum acceptable limits. If Permittee’s insurance policy contains higher limits, City is entitled to coverage to the extent of the higher limits.

**A.** Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee’s fuel handling activities. The policy must name the City as an additional insured.

**B.** Worker’s compensation insurance with coverage for all employees engaged in work under this Permit or at the Premises as required by AS 23.30.045. Permittee is further responsible to provide worker’s compensation insurance for any subcontractor who directly or indirectly provides services to Permittee under this Permit.

**C.** Commercial Automobile Coverage with not less than \$1,000,000 combined single limit per occurrence. This insurance must cover all owned, hired, and non-owned motor vehicles the Permittee uses on the Airport. The policy must name the City as an additional insured.

**D.** All insurance required must meet the following additional requirements:

- i. All policies will be by a company/corporation currently rated “A-” or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements,

or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2020. The effective date of the insurance shall be no later than July 1, 2020.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

**10. Assumption of Risk.** Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

**11. Indemnity, Defend, and Hold Harmless Agreement.** Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

**12. Fuel Spill Prevention and Response Plan.** Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within fifty feet (50') of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

**13. Hazardous Substances and Materials.** Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

**14. No Discrimination.** Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

**15. Licenses and Permits.** Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

**16. Compliance with Law/Grant Assurances.** This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

**17. No Exclusivity.** The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

**18. Assignment.** The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

**19. No Joint Venture.** City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

**20. No Waiver.** Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

**21. Personalty.** Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

**22. Termination; Default.** This Permit may be terminated by either party hereto by giving thirty (30) days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than thirty (30) days, to protect public health and safety or due to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

**23. Landing Fees; Fee Schedule.** Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City's comprehensive schedule of rates, charges and fees. Permittee shall make payment within thirty (30) days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten (10) days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

**24. Impoundment.** At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within ninety (90) days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three (3) consecutive weeks not more than thirty (30) days nor less than seven (7) days before the time of the auction.

**25. Definitions.** As used in this Permit, "Permittee" means Empire Airlines, Inc. and where the context reasonably indicates, its officers, agents, and employees. "Airport" means the Kenai Municipal Airport.





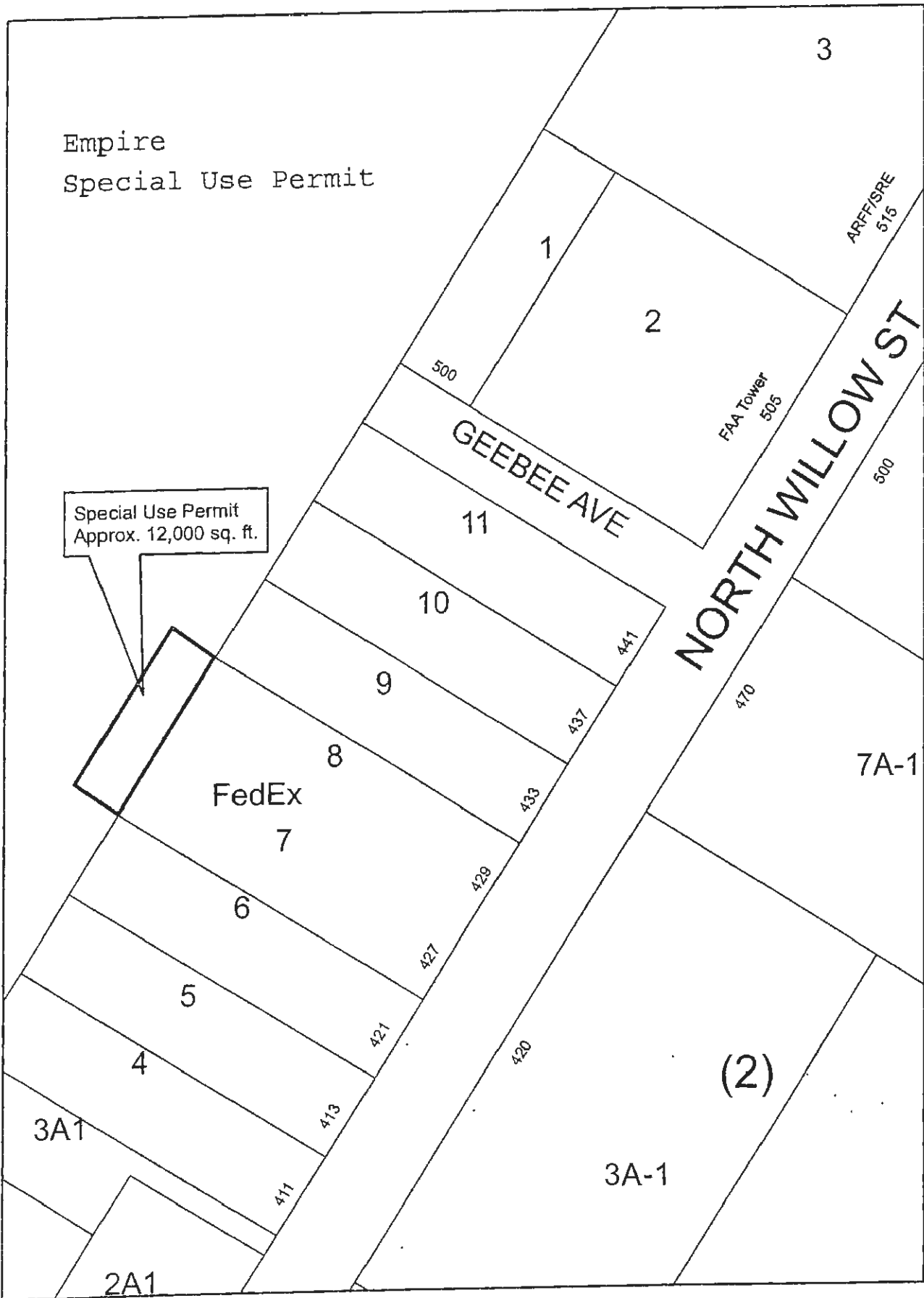


EXHIBIT A



# KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Mary Bondurant, Airport Manager

**DATE:** May 15, 2020

**SUBJECT:** **Action/Approval – Special Use Permit to Everts Air Fuel, Inc.**

Everts Air Fuel, Inc. is requesting renewal of a Special Use Permit effective July 1, 2020 through June 30, 2021

The Permit is for aircraft loading and parking on approximately 30,000 square feet on the apron.

The rate is based on the table below passed by City Council at the May 18, 2016 Council meeting.

| <b>Apron Rate Increases to Arrive at Market in 6 years</b> |          |
|--|----------|
| Apron Lease Rate FY15 \$1.80s.f. x .08                     | \$ 0.144 |
| FY2016   | \$ 0.357 |
| FY2017   | \$ 0.528 |
| FY2018   | \$ 0.699 |
| FY2019   | \$ 0.870 |
| FY2020   | \$ 1.041 |
| FY2021   | \$ 1.210 |

Everts Air Fuel, Inc. is current on all fees owed and we have a current Certificate of Insurance.

Airport Commission reviewed the request at the May 14, 2020 Commission meeting and recommends Council approval.

Thank you for your consideration.

Attachment

## SPECIAL USE PERMIT – 2020

The CITY OF KENAI (City) grants to EVERTS AIR FUEL, INC. (Permittee), whose address is P.O. Box 60908, Fairbanks, AK 99706, a Special Use Permit to conduct aeronautical and/or aviation-related activities at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

1. **Premises.** Permittee shall have the non-exclusive right to use 30,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
  
2. **Term.** The term of this Permit shall be for 1 year commencing on July 1, 2020 and ending on June 30, 2021. Regardless of the date of signature, this Permit shall be effective as of July 1, 2020.
  
3. **Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
  - A. **Permit:** Permittee shall pay a monthly fee of \$3,025.00 plus applicable sales tax.
  
  - B. **Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of One Hundred Dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
  
  - C. **Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of 10% per annum, and penalty of 10% shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. **Use.** City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Loading and Parking. **NOTE:** This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee’s use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

**5. Airport Operations.** Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

**6. Inspection.** The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

**7. Coordination with Airport Management.** Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

**8. Radio Transmitting Equipment.** Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

**9. Insurance.** Permittee shall secure and keep in force adequate insurance, as stated below, to protect City and Permittee. Where specific limits are stated, the limits are the minimum acceptable limits. If Permittee’s insurance policy contains higher limits, City is entitled to coverage to the extent of the higher limits.

**A.** Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee’s fuel handling activities. The policy must name the City as an additional insured.

**B.** Worker’s compensation insurance with coverage for all employees engaged in work under this Permit or at the Premises as required by AS 23.30.045. Permittee is further responsible to provide worker’s compensation insurance for any subcontractor who directly or indirectly provides services to Permittee under this Permit.

**C.** Commercial Automobile Coverage with not less than \$1,000,000 combined single limit per occurrence. This insurance must cover all owned, hired, and non-owned motor vehicles the Permittee uses on the Airport. The policy must name the City as an additional insured.

- D.** All insurance required must meet the following additional requirements:
- i. All policies will be by a company/corporation currently rated “A-” or better by A.M. Best.
  - ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.
  - iii. Permittee shall request a waiver of subrogation against City from

Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.

- iv. Provide the City with notification at least 30 days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2020. The effective date of the insurance shall be no later than July 1, 2020.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

**10. Assumption of Risk.** Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

**11. Indemnity, Defend, and Hold Harmless Agreement.** Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

**12. Fuel Spill Prevention and Response Plan.** Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the

discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within 50' of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

**13. Hazardous Substances and Materials.** Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

**14. No Discrimination.** Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly



discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

**15. Licenses and Permits.** Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

**16. Compliance with Law/Grant Assurances.** This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

**17. No Exclusivity.** The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

**18. Assignment.** The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

**19. No Joint Venture.** City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

**20. No Waiver.** Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

**21. Personalty.** Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

**22. Termination; Default.** This Permit may be terminated by either party hereto by giving 30 days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than 30 days, to protect public health and safety or due



ACKNOWLEDGMENTS

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, the foregoing instrument was acknowledged before me by Paul Ostrander, City Manager, of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, the foregoing instrument was acknowledged before me by Rob Everts, Consultant, Everts Air Fuel, Inc., on behalf of the State of Alaska.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jamie Heinz, City Clerk

SEAL:

APPROVED AS TO FORM:


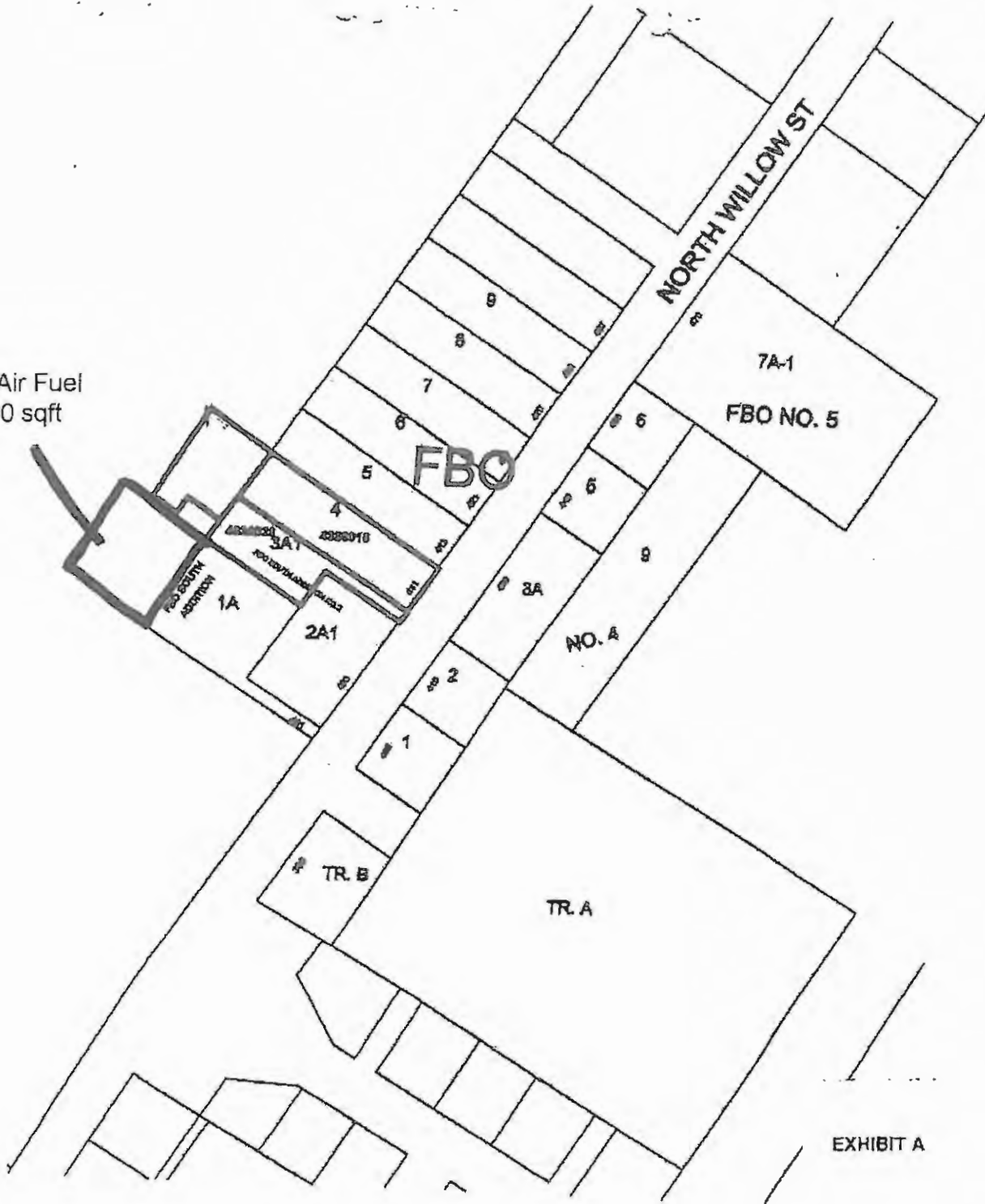
  
\_\_\_\_\_  
Scott M. Bloom, City Attorney

EXHIBIT A

Everts Air Fuel  
30,000 sqft





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Mary Bondurant, Airport Manager

**DATE:** May 15, 2020

**SUBJECT:** **Action/Approval – Special Use Permit to United Parcel Service Co.**

United Parcel Service Co., Inc. is requesting renewal of a Special Use Permit effective July 1, 2020 through June 30, 2021

The Permit is for approximately 4,000 square feet of apron area for aircraft loading and parking.

The rate is based on the table below passed by City Council at the May 18, 2016 Council meeting.

| <b>Apron Rate Increases to Arrive at Market in 6 years</b> |          |
|--|----------|
| Apron Lease Rate FY15 \$1.80s.f. x .08                     | \$ 0.144 |
| FY2016   | \$ 0.357 |
| FY2017   | \$ 0.528 |
| FY2018   | \$ 0.699 |
| FY2019   | \$ 0.870 |
| FY2020   | \$ 1.041 |
| FY2021   | \$ 1.210 |

United Parcel Service Co. Inc. is current on all fees owed and we have a current Certificate of Insurance.

Airport Commission reviewed the request at the May 14, 2020 Commission meeting and recommends Council approval.

Thank you for your consideration.

Attachment

## SPECIAL USE PERMIT 2020

The CITY OF KENAI (City) grants to UPSCO United Parcel Service Co., Inc. (Permittee), whose address is 6200 Lockheed Ave., Anchorage, AK 99502, a Special Use Permit to conduct aeronautical and/or aviation-related activities at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

1. **Premises.** Permittee shall have the non-exclusive right to use 4,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
  
2. **Term.** The term of this Permit shall be for 1 year commencing on July 1, 2020 and ending on June 30, 2021. Regardless of the date of signature, this Permit shall be effective as of July 1, 2020.
  
3. **Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
  - A. **Permit:** Permittee shall pay a monthly fee of \$403.33 plus applicable sales tax.
  
  - B. **Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of one hundred dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
  
  - C. **Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of ten percent (10%) per annum, and penalty of ten percent (10%) shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. **Use.** City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Loading and Parking. **NOTE:** This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

**5. Airport Operations.** Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

**6. Inspection.** The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

**7. Coordination with Airport Management.** Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

**8. Radio Transmitting Equipment.** Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

**9. Insurance.** Permittee shall secure and keep in force adequate insurance, as stated below, to protect City and Permittee. Where specific limits are stated, the limits are the minimum acceptable limits. If Permittee’s insurance policy contains higher limits, City is entitled to coverage to the extent of the higher limits.

**A.** Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee’s fuel handling activities. The policy must name the City as an additional insured.

**B.** Worker’s compensation insurance with coverage for all employees engaged in work under this Permit or at the Premises as required by AS 23.30.045. Permittee is further responsible to provide worker’s compensation insurance for any subcontractor who directly or indirectly provides services to Permittee under this Permit.

**C.** Commercial Automobile Coverage with not less than \$1,000,000 combined single limit per occurrence. This insurance must cover all owned, hired, and non-owned motor vehicles the Permittee uses on the Airport. The policy must name the City as an additional insured.

- D.** All insurance required must meet the following additional requirements:
- i. All policies will be by a company/corporation currently rated “A-” or better by A.M. Best.
  - ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.
  - iii. Permittee shall request a waiver of subrogation against City from



Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.

- iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2020. The effective date of the insurance shall be no later than July 1, 2020.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

**10. Assumption of Risk.** Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

**11. Indemnity, Defend, and Hold Harmless Agreement.** Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

**12. Fuel Spill Prevention and Response Plan.** Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the

discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within fifty feet (50') of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

**13. Hazardous Substances and Materials.** Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

**14. No Discrimination.** Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly

discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

**15. Licenses and Permits.** Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

**16. Compliance with Law/Grant Assurances.** This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

**17. No Exclusivity.** The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

**18. Assignment.** The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

**19. No Joint Venture.** City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

**20. No Waiver.** Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

**21. Personalty.** Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

**22. Termination; Default.** This Permit may be terminated by either party hereto by giving thirty (30) days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than thirty (30) days, to protect public health



ACKNOWLEDGMENTS

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, the foregoing instrument was acknowledged before me by PAUL OSTRANDER, City Manager, of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2020, the foregoing instrument was acknowledged before me by Robert Vey, the Extended Centers Manager, on behalf of UPSCO, United Parcel Service Co., Inc.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

Approved as to Form:

  
\_\_\_\_\_  
Scott Bloom  
City Attorney





Exhibit A



Sponsored by: Administration

## CITY OF KENAI

### ORDINANCE NO. 3131-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING THE OFFICIAL ZONING MAP BY REZONING A PORTION OF S1/2 SE1/4 SW1/4 LYING NORTH OF K-BEACH ROAD EXCLUDING VIP COUNTRY ESTATES SUBDIVISION PART 5 FROM RURAL RESIDENTIAL (RR) TO LIMITED COMMERCIAL (LC).

WHEREAS, a portion of S1/2 SE1/4 SW1/4 lying north of K-Beach road excluding VIP Country Estates Subdivision Part 5 is currently zoned Rural Residential with a physical address of 725 Baleen Avenue; and,

WHEREAS, the owners of the property have requested to rezone the property to Limited Commercial and the property is over 10 acres in size meeting the application requirement of Kenai Municipal Code 14.20.270, Amendment procedures; and,

WHEREAS, the intent of the Limited Commercial Zone is to provide transition areas between commercial and residential districts by allowing low to medium volume business, mixed residential and other compatible uses which complement and do not materially detract from the uses allowed with adjacent districts; and,

WHEREAS, this rezone meets the intent of the Limited Commercial Zone by providing a transition area where the frontage along Kalifornsky Beach Road could be utilized for compatible commercial activity and the frontage along Baleen Avenue could be maintained in character with the adjacent neighborhood and allow for a mix of complementary uses; and,

WHEREAS, the City of Kenai Planning and Zoning Commission voted unanimously to recommend the property be rezoned to Limited Commercial during a public hearing held at their meeting on May 13, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** That pursuant to KMC 14.20.030 Establishment of Zones and Official Zoning Map, the official City of Kenai Zoning Map is hereby amended by rezoning a Portion of S1/2 SE1/4 SW1/4 Lying North of K-Beach Road Excluding VIP Country Estates Subdivision Part 5 at 725 Baleen Avenue from Rural Residential (RR) to Limited Commercial (LC).

**Section 2.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances.



Ordinance No. 3131-2020  
Page 2 of 2

The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 3.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Introduced: June 3, 2020  
Enacted: June 17, 2020  
Effective: July 17, 2020



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Elizabeth Appleby, City Planner

**DATE:** May 26, 2020

**SUBJECT:** **Ordinance 3131-2020 – Rezone of 725 Baleen Avenue**

---

A completed application was submitted requesting that parcel 04941052 be rezoned from Rural Residential (RR) to Limited Commercial (LC). Kenai Municipal Code (KMC) 14.20.270, Amendment procedures, describes initiation of zoning code and official map amendments. Zoning code amendments may be initiated by a submission of a petition by a majority of the property owners in the area for consideration if the area to be rezoned contains a minimum of one acre unless the amendment enlarges an adjacent district boundary. Vann Revocable Trust is the owner parcel 04941052, which is 10.6 acres in size. The requested rezone meets the criteria for an amendment.

This parcel fronts Kalifornsky Beach Road for approximately 1,292 feet. Kalifornsky Beach Road is a major collector street maintained by the State of Alaska. A paved bike path runs directly in front of the parcel along Kalifornsky Beach Road. Several multi-family housing units are to the east. Across the street on Kalifornsky Beach Road (outside City limits) is commercial development, including Panama Reds and a fish market. These businesses are shown in the attached site photos.

The RR Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The LC Zone is intended to provide transition areas between commercial and residential districts by allowing low to medium volume business, mixed residential and other compatible uses which complement and do not materially detract from the uses allowed with adjacent districts.

The LC Zone is more consistent with the layout of the parcel. The applicant has indicated plans to construct a multi-unit complex that would have commercial development on the first floor. Commercial uses could take advantage of the frontage on Kalifornsky Beach Road. The LC Zone still allows for residential uses and requires a conditional use permit for many commercial uses, including business/consumer services and retail businesses, which will ensure the neighborhood character to the north is not impacted by development of this parcel. The applicant has supplied a draft layout of how they intend to subdivide and provide access to the parcel from Kalifornsky Beach Road, which would require approval from the State of Alaska. A proposed subdivision

would go before the City's Planning and Zoning Commission to provide a recommendation to the Kenai Peninsula Borough. The applicant intends to design their project in a manner that meets the intent of the LC Zone to provide a transition area from commercial activity along Kalifornsky Beach Road to residential uses along Baleen Avenue. The action now before City Council is just to approve of the zoning change.

The 2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan states, "Transportation improvements such as the construction of the Warren Ames Memorial Bridge/Bridge Access Road gave the Kalifornsky Beach area south of the Kenai River a road connection to the rest of the City and spurred development." This change in zoning reflects the change in the City layout over time and supports Goal 3 – Land Use: Develop land use strategies to implement a forward-looking approach to community growth and development.

Attached to this memorandum is the Land Use Table in Kenai Municipal Code 14.22.010 Land use table. I have highlighted allowed uses in the Rural Residential (RR) and the LC (Limited Commercial) zones of the City so Commissioners may compare the two zones. A summary of differences in land use between the RR and LC zones includes the following:

- (more restrictive change) Principal uses in the RR Zone that do not require a conditional use permit and are not permitted in the LC Zone include: farming/general agriculture
- (more restrictive change) Principal uses in the RR Zone that do not require a conditional use permit and are only allowed in the LC Zone with a conditional use permit include: four-family dwelling
- (more restrictive change) Uses that are allowed with a conditional use permit in the RR Zone that are not permitted in the LC Zone include: mobile home parks, accessory building on parcel without main building or use, automotive sales, automotive services stations, airports, automotive repair, manufacturing/fabricating/assembly, storage yard, warehouses, assemblies (large: circuses, fairs, etc.), cemeteries, recreational vehicle parks, subsurface extraction of natural resources, surface extraction of natural resources
- (less restrictive change) Uses that are not allowed in the RR Zone that would be allowed in the LC Zone with a conditional use permit include: airport compatible uses, standard marijuana cultivation facility, marijuana testing facility, retail marijuana store
- (less restrictive change) Uses that are allowed in the RR Zone with a conditional use permit that would be allowed as a principal use without a conditional use permit in the LC Zone include: professional offices, necessary aviation facilities, clinics, governmental buildings, day care centers, gunsmithing, taxidermy, some personal services (see footnote 27), clinics
- (no change) Principal uses in both RR and LC zones that do not require a conditional use permit include: one-family dwelling, two-, three-family dwelling, essential services, churches (some additional requirements in RR zone; see footnote 10)



- (no change) Conditional uses in both RR and LC zones that require a conditional use permit include: five-six-family dwelling, seven- or more family dwelling, townhouses (some additional requirements in RR zone; see footnote 3), planned unit residential development, banks, business/consumer services, commercial recreation, guide service, hotels/motels, lodge, limited marijuana cultivation facility, restaurants, retail business, theaters, wholesale business, mini-storage facility, assisted living, colleges, elementary schools, high schools, hospitals, libraries, museums, parks and recreation, animal boarding/commercial kennel, bed and breakfasts, cabin rentals, communications towers and antenna(s), radio/TV transmitters/cell sites, crematories/funeral homes, dormitories/boarding houses, fraternal organizations/private clubs/social halls and union halls, greenhouses/tree nurseries, nursing, convalescent or rest homes, public parking lots, some personal services (see footnote 27),
- (no change) Uses not permitted in both RR and LC zones: adult businesses, marijuana product manufacturing facility, gas manufacturer/storage, assisted living

The Kenai Planning and Zoning Commission considered this request during their meeting on May 13, 2020 and unanimously recommended City Council approve of the rezone. Thank you for your consideration.

## Memorandum Attachments

- Application
- Applicant's Preliminary Draft Project Design
- Written Public Comment from Jason R. Parks and Hannah C. Parks regarding PZ2020-04
- Resolution PZ2020-04
- Maps (2)
- Site Photos
- Highlighted Land Use Table from Kenai Municipal Code 14.22.010



**RECEIVED**  
 CITY OF KENAI  
 DATE 3-10-2020  
 PLANNING DEPARTMENT



**REZONING APPLICATION**

Reset Form

|                   |   |
|-------------------|---|
| PETITIONER        | Connie & Rick Vann  |
| MAILING ADDRESS   | P.O. Box 561  |
| CITY, STATE, ZIP  | Kasilof, Alaska 99610   |
| PHONE             | 907-252-4209  |
| LEGAL DESCRIPTION | TSN R11W SEC17 Seward Meridian KN<br>PTN of 5/2 SE 1/4 5/4 lying N. of K-Beach Rd |
| PHYSICAL ADDRESS  | 725 Baleen Ave Kenai AK 99611   |
| PARCEL NUMBER     | 04941052  |
| PRESENT ZONE      | Rural Residential   |
| PROPOSED ZONE     | Limited Commercial  |

Intended Use and/or Reason for Rezoning:  
 To provide economic opportunity for small business start ups and home based businesses, to live and work at one location.

Section 14.20.270 Amendment Procedures governs any amendment to the Kenai Zoning Code and Official Map. PLEASE READ THE FOLLOWING, COMPLETE THE BLANKS AND INITIAL THE SPACE AFTER THE ITEM NUMBER TO INDICATE THAT YOU HAVE READ AND UNDERSTAND THESE CONDITIONS.

1. CV Amendments to the Kenai Zoning Code and Official Map may be initiated by: Kenai City Council; Kenai Planning and Zoning Commission; Submission of a petition by a majority of the property owners in the area to be rezoned; or, a petition bearing the signatures of fifty (50) registered voters within the City of Kenai to amend the ordinance text; or, submission of a petition as provided by the Home Rule Charter of the City of Kenai.
2. CV Amendments to the Official Zoning Map shall be considered only if the area to be rezoned contains a minimum of one (1) acre (excluding street or alley right-of-way) unless the amendment enlarges an adjacent district boundary.
3. CV A Public Notification and Hearing is required before the issuance of this permit. A \$125 (plus sales tax) non-refundable deposit/advertising and administrative services fee is required to cover these notification costs. Depending on the rezone location, an Affidavit of Posting may also be required.

4. CV A proposed amendment to the zoning ordinance which is substantially the same as any other proposed amendment submitted within the previous nine (9) months and which was not approved shall not be considered.

Dated: 3-10-2020

  
Petitioner's Signature

REZONING CHECKLIST:

- a. MAP
- b. SIGNATURES
- c. DEPOSIT/ADVERTISING FEE (\$125 + sales tax)
- d. APPLICATION FORM OR LETTER
- e. AFFIDAVIT OF POSTING

T 5N R11W SEC17 SEWARD MERIDIAN KN PTN OF  
 S1/2 SE1/4 SW1/4 LYING N OF K BEACH RD  
 EXCL VIP COUNTRY ESTATES SUB PT 5  
 PARCEL ID 04941052



AutoCAD FILE: .  
 SCALE: AS SHOWN

A1 PROPOSED REPLAT  
 C2 1" = 60'-0" (22X34); 1" = 120'-0" (11X17)

10.6 ACRES @ 725 BALEEN AVE.  
 PROJECT: KENAI, ALASKA  
 RICK & CONNIE VANN  
 PO BOX 561, KASLOF, ALASKA 99610  
 LOCATION/ CONTACT: (907) 252-4209

DESIGN BY: CV, RV  
 DRAWN: MZ CHECKED: CV  
 JOB NO: .  
 DATE: 5/21/2020  
 REVISIONS:

CATEGORY: C SHEET: 2  
 SHEET CONTENTS:  
 PRPSD REPLAT

Jason R. Parks and Hannah C. Parks  
740 Baleen Ave.  
Kenai, AK 99611

Dear Kenai City Council members,

We are writing to express our concerns regarding the rezoning request PZ2020-04. We have reviewed the request and the general information included in the agenda for this week's meeting, and we are familiar with the lot as our own residence is adjacent to it. As it is written, the rezoning request does not support the purpose or safety of the VIP Estates neighborhood for the following reasons.

First, we are concerned that commercial buildings on this lot would greatly increase noise and traffic on Baleen Avenue, VIP Drive, and Pirate Lane. Baleen is a narrow dirt road, and is unfit for the levels of traffic that commercial areas would bring. It would sustain significant damage each spring with frequent commercial traffic. Further, many children live in this neighborhood and enjoy riding bikes, and residents frequently enjoy walking around the neighborhood. This activity would not be safe with commercial traffic driving through the residential neighborhood streets. The residents of this neighborhood choose to live here because it is quiet, safe, and private. Increased traffic on the neighborhood streets would negatively affect all three of those qualities.

Second, we are concerned that our property, and that of the other properties adjacent to this lot on Baleen and VIP, would decrease in value if commercial buildings were placed directly on Baleen and VIP without a treeline to obscure them and substantial setback requirements. If the lot were to be cleared of its many trees, noise from passing traffic on K Beach Road would more easily reach the neighborhood, and commercial buildings would be visible from front yards. Seeing a neighboring house from a window is one thing. Seeing a commercial building is something else entirely. We purchased our property with the understanding that the properties surrounding it are residential, not commercial.

Third, we are concerned for the safety of the walking path on K Beach Road if commercial businesses were to be built on this lot. Entrances to the lot from K Beach would have to cross over the path, which would put pedestrians, cyclists, and other path users in direct contact with vehicular traffic. This raises the risk of accidents and vehicle-related injuries significantly.

For these reasons, we believe that the existing rezoning request would damage the overall character, safety and value of the VIP Estates neighborhood.



If it is in the power of the City Council and planning board, the addition of specific requirements for the development of this lot would make the rezoning request more compatible with the neighborhood of VIP Estates:

- If it were specified that the property were to only have vehicle access from K Beach Road and not from the residential-facing side of the property (Baleen), the concern of increased traffic on VIP, Pirate and Baleen would be properly addressed.
  - Vehicle access from K Beach Road should be limited to only one entrance, so as to reduce the number of areas in which pedestrians using the walking path would come into contact with vehicles.
- If a significant tree line were to remain intact on the Baleen and VIP sides of the lot and any commercial buildings were to be set back from the roads by at least 100 feet, the residential area would better be able to maintain its private and quiet character.

Below we have included two pictures. The first is of the aerial view of the lot included in the agenda, which is an older photo taken before our home was built in 2014 and as such does not accurately represent the area. We have outlined our lot in yellow in the image. We have also included an image of Baleen Avenue in front of our house, so that you may see the Baleen Avenue side of the lot. Only images of the Kalifornsky Beach Road and Pirate Lane sides of the property were included in the application.

Thank you for your time and attention to this matter.

Sincerely,

Jason R. Parks and Hannah C. Parks

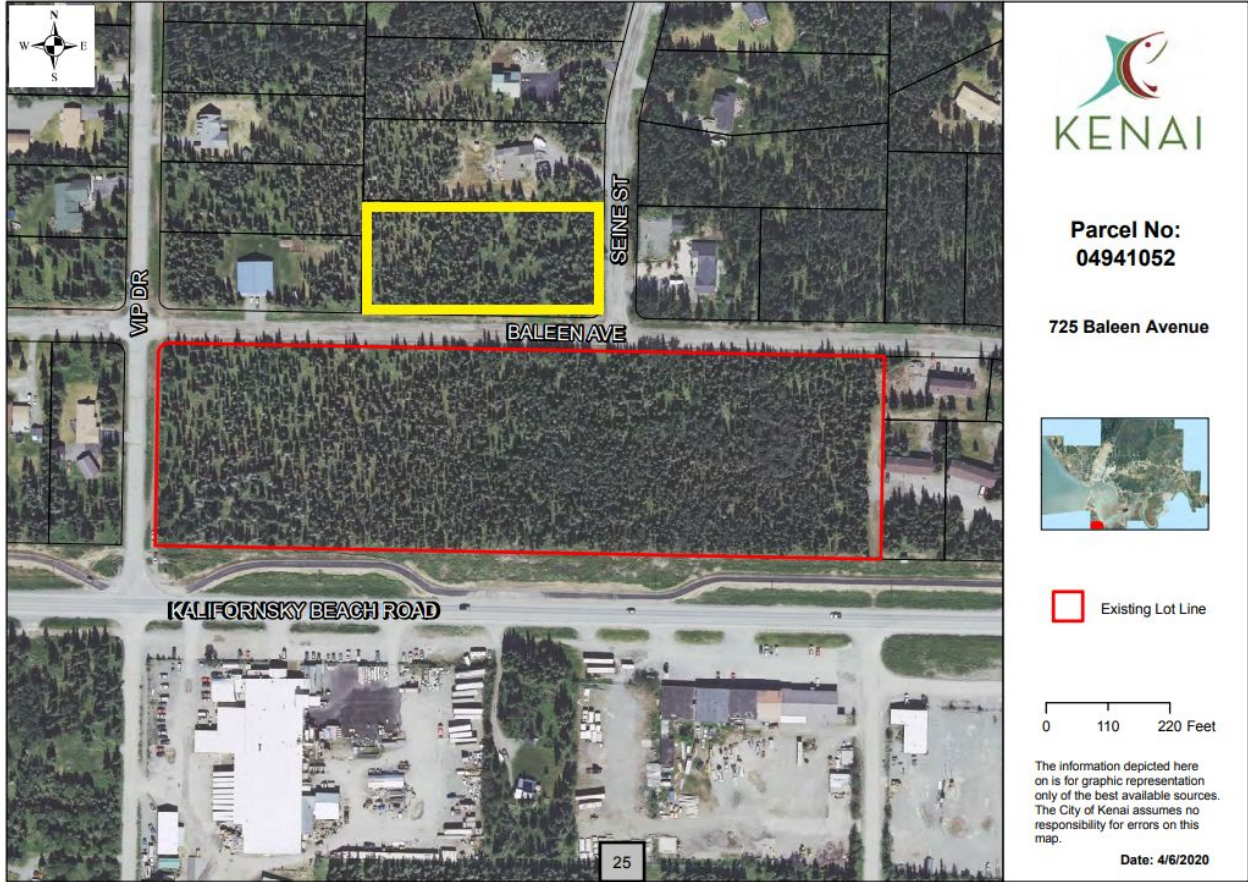


Image 1: Rezoning request lot in red. Our lot in yellow.



Image 2: our home on Baleen Avenue. The rezoning request lot is directly across the street.



**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. 2020-04**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THE COUNCIL OF THE CITY OF KENAI APPROVE THE REZONE REQUEST OF 725 BALEEN AVENUE FROM RURAL RESIDENTIAL TO THE LIMITED COMMERCIAL

WHEREAS, the City of Kenai received a rezone application from the majority property owners in accordance with Kenai Municipal Code 14.20.270, Amendment procedures; and,

WHEREAS, the RR Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment; and,

WHEREAS, the LC Zone is intended to provide transition areas between commercial and residential districts by allowing low to medium volume business, mixed residential and other compatible uses which complement and do not materially detract from the uses allowed with adjacent districts; and,

WHEREAS, the rezone request is for an area over ten acres in size; and,

WHEREAS, the area to be rezoned fronts Kalifornsky Beach Road, a major collector street; and,

WHEREAS, several multi-family units are adjacent to the parcel; and,

WHEREAS, across street on Kalifornsky Beach Road outside City limits is commercial development, including a CBD retail store and a fish market; and,

WHEREAS, the LC Zone still allows for residential uses and requires a conditional use permit for many commercial uses, including business/consumer services and retail businesses, which will ensure the neighborhood character to the north is not impacted by development of this parcel; and,

WHEREAS, the rezone is consistent with Goal 3 – Land Use: Develop land use strategies to implement a forward-looking approach to community growth and development of the 2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan.

NOW, THEREFORE, BE IT RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the Kenai City Council approve of the rezone request of 725 Baleen Avenue from Rural Residential to Limited Commercial.

**Section 2.** That a copy of Resolution PZ2020-04 be forwarded to the Kenai City Council.

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Resolution No. PZ2020-04  
Page 2 of 2

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,  
this 13th day of May, 2020.

  
\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
JAMIE HEINZ, CITY CLERK




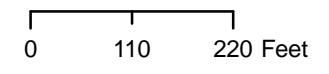


**Parcel No:  
04941052**

**725 Baleen Avenue**



 Existing Lot Line



The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

**Date: 4/6/2020**





**Parcel No:  
04941052**

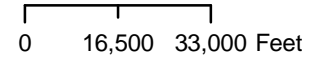
**725 Baleen Avenue**



**LEGEND**

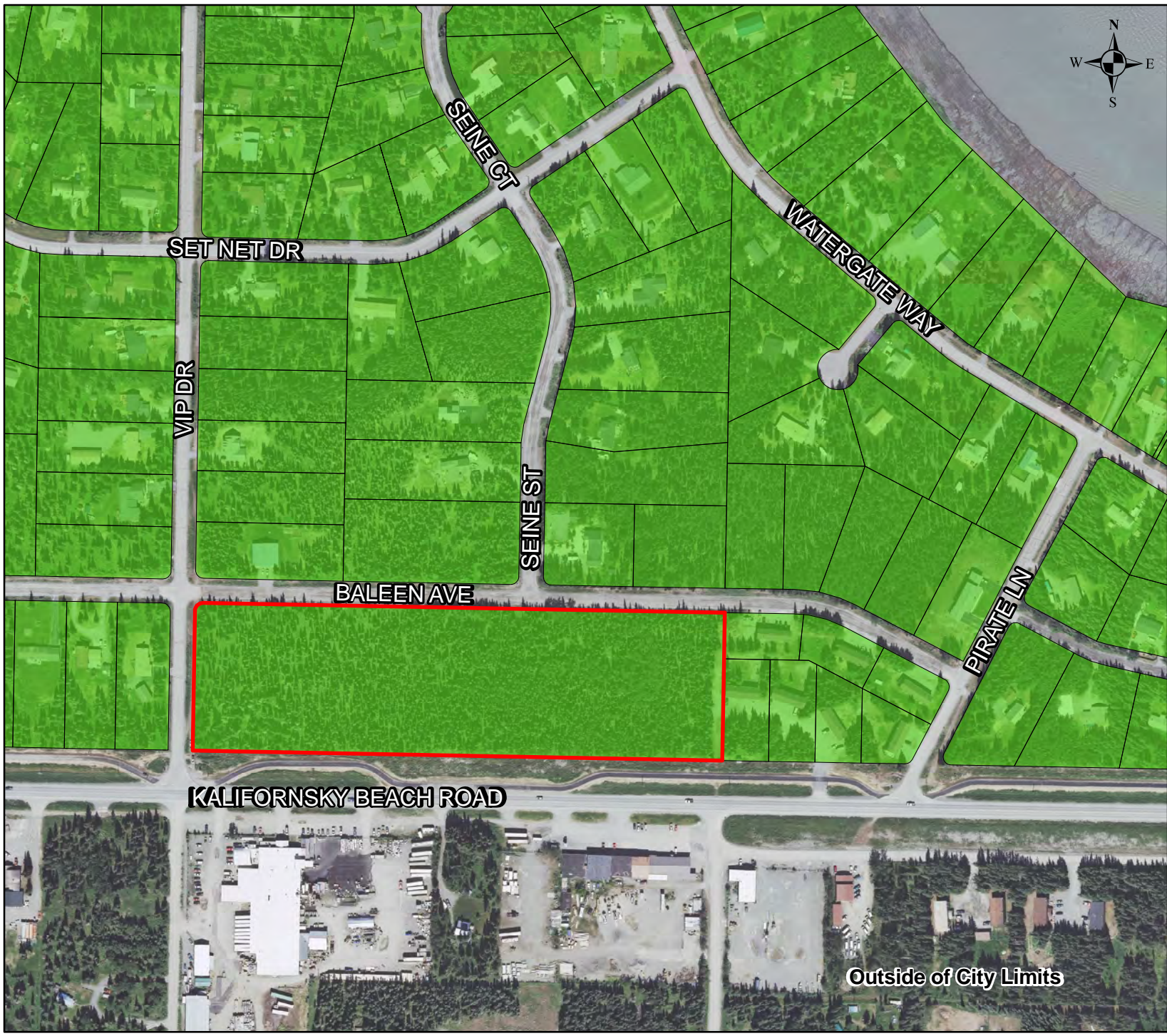
**Zoning**

- Rural Residential
- Outside of City Limits



The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

**Date: 4/6/2020**





## Site Photos

Ordinance 3131-2020 – Rezone – Rural Residential to Limited Commercial

725 Baleen Avenue; KPB Parcel No. 04 941052; a Portion of S1/2 SE1/4 SW1/4 Lying North of K-Beach Road Excluding VIP Country Estates Subdivision Part 5

Request from: Majority property owners

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### Photo #1

The photo below is of Panama Reds, a commercial business across the street on Kalifornsky Beach Road from the subject parcel.





Photo #2

The photo below shows commercial development across the street on Kalifornsky Beach Road from the subject parcel at the corner of VIP Drive and Kalifornsky Beach Road.



Photo #3

The photo below is of one of the multi-family units adjacent to the subject parcel accessed off Baleen Avenue near its intersection with Pirate Lane.



### 14.22.010 Land use table.

#### LAND USE TABLE

KEY: P = Principal Permitted Use  
 C = Conditional Use  
 S = Secondary Use  
 N = Not Permitted

NOTE: Reference footnotes on following pages for additional restrictions

| ZONING DISTRICTS   |     |                 |                |                   |                |                |                |                |                 |                 |                 |                 |                 |   |     |    |                                 |
|--|-----|-----------------|----------------|-------------------|----------------|----------------|----------------|----------------|-----------------|-----------------|-----------------|-----------------|-----------------|---|-----|----|---------------------------------|
| LAND USES  | ALI | C               | RR             | RR-1              | RS             | RS-1           | RS-2           | RU             | CC              | CG              | IL              | IH              | ED              | R | TSH | LC | CMU                             |
| <b>RESIDENTIAL</b>   |     |                 |                |                   |                |                |                |                |                 |                 |                 |                 |                 |   |     |    |                                 |
| One-Family Dwelling  | N   | C <sup>18</sup> | P              | P                 | P              | P              | P              | P              | P <sup>21</sup> | S <sup>1</sup>  | S <sup>2</sup>  | S <sup>2</sup>  | C <sup>22</sup> | P | P   | P  | S <sup>1</sup> /C <sup>21</sup> |
| Two-, Three-Family Dwelling  | N   | C <sup>18</sup> | P              | P                 | P              | P              | P              | P              | P <sup>21</sup> | S <sup>1</sup>  | C               | C               | C <sup>22</sup> | P | P   | P  | S <sup>1</sup> /C <sup>21</sup> |
| Four-Family Dwelling   | N   | C <sup>18</sup> | P              | C <sup>3,29</sup> | P              | N              | N              | P              | P <sup>21</sup> | S <sup>1</sup>  | C               | C               | C <sup>22</sup> | N | P   | C  | S <sup>1</sup> /C <sup>21</sup> |
| Five-, Six-Family Dwelling   | N   | C <sup>18</sup> | C <sup>3</sup> | N                 | P              | N              | N              | P              | P <sup>21</sup> | S <sup>1</sup>  | C               | C               | N               | N | P   | C  | S <sup>1</sup> /C <sup>21</sup> |
| Seven- or More Family Dwelling   | N   | C <sup>18</sup> | C <sup>3</sup> | N                 | C <sup>3</sup> | N              | N              | P              | P <sup>21</sup> | S <sup>1</sup>  | C               | C               | N               | N | P   | C  | S <sup>1</sup> /C <sup>21</sup> |
| Mobile Home Parks <sup>6</sup>   | N   | N               | C              | N                 | C              | C              | C              | C              | C               | C               | C               | C               | N               | C | N   | N  | C                               |
| Planned Unit Residential Development <sup>7</sup>  | N   | C <sup>18</sup> | C              | C <sup>29</sup>   | C              | C              | C              | C              | C               | C               | C               | C               | N               | C | C   | C  | C                               |
| Townhouses <sup>4</sup>  | N   | C <sup>18</sup> | C <sup>3</sup> | C <sup>3,29</sup> | C <sup>3</sup> | C <sup>3</sup> | C <sup>3</sup> | C <sup>3</sup> | C               | C               | C               | C               | C <sup>22</sup> | C | C   | C  | C                               |
| Accessory Building on Parcel Without Main Building or Use (See KMC <a href="#">14.20.200</a> ) | N   | N               | C              | C                 | C              | C              | C              | C              | N               | N               | N               | N               | N               | N | C   | N  | N                               |
| <b>COMMERCIAL</b>  |     |                 |                |                   |                |                |                |                |                 |                 |                 |                 |                 |   |     |    |                                 |
| Airport Compatible Uses  | P   | N               | N              | N                 | N              | N              | N              | N              | C               | C               | C               | C               | N               | N | N   | C  | C                               |
| Adult Businesses   | N   | N               | N              | N                 | N              | N              | N              | N              | P <sup>31</sup> | P <sup>31</sup> | P <sup>31</sup> | P <sup>31</sup> | N               | N | N   | N  | N                               |

| ZONING DISTRICTS                                       |     |                 |    |      |    |      |      |    |    |    |    |    |                 |                 |     |    |     |
|--|-----|-----------------|----|------|----|------|------|----|----|----|----|----|-----------------|-----------------|-----|----|-----|
| LAND USES  | ALI | C               | RR | RR-1 | RS | RS-1 | RS-2 | RU | CC | CG | IL | IH | ED              | R               | TSH | LC | CMU |
| Automotive Sales                                       | C   | N               | C  | N    | N  | N    | N    | C  | P  | P  | P  | P  | N               | N               | N   | N  | P   |
| Automotive Service Stations                            | C   | N               | C  | N    | N  | N    | N    | C  | P  | P  | P  | P  | N               | C               | N   | N  | P   |
| Banks  | C   | N               | C  | N    | C  | N    | N    | C  | P  | P  | P  | C  | N               | C               | C   | C  | P   |
| Business/Consumer Services                             | C   | N               | C  | C    | C  | N    | N    | C  | P  | P  | P  | C  | N               | C               | C   | C  | P   |
| Commercial Recreation                                  | N   | N               | C  | N    | C  | N    | N    | C  | P  | P  | C  | C  | N               | P               | C   | C  | P   |
| Guide Service  | C   | N               | C  | N    | C  | N    | N    | C  | P  | P  | P  | P  | N               | P               | P   | C  | P   |
| Hotels/Motels  | C   | N               | C  | N    | C  | N    | N    | C  | P  | P  | P  | C  | N               | C               | P   | C  | P   |
| Lodge  | C   | N               | C  | N    | C  | N    | N    | C  | P  | P  | P  | C  | N               | P               | P   | C  | P   |
| Marijuana Cultivation Facility, Limited <sup>30</sup>  | N   | N               | C  | C    | C  | C    | C    | C  | N  | C  | C  | C  | N               | N               | N   | C  | N   |
| Marijuana Cultivation Facility, Standard <sup>30</sup> | N   | N               | N  | N    | N  | N    | N    | N  | N  | C  | C  | C  | N               | N               | N   | C  | N   |
| Marijuana Product Manufacturing Facility <sup>30</sup> | N   | N               | N  | N    | N  | N    | N    | N  | N  | C  | C  | C  | N               | N               | N   | N  | N   |
| Marijuana Testing Facility <sup>30</sup>               | N   | N               | N  | N    | N  | N    | N    | N  | C  | C  | P  | P  | N               | N               | N   | C  | C   |
| Professional Offices                                   | C   | N               | C  | C    | C  | N    | N    | P  | P  | P  | P  | P  | N               | C               | P   | P  | P   |
| Restaurants  | C   | N               | C  | N    | C  | N    | N    | C  | P  | P  | P  | C  | N               | C               | C   | C  | P   |
| Retail Business  | C   | N <sup>26</sup> | C  | N    | C  | N    | N    | C  | P  | P  | P  | P  | S <sup>24</sup> | S <sup>24</sup> | C   | C  | P   |
| Retail Marijuana Store <sup>30</sup>                   | N   | N               | N  | N    | N  | N    | N    | N  | N  | C  | C  | C  | N               | N               | N   | C  | C   |
| Theaters   | N   | N               | C  | N    | C  | N    | N    | C  | P  | P  | C  | C  | N               | P               | C   | C  | P   |
| Wholesale Business                                     | C   | N               | C  | N    | C  | N    | N    | C  | C  | P  | P  | P  | N               | S <sup>24</sup> | C   | C  | N   |
| <b>INDUSTRIAL</b>                                      |     |                 |    |      |    |      |      |    |    |    |    |    |                 |                 |     |    |     |
| Airports   | C   | P <sup>20</sup> | C  | N    | C  | N    | N    | C  | C  | C  | C  | C  | N               | C               | N   | N  | C   |
| Necessary Aviation Facilities                          | P   | P               | C  | C    | C  | C    | C    | C  | P  | P  | P  | P  | C               | P               | C   | P  | P   |
| Automotive Repair                                      | P   | N               | C  | N    | C  | N    | N    | C  | P  | P  | P  | P  | N               | N               | N   | N  | P   |

| ZONING DISTRICTS   |                |   |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |     |    |                 |
|--|----------------|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----|----|-----------------|
| LAND USES  | ALI            | C | RR              | RR-1            | RS              | RS-1            | RS-2            | RU              | CC              | CG              | IL              | IH              | ED              | R               | TSH | LC | CMU             |
| Gas Manufacturer/<br>Storage                               | C <sup>9</sup> | N | N               | N               | C               | N               | N               | N               | N               | N               | C <sup>9</sup>  | C <sup>9</sup>  | N               | N               | N   | N  | N               |
| Manufacturing/<br>Fabricating/Assembly                     | P              | N | C               | N               | C               | N               | N               | C               | C               | P               | P               | P               | N               | C               | C   | N  | C               |
| Mini-Storage Facility                                      | C              | N | C               | N               | C               | N               | N               | C               | C               | P               | P               | P               | N               | N               | N   | C  | C               |
| Storage Yard   | C              | N | C               | N               | C               | N               | N               | C               | C               | P               | P               | P               | N               | N               | N   | N  | C               |
| Warehouses   | C              | N | C               | N               | C               | N               | N               | C               | N               | P               | P               | P               | N               | C               | N   | N  | N               |
| <b>PUBLIC/<br/>INSTITUTIONAL</b>                           |                |   |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |     |    |                 |
| Assisted Living  | N              | C | C               | C               | C               | C               | C               | C               | C               | C               | C               | C               | C               | C               | C   | C  | C               |
| Churches*  | N              | C | P <sup>10</sup> | P <sup>10</sup> | P <sup>10</sup> | P <sup>10</sup> | P <sup>10</sup> | P <sup>10</sup> | P <sup>10</sup> | P <sup>10</sup> | C               | C               | P               | P <sup>10</sup> | P   | P  | P               |
| Clinics  | N              | C | C               | N               | C               | C               | C               | C               | P               | P               | P               | C               | C               | C               | C   | P  | P               |
| Colleges*  | N              | C | C               | C <sup>29</sup> | C               | C               | C               | C               | P               | P               | C               | C               | P               | C               | C   | C  | P               |
| Elementary Schools*  | N              | C | C               | C <sup>29</sup> | C               | C               | C               | C               | P               | P               | C               | C               | P               | C               | C   | C  | P               |
| Governmental Buildings                                     | P              | C | C               | C <sup>29</sup> | C               | C               | C               | C               | P               | P               | P               | C               | P               | C               | C   | P  | P               |
| High Schools*  | N              | C | C               | C <sup>29</sup> | C               | C               | C               | C               | P               | P               | C               | C               | P               | C               | C   | C  | P               |
| Hospitals*   | N              | C | C               | N               | C               | C               | C               | C               | P               | P               | P               | C               | C               | C               | C   | C  | P               |
| Libraries*   | N              | C | C               | C <sup>29</sup> | C               | C               | C               | C <sup>12</sup> | P               | P               | P               | C               | P               | C               | P   | C  | P               |
| Museums  | C              | C | C               | C <sup>29</sup> | C               | C               | C               | C               | P               | P               | P               | C               | P               | C               | P   | C  | P               |
| Parks and Recreation                                       | N              | P | C               | C <sup>29</sup> | C               | C               | C               | C               | P               | P               | P               | P               | P               | P               | P   | C  | P               |
| <b>MISCELLANEOUS</b>                                       |                |   |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |     |    |                 |
| Animal Boarding/<br>Commercial Kennel <sup>13</sup>        | C              | C | C               | N               | C               | C               | N               | N               | C               | C               | C               | C               | N               | C               | N   | C  | C               |
| Assemblies <sup>15</sup> (Large:<br>Circuses, Fairs, etc.) | P              | C | C               | N               | C               | C               | C               | C               | P <sup>15</sup> | P <sup>15</sup> | P <sup>15</sup> | P <sup>15</sup> | P <sup>15</sup> | C               | P   | N  | P <sup>15</sup> |
| Bed and Breakfasts   | N              | C | C               | C               | C               | C               | C               | C               | C               | C               | C               | C               | N               | P               | C   | C  | P               |
| Cabin Rentals  | N              | C | C               | N               | C               | N               | N               | N               | P               | P               | P               | C               | N               | P               | P   | C  | P               |
| Cemeteries   | P              | C | C               | N               | C               | N               | N               | N               | N               | C               | C               | C               | N               | C               | C   | N  | N               |

| ZONING DISTRICTS  |     |   |    |                 |    |      |      |    |                 |    |    |    |                 |   |     |                   |     |
|---|-----|---|----|-----------------|----|------|------|----|-----------------|----|----|----|-----------------|---|-----|-------------------|-----|
| LAND USES   | ALI | C | RR | RR-1            | RS | RS-1 | RS-2 | RU | CC              | CG | IL | IH | ED              | R | TSH | LC                | CMU |
| Communications Towers and Antenna(s), Radio/TV Transmitters/ Cell Sites** <sup>28</sup> | C   | P | C  | N               | C  | C    | C    | C  | P               | P  | P  | P  | P               | C | C   | C                 | C   |
| Crematories/Funeral Homes   | N   | N | C  | N               | C  | N    | N    | C  | C               | C  | C  | C  | N               | C | C   | C                 | C   |
| Day Care Centers <sup>12</sup>  | N   | C | C  | C <sup>29</sup> | C  | C    | C    | C  | P               | P  | P  | C  | C               | C | C   | P                 | P   |
| Dormitories/Boarding Houses   | N   | C | C  | N               | C  | C    | C    | P  | p <sup>21</sup> | S  | C  | P  | p <sup>23</sup> | C | C   | C                 | P   |
| Essential Services  | P   | P | P  | P               | P  | P    | P    | P  | P               | P  | P  | P  | P               | P | P   | P                 | P   |
| Farming/General Agriculture***  | N   | P | P  | N               | N  | N    | N    | N  | N               | N  | N  | P  | N               | P | N   | N                 | N   |
| Fraternal Organizations/ Private Clubs/Social Halls and Union Halls                     | N   | N | C  | N               | C  | C    | C    | C  | P               | P  | P  | C  | N               | C | P   | C                 | P   |
| Greenhouses/Tree Nurseries <sup>13</sup>  | N   | C | C  | N               | C  | C    | C    | C  | P               | P  | P  | C  | N               | C | C   | C                 | P   |
| Gunsmithing, Taxidermy  | N   | N | C  | C               | C  | C    | C    | C  | P               | P  | P  | P  | N               | C | P   | P                 | P   |
| Nursing, Convalescent or Rest Homes   | N   | N | C  | N               | C  | C    | C    | C  | P               | P  | C  | C  | C               | C | C   | C                 | P   |
| Parking, Public Lots <sup>12</sup>  | C   | C | C  | N               | C  | C    | C    | C  | C               | C  | C  | C  | C               | C | C   | C                 | C   |
| Personal Services <sup>25</sup>   | N   | C | C  | N               | C  | C    | C    | C  | P               | P  | P  | P  | C               | C | P   | P/C <sup>27</sup> | P   |
| Recreational Vehicle Parks  | N   | C | C  | N               | C  | N    | N    | C  | C               | C  | C  | C  | N               | C | C   | N                 | C   |
| Subsurface Extraction of Natural Resources <sup>16</sup>                                | C   | C | C  | C               | C  | C    | C    | C  | C               | C  | C  | C  | N               | C | N   | N                 | N   |
| Surface Extraction of Natural Resources <sup>17</sup>                                   | C   | C | C  | N               | C  | N    | N    | C  | N               | C  | C  | C  | N               | C | N   | N                 | N   |

\* See 42 USCA Sec. 2000cc (Religious Land Use and Institutionalized Persons Act of 2000)

\*\* See 42 Telecommunications Act of 1996, Sec. 704(a)

\*\*\* See, however, the limitations imposed under KMC [3.10.070](#)

Footnotes:

- 1** Allowed as a secondary use except on the ground floor of the part of the building fronting on collector streets and major highways. Commercial or industrial which falls under the landscaping/site plans requirements of KMC Chapter [14.25](#) shall include any secondary uses in the landscaping and site plans.
- 2** One (1) single-family residence per parcel, which is part of the main building.
- 3** Allowed as a conditional use, subject to satisfying the following conditions:
  - a** The usable area per dwelling unit shall be the same as that required for dwelling units in the RS Zone;
  - b** The site square footage in area must be approved by the Commission;
  - c** Yards around the site, off-street parking, and other development requirements shall be the same as for principal uses in the RR Zone;
  - d** Water and sewer facilities shall meet the requirements of all applicable health regulations;
  - e** The proposed dwelling group will constitute a residential area of sustained desirability and stability, will be in harmony with the character of the surrounding neighborhood, and will not adversely affect surrounding property values;
  - f** The buildings shall be used only for residential purposes and customary accessory uses, such as garages, storage spaces, and recreational and community activities;
  - g** There shall be provided, as part of the proposed development, adequate recreation areas to serve the needs of the anticipated population;
  - h** The development shall not produce a volume of traffic in excess of the capacity for which the access streets are designed;
  - i** The property adjacent to the proposed dwelling group will not be adversely affected.
- 4** See "Townhouses" section.
- 5** See "Mobile Homes" section.
- 6** Allowed as a conditional use, subject to "Mobile Homes" section; and provided, that any mobile home park meets the minimum Federal Housing Authority requirements.
- 7** See "Planned Unit Residential Development" section.
- 8** Allowed as a conditional use; provided, that the proposed location and the characteristics of the site will not destroy the residential character of the neighborhood.
- 9** Allowed as a conditional use; provided, that all applicable safety and fire regulations are met.
- 10** Provided, that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line.
- 11** Allowed as a conditional use; provided, that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line; and provided further, that the proposed location and characteristics of the use will not adversely affect the commercial development of the zone.

- 12** Allowed as a conditional use; provided, that the following conditions are met:
- a** The proposed location of the use and the size and characteristics of the site will maximize its benefit to the public;
  - b** Exits and entrances and off-street parking for the use are located to prevent traffic hazards on public streets.
- 13** Allowed as a conditional use; provided, that setbacks, buffer strips, and other provisions are adequate to assure that the use will not be a nuisance to surrounding properties. The Commission shall specify the conditions necessary to fulfill this requirement. Animal boarding and commercial kennels require a kennel license (see KMC Chapter [3.15](#)).
- 14** Allowed as a conditional use; provided, that no indication of said use is evident from the exterior of the mortuary.
- 15** Allowed; provided, that the following conditions are met:
- a** An uncleared buffer strip of at least thirty (30) feet shall be provided between said use and any adjoining property in a residential zone.
  - b** Exits and entrances and off-street parking for the use shall be located to prevent traffic hazards on the public streets.
- 16** See “Conditional Uses” section.
- 17** See “Conditional Use Permit for Surface Extraction of Natural Resources” section.
- 18** **Conditional use allowed only on privately held property.** Not allowed on government lands.
- 19** Reserved.
- 20** The airport-related uses allowed under this entry are aircraft approach and departure zones pursuant to KMC [14.20.070\(a\)](#), except that for properties contained inside the airport perimeter fence or having access to aircraft movement areas, taxiways or parking aprons, FAA authorized uses are allowed.
- 21** Developments for use shall be the same as those listed in the Development Requirements Table for the RU/TSH Zones.
- 22** **Allowed as a conditional use in conjunction with a permitted use in the ED Zone.** For example, housing for teachers or students for a school in the zone.
- 23** **Allowed as an accessory use in conjunction with a permitted use in the ED Zone.** For example, a dormitory used to house students for a school or educational facility.
- 24** Retail businesses allowed as a secondary use in conjunction with the primary use (e.g., a gift shop or coffee shop within another business).
- 25** Art studios, barbers, beauticians, tattoo parlors, dressmakers, dry cleaners and self-service laundries, fitness centers, photographic studios, tailors, tanning salons and massage therapists.
- 26** Food services are allowed on a temporary or seasonal basis of not more than four (4) months per year.
- 27** Personal services not set forth in the below matrix are conditional uses.



| Limited Commercial Zone |               |                     |
|-------------------------|---------------|---------------------|
| Personal Services       | Permitted (P) | Conditional Use (C) |
| Art Studios             | X             |                     |
| Barbers                 | X             |                     |
| Beauticians             | X             |                     |
| Dressmakers             | X             |                     |
| Dry Cleaners            |               | X                   |
| Fitness Centers         | X             |                     |
| Massage Therapist       |               | X                   |
| Photographic Studios    | X             |                     |
| Self-Service Laundries  |               | X                   |
| Tailors                 | X             |                     |
| Tanning Salons          | X             |                     |
| Tattoo Parlors          |               | X                   |

**28** Communications tower/antenna(s) allowed as a principal permitted (P) use if the applicable conditions set forth in KMC [14.20.255](#) are met or a conditional use (C) if the applicable conditions set forth in KMC [14.20.150](#) and [14.20.255](#) are met.

**29 Use allowed only for those parcels that abut the Kenai Spur Highway.** The access to any such parcel must be either from: (a) driveway access on the Kenai Spur Highway; or (b) driveway access from a dedicated right-of-way and that driveway access is not more than two hundred seventy-five (275) feet as measured from the constructed centerline of the Kenai Spur Highway to the center of the driveway access as shown on an as-built drawing/survey of the parcel.

**30** See marijuana regulations, KMC [14.20.230](#)—Home Occupations, [14.20.320](#)—Definitions, [14.20.330](#)—Standards for commercial marijuana establishments.

**31** See KMC [14.20.175](#)—Adult businesses; no adult business may be located within one thousand (1,000) feet of another adult business, or sensitive use. “Sensitive use” means a church or other place of worship, a public or private school (licensed pre-K through twelfth grade) or businesses where or areas where youth are likely to be present (limited to public parks, youth recreational centers, public playgrounds, public libraries).

(Amended during 7-7-99 supplement; Ord. 1862-2000; Amended during 12-1-00 supplement; Ords. 1911-2001, 1938-2001, 1956-2002, 1962-2002, 1990-2003, 1994-2003, 2053-2004, 2081-2005, 2112-2005, 2113-2005, 2144-2006, 2152-2006, 2185-2006, 2195-2006, 2246-2007, 2272-2007, 2403-2009, 2425-2009, 2546-2011, 2610-2012, 2649-2012, 2688-2013, 2784-2014, 2870-2016, 2884-2016, 3025-2018, 3056-2019, 3083-2019 (Substitute))

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**The Kenai Municipal Code is current through Ordinance 3102-2020, passed February 5, 2020.**

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

[City Website: www.kenai.city](http://www.kenai.city)

City Telephone: (907) 283-7535

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## 14.20.320 Definitions.

### (a) *General Interpretation.*

- (1) Words used in the present tense include the future tense.
- (2) The singular number includes the plural.
- (3) The word "person" includes a corporation as well as an individual.
- (4) The word "lot" includes the word "plot" or "parcel."
- (5) The term "shall" is always mandatory.
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed to be used or occupied."

### (b) *Specific Definitions.*

"Accessory building" means a detached building or structure, the use of which is appropriate, subordinate, and customarily incidental to that of the main building or to the main use of the land and which is located on the same lot as the main building or use, except as allowed by a conditional use permit. An accessory building shall be considered to be a part of the main building when joined to the main building by a common wall or when any accessory building and the main building are connected by a breezeway.

"Accessory use" means a use customarily incidental and subordinate to the principal use of the land, building, or structure and located on the same lot or parcel of land.

"Administrative official" means the person charged with the administration and enforcement of this chapter.

"Agricultural building" means a building or structure used to shelter farm implements, hay, grain, poultry, livestock, or other farm produce, in which there is no human habitation and which is not used by the public.

"Agriculture" means the science, art, and business of cultivating soil, producing crops, and raising livestock; farming.

"Airport" means a location where aircraft such as fixed-wing aircraft, helicopters, and blimps take off and land. Aircraft may be stored or maintained at an airport. An airport consists of at least one (1) surface such as a paved or gravel runway, a helicopter touchdown and lift off (TLOF) area, helipad, or water runway for aircraft takeoffs and landings, and often includes buildings such as control towers, hangars and terminal buildings.

"Airport compatible uses" means uses which include, but are not limited to: hangars, fixed base operators, aircraft repair and manufacturing, aircraft sales, and other uses approved by the ordinance of the City of Kenai, and the Federal Aviation Administration's regulations, and compatible with the current airport master plan, the airport layout plan and the comprehensive plan.

“Alley” means a public way designed and intended to provide only a secondary means of access to any property abutting thereon.

“Alteration” means any change, addition, or modification in construction, location, or use classification.

“Animal boarding” means any building or structure and associated premises in which animals are fed, housed, and/or exercised for commercial gain.

Apartment House. See “Dwelling, multiple-family.”

“Area, building” means the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of steps.

“Assemblage” means a large gathering of people for an event such as a concert, fair, or circus.

“Assisted living” means a living arrangement in which people with special needs, especially seniors with disabilities, reside in a facility that provides help with everyday tasks such as bathing, dressing, and taking medication.

“Automobile sales” means the use of any building or structure and associated premises for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreation vehicles and including any warranty repair work and other repair service conducted as an accessory use.

“Automobile service station” means the use of any building or structure and associated premises or other space used primarily for the retail sale and dispensing of motor fuels, tires, batteries, and other small accessories; the installation and servicing of such lubricants, tires, batteries, and other small accessories; and such other services which do not customarily or usually require the services of a qualified automotive mechanic.

“Automobile wrecking” means the dismantling of used motor vehicles or trailers or the storage or sale of parts from dismantled or partially dismantled, obsolete, or wrecked vehicles.

“Automotive repair” means the use of any building or structure and associated premises on which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

“Bank” means any establishment or building or structure used for a financial institution that provides financial services for its clients or members. The term “bank” includes savings and loan.

“Bed and breakfast” means a residential, owner-occupied dwelling in which rooms are rented to paying guests on an overnight basis with no more than one (1) meal served daily.

“Boarding house” means a dwelling where the principal use is a dwelling by the owner or keeper and where the owner or keeper provides lodging for three (3) or more persons who are not members of the owner’s or keeper’s family and the lodgers pay compensation to use one (1) or more rooms. The common parts of the building or structure are maintained by the owner or keeper who may also provide lodgers with some services, such as meals, laundry, and cleaning. Boarding houses are not motels or hotels and are not open to transient guests.

“Building” means any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

“Building code” means the building code and/or other building regulations applicable in the City.

“Building, existing” means a building erected prior to the adoption of the ordinance codified in this chapter or one for which a legal building permit has been issued.

“Building height” means the vertical distance from the “grade,” as defined herein, to the highest point of the roof.

“Building, principal or main” means a building or structure in which is conducted the principal or main use on the lot which said building is situated.

“Business/consumer services” means the provision of services to others on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

“Cabin rentals” means the renting out of one (1) or more individual, detached dwelling units or buildings to provide overnight sleeping accommodations for a period of less than thirty (30) consecutive days.

“Cemetery” means any property used to inter the dead in buried graves or in columbarium, stacked vaults, or similar structures.

“Centerline” means the line which is in the center of a public right-of-way.

“Church” means a building or structure in which persons regularly assemble for worship, ceremonies, rituals, and education pertaining to a particular system of beliefs. The term “church” includes a synagogue or temple.

“City” means the City of Kenai, Alaska.

“Clinic” (or outpatient clinic or ambulatory care clinic) means a health care facility that is primarily devoted to the care of outpatients. Clinics can be privately operated or publicly managed and funded, and typically cover the primary health care needs of populations in local communities, in contrast to larger hospitals which offer specialized treatments and admit inpatients for overnight stays.

“Collector street” means a street located and designed for the primary purpose of carrying through traffic and of connecting major areas of the City. Unless otherwise designated by the Commission, collector street shall be defined on the plan for streets and community facilities in the comprehensive development plan.

“College” means an educational institution providing postsecondary (after high school) education.

“Commercial kennel” has the same meaning given in KMC [3.05.010](#).

“Commercial marijuana establishment” means any retail marijuana store, excluding on-site consumption endorsements, marijuana cultivation facility, marijuana product manufacturing facility, and marijuana testing facility.

“Commercial recreation” means a recreation facility operated as a business and open to the public for a fee.

“Commission” means the Kenai Planning and Zoning Commission.

“Communication antenna” has the same meaning given in KMC [14.20.255](#).

“Communication tower” has the same meaning given in KMC [14.20.255](#).

“Conditional use” means a use which is permitted under the terms of this chapter; provided, that under the specified procedures, the Commission finds that certain conditions specified in this chapter are fulfilled. Conditional uses are listed in the Land Use Table.

“Condominium” means a common interest ownership dwelling in which:

- (1) Portions of the real estate are designated for separate ownership;
- (2) The remainder of the real estate is designated for common ownership solely by the owners of those portions;
- (3) The undivided interests in the common elements are vested in the unit owners. In the Land Use Table (KMC [14.22.010](#)), “condominiums” shall be treated as two (2) or more family dwellings. For example, a four (4) unit condominium building would be treated as a four (4) family dwelling.

“Coverage” means that percentage of the total lot area covered by the building area.

“Crematory/funeral home” means building or structure used for preparation of the deceased for display and/or interment and may also be used for ceremonies connected with interment. Preparation may include cremation, which is the process of reducing dead bodies to basic chemical compounds in the form of gases and bone fragments. This is accomplished through burning—high temperatures, vaporization, and oxidation.

“Day care center” means an establishment where child care is regularly provided for children for periods of less than twenty-four (24) hours, including the building housing the facility and adjoining areas, and where tuition, fees, or other compensation for the care of the children is charged.

“Dormitory” means a building, whether public or private, associated with a school, college or university and designed, used, and arranged for private sleeping, studying, and living accommodation for students.

“Dwelling” means a building or any portion thereof designed or used exclusively for residential occupancy including one-family, two-family and multiple-family dwellings, but not including any other building wherein human beings may be housed.

“Dwelling, multiple-family” means any building containing three (3) or more dwelling units.

“Dwelling, one-family” means any detached building containing only one (1) dwelling unit.

“Dwelling, two-family” means any building containing only two (2) dwelling units.

“Dwelling unit” means one (1) or more rooms and a single kitchen in a dwelling designed as a unit for occupancy by not more than one (1) family for living or sleeping purposes.

“Elementary school” means any school usually consisting of grades pre-kindergarten through grade six (6) or any combination of grades within this range.

“Essential service” means the erection, construction, alteration, or maintenance by public utility companies or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. This definition shall not be interpreted to include public buildings.

“Family” means any number of individuals living together as a single housekeeping unit in a dwelling unit.

“Farming” means a tract of land cultivated for the purpose of commercial agricultural production.

“Fence, height” means the vertical distance between the ground directly under the fence and the highest point of the fence.

“Floor area” means the total of each floor of a building within the surrounding outer walls but excluding vent shafts and courts.

“Fraternal organization” means a group of people formally organized for a common object, purpose, or interest (usually cultural, religious or entertainment) that conducts regular meetings and has written membership requirements.

“Frontage” means all the property fronting on one (1) side of a street between intersection streets.

“Garage, private” means an accessory building or any portion of a main building used in connection with residential purposes for the storage of passenger motor vehicles.

“Garage, public” means any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other vehicles.

“Gas manufacturer/storage” means the surface use of lands used in the production, the mechanical transformation, or the chemical transformation of hydrocarbon gas and includes uses for gas conditioning/compressor stations. “Storage” means surface uses necessary for storage of produced or nonnative natural gas.

“Governmental building” means a building or structure owned and operated by any department, commission, or agency of the United States or of a state or municipality and used to conduct official business of government.

“Grade (ground level)” means the average level of the finished ground at the center of all walls to a building. In case walls are parallel to and within five (5) feet of a public sidewalk, the ground level shall be measured at the sidewalk.

“Greenhouse” means a building or structure, usually a glassed or clear plastic enclosure, used for the cultivation and protection of plants.

“Guest room” means any room in a hotel, dormitory, boarding, or lodging house used and maintained to provide sleeping accommodations for one (1) or more persons.

“Guide service” means any activity on any premises used for collecting or returning persons from recreational trips when remuneration is provided for the service.

“Gunsmith” means a person who repairs, modifies, designs, or builds firearms.

“High school” means a secondary school usually consisting of grades nine (9) through twelve (12) or any appropriate combination of grades within this range.

“Home occupation” means an accessory use carried out for remuneration by a resident in the resident’s dwelling unit.

“Hospital” means an institution that provides medical, surgical, or psychiatric care and treatment for the sick or the injured.

“Hotel” means a building or group of buildings containing more than five (5) guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals.

“Junkyard” means any space one hundred (100) square feet or more of any lot or parcel of land used for the storage, keeping, or abandonment of junk or waste material, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or any parts thereof.

“Library” means a collection of sources, resources, and services, and the structure in which it is housed; it is organized for use and maintained by a public body, an institution, or a private individual.

“Licensed premises for commercial marijuana establishment” means any and all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a commercial marijuana establishment license is issued, and used, controlled, or operated by the commercial marijuana establishment to carry out the business for which it licensed.

“Loading space” means an off-street space or berth on the same lot with a building or structure to be used for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

“Lodge” means a building or group of buildings containing five (5) or fewer guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals.

“Lot” means a parcel of land occupied or to be occupied by a principal use and having frontage on a public street.

“Lot, corner” means a lot situated at the junction of, and bordering on, two (2) intersecting streets, two (2) platted rights-of-way, two (2) government easements, or any combination thereof.

“Lot coverage” means that portion of the lot covered by buildings or structures that require a building permit.

“Lot depth” means the horizontal distance separating the front and rear lot lines of a lot and at right angles to its width.

“Lot line, front—corner lot” means the shortest street line of a corner lot.

“Lot line, front—interior lot” means a line separating the lot from the street.



“Lot line, rear” means a line that is opposite and most distant from the front lot line, and in the case of irregular, triangular, or gore shaped lot, a line not less than ten (10) feet in length, within a lot, parallel to and at the maximum distance from the front lot line.

“Lot line, side” means any lot boundary line not a front lot line or a rear lot line.

“Lot width” means the mean horizontal distance separating the side lot lines of a lot and at right angles to its depth.

“Manufactured housing” means a dwelling unit that meets Department of Housing and Urban Development standards for manufactured housing and is wider than sixteen (16) feet, has a roof pitch of 4:12 or greater with roofing and siding common to standard residential construction and is transported to the site and placed on a permanent foundation.

“Manufacturing/fabricating/assembly” means the mechanical or chemical transformation of materials or substances into new products including assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

“Marijuana” means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. The term does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

“Marijuana concentrate” means resin, oil, wax, or any other substance derived from the marijuana plant by any method which isolates the tetrahydrocannabinol (THC) bearing resins of the plant.

“Marijuana cultivation facility” means any entity with a State license registered to cultivate, prepare, and package marijuana and to sell marijuana to marijuana retail facilities, marijuana products manufacturing facilities, marijuana testing facilities, but not to consumers.

“Marijuana cultivation facility, limited” means an entity registered to cultivate in an area of five hundred (500) square feet or less of cultivation, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

“Marijuana cultivation facility, standard” means an entity registered to cultivate in an area greater than five hundred (500) square feet under cultivation, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

“Marijuana product manufacturing facility” means a State-licensed fully enclosed secure indoor facility registered to purchase marijuana, manufacture, prepare and package marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

“Marijuana products” means concentrated marijuana and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

“Marijuana testing facility” means a State-licensed commercial marijuana testing facility that is registered to analyze and certify the safety and potency of marijuana and marijuana products.

“Mini-storage facility” means a completely enclosed structure containing three (3) or more areas or rooms available for lease or rent for the purpose of the general storage of household goods, vehicles or personal property; where the lessee of the unit is provided direct access to deposit or store items and where vehicles do not fill the majority of the allowed storage space.

“Mobile home” means a structure, which is built on a permanent chassis in accordance with Department of Housing and Urban Development Standards and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. A mobile home is subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided.

“Mobile home park” means a site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.

“Modular home” means a dwelling constructed in modules or sections at a place other than the building site, built to conform to KMC Title [4](#), is transported to the site and then assembled and placed on a permanent foundation.

“Motel” means a group of one (1) or more detached or semi-detached buildings containing two (2) or more individual dwelling units and/or guest rooms designed for, or used temporarily by, automobile tourists or transients, with a garage attached or parking space conveniently located to each unit, including groups designated as auto courts, motor lodges, or tourist courts.

“Museum” means a building or structure that houses and cares for a collection of artifacts and other objects of scientific, artistic, or historical importance and makes them available for public viewing through exhibits that may be permanent or temporary.

“Necessary aviation facilities” means any air navigation facility, airport visual approach aid, airfield lighting and signage, meteorological device or any type of device approved by the Federal Aviation Administration (FAA), the location and height of which is fixed by its functional purpose.

“Nonconforming lot” means a lot lawfully existing at the time this chapter became effective, which by reason of area or dimensions, does not meet the development requirements for the zone in which it is located.

“Nonconforming structure” means a structure or portion thereof, lawfully existing at the time this chapter became effective, which by reason of its yards, coverage, height, or other aspects of design, does not meet the development requirements of this zone.

“Nonconforming use” means a use of a structure or land, or of a structure and land in combination, lawfully existing at the time this chapter became effective, or established on the premises of a previous nonconforming use as specified in this chapter, which is not in conformity with the uses permitted in the zone in which it exists.

“Nursing, convalescent or rest home” means a building or structure used as a residence for people who require constant nursing care and/or have significant deficiencies with activities of daily living.

“Office” means a room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

“On-site consumption endorsement” means the State-regulated consumption of certain marijuana products at or adjacent to a retail marijuana store by patrons of the commercial marijuana establishment.

“Park” means a tract of land, designated by a public entity for the enjoyment of the public and generally used for active and passive recreational activities.

“Parking, public lots” means a parking area available to the public, whether or not a fee for use is charged.

“Parking space, private” means any automobile parking space, excluding garages, not less than nine (9) feet wide and one hundred eighty (180) square feet in total area.

“Parking space, public” means an area of not less than one hundred eighty (180) square feet exclusive of drives or aisles giving access thereto in area accessible from streets and alleys for the storage of passenger motor vehicles operated by individual drivers.

“Person” means a natural person, his or her heirs, executors, administrators, or assigns, and also including firm, partnership, or corporation, or their successors and/or assigns or the agent of any of the aforesaid.

“Personal services” mean establishments engaged in providing services involving the care of a person or his or her apparel.

“Planned unit residential development” means an alternative method of development of a residential neighborhood under more flexible conditions than otherwise required in a specific zoning district.

“Principal use” means the major or predominant use of a lot or parcel of land.

“Profession” means an occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued by an institution of high learning, e.g., Doctor of Medicine.

“Property owner” means the owner shown on the latest tax assessment roll.

“Public” means a place to which the public or a substantial group of persons has access and includes highway, rivers, lakes, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Recreation” means leisure activities sometimes requiring equipment and taking place at prescribed places, sites, parks, or fields. It can include active recreation, such as structured individual or team activities requiring the use of

special facilities, courses, fields or equipment or passive recreation, such as activities that do not require prepared facilities such as wildlife and bird viewing, observing and photographing nature, picnicking, and walking.

“Recreational vehicle” means a vehicular-type unit, primarily designed as temporary living quarters for recreational camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. Recreational vehicles include, but are not limited to, travel trailers, camping trailers, truck campers, and motor homes.

“Recreational vehicle park” means an area established by a conditional use permit for the parking of two (2) or more recreational vehicles on a temporary basis.

“Recreation or youth center” means a building, structure, athletic playing field, or playground, run or created by a local government or the State to provide athletic, recreational, or leisure activities for minors, or operated by a public or private organization, licensed to provide shelter, training, or guidance for persons under twenty-one (21) years of age.

“Restaurant” means an establishment where food and drink is prepared, served, and consumed primarily within the principal building.

“Retail business” means establishments engaged in selling goods or merchandise to the general public for business or personal/household consumption and rendering services incidental to the sale of such goods.

“Retail marijuana store” means a State-licensed entity registered to purchase marijuana from a marijuana cultivation facility, to purchase marijuana and marijuana products from a marijuana manufacturing facility, and sell marijuana and marijuana products to consumers.

“Secondary use” means a use allowed on a lot or parcel of land only if there is also an allowed principal use on the property.

“Sign” means any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names, or trademarks by which anything is made known, such as are used to designate an individual, firm, association, corporation, profession, business, or a commodity or product, which are visible from any public street or highway and used to attract attention.

“Square feet under cultivation” means an area of the licensed premises of a standard or limited cultivation facility that is used for growing marijuana, measured on the perimeter of the floor or growing space for marijuana.

“Square feet under cultivation” does not include hallways, equipment storage areas, or other areas within the licensed premises that are not used for growing marijuana such as an office, or a processing or storage area.

“State highway” means a right-of-way classified by the State of Alaska as a primary or secondary highway.

“Storage yard” means a lot used primarily for the storage of operational vehicles, construction equipment, construction materials or other tangible materials and equipment.

“Street” means a public right-of-way used as a thoroughfare and which is designed and intended to provide the primary means of access to property abutting thereon.

“Structure” means that which is built or constructed, an edifice or a building of any kind, composed of parts joined together in some definite manner.

“Subsurface extraction of natural resources” means removing valuable minerals or other geological materials from the earth, from an ore body, vein or (coal) seam. Materials recovered could include gas, oil, base metals, precious metals, iron, uranium, coal, diamonds, limestone, oil shale, rock salt and potash.

“Surface extraction of natural resources” means removal of material, usually soil, gravel, or sand for use at another location.

“Taxidermy” means the act of mounting or reproducing dead animals, fish, and/or birds for display.

“Theater” means a building or structure, or part thereof, devoted to the indoor exhibition of motion pictures and/or of live dramatic, speaking, musical, or other presentations.

“Townhouse” means single-family dwelling units constructed in a series or group of two (2) or more units separated from an adjoining unit by an approved party wall or walls, extending from the basement of either floor to the roof along the linking lot line.

“Tree nursery” means a place where trees/plants are propagated and grown to usable size.

“Use” means the purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

“Variance” means the relaxation of the development requirements of this chapter to provide relief when the literal enforcement would deprive a property owner of the reasonable use of his or her real property.

“Warehouse” means a building or structure used for the storage of goods, wares and merchandise that will be processed, sold or otherwise disposed of off of the premises.

“Wholesale business” means business conducted primarily for the purpose of selling wares or merchandise in wholesale lots to retail merchants for resale.

“Yard” means an open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this chapter, on the same lot on which a building is situated.

“Yard, front” means a yard extending across the full width of the lot between the front lot line of the lot and the nearest exterior wall of the building which is the nearest to the front lot line.

“Yard, rear” means a yard extending across the full width of the lot between the most rear main building and the rear lot line.

“Yard, side” means a yard on each side of a main building and extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of a side lot line to the nearest part of the main building.

“Zoning change” means the alteration or moving of a zone boundary; the reclassification of a lot, or parcel of land, from one zone to another; and the change of any of the regulations contained in this chapter.

“Zoning ordinance or ordinances” mean the zoning ordinance of the City of Kenai and KMC Title [14](#).

(Ords. 925, 1017, 1179, 1305-89, 1306-89, 1634-95, 1744-97, 1745-97, 1862-2000, 1910-2001, 2068-2004, 2094-2005, 2099-2005, 2100-2005, 2185-2006, 2195-2006, 2272-2007, 2652-2012, 2688-2013, 2870-2016, 2884-2016, 3068-2019)

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**The Kenai Municipal Code is current through Ordinance 3102-2020, passed February 5, 2020.**

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

City Website: [www.kenai.city](http://www.kenai.city)

City Telephone: (907) 283-7535

[Code Publishing Company](#)



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**CITY OF KENAI**

**ORDINANCE NO. 3132-2020**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS BY \$454.84 IN THE GENERAL FUND – POLICE DEPARTMENT FOR DRUG INVESTIGATION OVERTIME EXPENDITURES.

WHEREAS, the Kenai Police Department assists the Regional Drug Task Force on initiatives with funding availability through the Alaska High Intensity Drug Traffic Area (HIDTA), which is funded through a federal government appropriation; and,

WHEREAS, funding through HIDTA is available to reimburse certain overtime expenditures for the Kenai Police Officers that assist the regional drug task force on those HIDTA initiatives; and,

WHEREAS, the most recent overtime expense eligible for reimbursement is \$454.84.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** That the City Manager is authorized to accept these funds from the HIDTA in the amount of \$454.84 and to expend those funds to fulfill the purpose and intent of this ordinance

**Section 2.** That the estimated revenues and appropriations be increased as follows:

|                               |                 |
|-------------------------------|-----------------|
| General Fund:                 |                 |
| Increase Estimated Revenues – |                 |
| Federal Grants - Police       | <u>\$454.84</u> |
|                               |                 |
| Increase Appropriations –     |                 |
| Police - Overtime             | <u>\$454.84</u> |

**Section 3.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


**Section 4.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 3, 2020  
Enacted: June 17, 2020  
Effective: June 17, 2020





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**THROUGH:** Paul Ostrander, City Manager

**FROM:** David Ross, Police Chief

**DATE:** May 21, 2020

**SUBJECT:** **Ordinance No. 3132-2020, Accepting HIDTA Grant Funds**

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The Kenai Police Department assists the Regional Drug Task Force. In August of 2019 certain overtime worked to assist the regional drug task force was eligible for reimbursement through the Alaska High Intensity Drug Trafficking Area (HIDTA), which receives its funding through federal appropriation. The Police Department requested and received reimbursement for \$454.84 in overtime expenditures.

I am respectfully requesting consideration of the ordinance accepting and appropriating the grant funds for the purpose they were intended.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3133-2020**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AUTHORIZING A BUDGET TRANSFER IN THE AIRPORT TERMINAL IMPROVEMENT CAPITAL PROJECT FUND AND APPROPRIATING FY2020 BUDGETED FUNDS IN THE AIRPORT MASTER PLAN CAPITAL PROJECT, AIRPORT SNOW REMOVAL EQUIPMENT AND AIRPORT OPERATIONS FACILITY IMPROVEMENT CAPITAL PROJECT FUNDS FOR HEATING, VENTILATION AND AIR CONDITIONING (HVAC) IMPROVEMENT TO THE AIRPORT OPERATIONS FACILITY AND REPLACEMENT OF THE AIRPORT’S WIDE AREA MOWER.

WHEREAS, the FY2021 Airport Capital Improvement Plan included an \$131,000 project to replace the airport’s wide area mower and tractor; and,

WHEREAS, fund balance in the amount of \$2,515 remains in the Airport Master Plan Improvement Capital Project Fund from the completed Airport Master Plan Project that is available for reappropriation; and,

WHEREAS, excess funds from the Terminal Rehabilitation Project in the amount of \$208,485 are available for redirection to fund these projects; and,

WHEREAS, repairs to the Airport Operations Facility HVAC and replacement of the Airport’s wide area mower are important to operations at the Kenai Municipal Airport and in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** That the following budget transfer is authorized:

|   |                  |
|---|------------------|
| Airport Terminal Improvement Capital Project Fund |                  |
| Decrease - Construction                           | <u>\$208,485</u> |
| Increase – Transfer to Other Funds                | <u>\$208,485</u> |

**Section 2.** That the estimated revenues and appropriations be increased as follows:

|  |                 |
|--|-----------------|
| Airport Master Plan Capital Project Fund |                 |
| Increase Estimated Revenues –            |                 |
| Appropriation of Fund Balance            | \$ <u>2,515</u> |
| Increase Appropriations –                |                 |
| Transfer to Other Funds                  | \$ <u>2,515</u> |

**Section 3.** That the estimated revenues and appropriations be increased as follows:

|  |                  |
|--|------------------|
| Airport Operations Facility Improvement Capital Project Fund |                  |
| Increase Estimated Revenues –                                |                  |
| Transfer from Other Funds                                    | \$ <u>80,000</u> |
|  |                  |
| Increase Appropriations –                                    |                  |
| HVAC Repairs Capital Project                                 | \$ <u>80,000</u> |

**Section 4.** That the estimated revenues and appropriations be increased as follows:

|   |                   |
|---|-------------------|
| Airport Snow Removal Equipment Capital Project Fund |                   |
| Increase Estimated Revenues –                       |                   |
| Transfer from Other Funds                           | \$131,000         |
|   |                   |
| Increase Appropriations –                           |                   |
| Wide Area Mower Replacement Capital Project         | \$ <u>131,000</u> |

**Section 5.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


**Section 6.** Effective Date: That this ordinance shall take effect on July 1, 2020, the effective date of the FY2021 City of Kenai Annual Budget.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17 day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 3, 2020  
Enacted: June 17, 2020  
Effective: July 1, 2020



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Terry Eubank, Finance Director

**DATE:** May 27, 2020

**SUBJECT:** **Recommended enactment of Ordinance 3133-2020.**

---

This memo recommends enactment of Ordinance 3133-2020, authorizing appropriations in the Airport Operations and Airport Snow Removal Equipment Capital Improvement Funds and a budget transfer in the Airport Terminal Improvements Capital Project Fund for the funding and establishment of FY2021 Airport Capital Improvement Plan Projects. Funding for these projects will be from residual funds from the completed Airport Master Plan Project and residual funds from the Terminal Rehabilitation Project. The projects include heating, ventilation and air conditioning system upgrades at the Airport Operations Facility, \$80,000 and replacement of the Airports wide area mower, \$131,000. Your support for enactment is respectfully requested.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3134-2020**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, APPROPRIATING FUNDS IN THE WATER & SEWER IMPROVEMENT AND WASTEWATER TREATMENT FACILITY IMPROVEMENT CAPITAL PROJECT FUNDS FOR FY2021 CAPITAL IMPROVEMENT PLAN PROJECTS.

WHEREAS, the FY2021 Water and Sewer Special Revenue Fund Budget included transfers in the amount of \$882,577 to fund Water and Sewer and Wastewater Capital Projects in FY2021; and,

WHEREAS, \$17,423 is available from completed Water and Sewer Capital Projects for reappropriation to new projects; and,

WHEREAS, appropriation of these funds is required to establish and fund new projects which are in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** That the estimated revenues and appropriations be increased as follows:

|  |                  |
|--|------------------|
| Water & Sewer Improvement Capital Project Fund |                  |
| Increase Estimated Revenues –                  |                  |
| Transfer from Other Funds                      | \$97,577         |
| Appropriation of Fund Balance                  | <u>17,423</u>    |
|  | <u>\$115,000</u> |
|  |                  |
| Increase Appropriations –                      |                  |
| SCADA System Integration Capital Project       | \$ 35,000        |
| Manhole Restoration Capital Project            | <u>80,000</u>    |
|  | <u>\$115,000</u> |

**Section 2.** That the estimated revenues and appropriations be increased as follows:

|  |                  |
|--|------------------|
| Wastewater Treatment Facility Improvement Capital Project Fund |                  |
| Increase Estimated Revenues –                                  |                  |
| Transfer from Other Funds                                      | <u>\$785,000</u> |
|  |                  |
| Increase Appropriations –                                      |                  |
| Digester Blower Replacement and Building Capital Project       | \$750,000        |
| SCADA System Integration Capital Project                       | <u>35,000</u>    |
|  | <u>\$785,000</u> |

**Section 3.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


**Section 4.** Effective Date: That this ordinance shall take effect on July 1, 2020, the effective date of the FY2021 City of Kenai Annual Budget.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17 day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 3, 2020  
Enacted: June 17, 2020  
Effective: July 1, 2020



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Terry Eubank, Finance Director

**DATE:** May 27, 2020

**SUBJECT:** Recommended enactment of Ordinance 3134-2020.

---

This memo recommends enactment of Ordinance 3134-2020 appropriating FY2021 Capital Plan Projects in the Water and Sewer and Wastewater Treatment Facility Capital Improvement Funds. Funding for FY2021 projects will be from a Water & Sewer Special Revenue Fund transfer, included in the FY2021 Adopted Budget, and residual funds from previous Kenai Water & Sewer Capital Projects. The projects include Water & Sewer SCADA Integration, \$35,000, Water and Sewer manhole restoration, \$80,000, Wastewater Treatment Facility digester blower replacement and building construction, \$750,000 and Wastewater Treatment Facility SCADA integration, \$35,000. Your support for enactment is respectfully requested.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3135-2020**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, APPROPRIATING FY2020 BUDGETED FUNDS IN THE KENAI MULTIPURPOSE FACILITY IMPROVEMENTS CAPITAL PROJECT FUND FOR INSTALLATION OF AN EXHAUST FAN AND CORROSION REMEDIATION.

WHEREAS, the FY2021 General Fund Budget included a \$152,259 transfer to the Kenai Multipurpose Facility Improvement Capital Project Fund for installation of an exhaust fan and corrosion remediation; and,

WHEREAS, \$2,741 remains in the Kenai Multipurpose Facility Improvement Capital Project Fund from previously completed projects and is available for appropriation to new projects; and,

WHEREAS, appropriation of these funds is required to establish and fund new projects which are in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** That the estimated revenues and appropriations be increased as follows:

|  |                  |
|--|------------------|
| Kenai Multipurpose Facility Improvement Capital Project Fund |                  |
| Increase Estimated Revenues –                                |                  |
| Transfer from General Fund                                   | \$152,259        |
| Appropriation of Fund Balance                                | <u>2,741</u>     |
|  | <u>\$155,000</u> |
| Increase Appropriations –                                    |                  |
| Exhaust Fan Installation Capital Project                     | \$ 75,000        |
| Corrosion Remediation Capital Project                        | <u>80,000</u>    |
|  | <u>\$155,000</u> |

**Section 3.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 4.** Effective Date: That this ordinance shall take effect on July 1, 2020, the effective date of the FY2021 City of Kenai Annual Budget.




Ordinance No. 3135-2020  
Page 2 of 2

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17 day of June, 2020.

\_\_\_\_\_  
BRIAN GABRIEL SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 3, 2020  
Enacted: June 17, 2020  
Effective: July 1, 2020



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Terry Eubank, Finance Director

**DATE:** May 27, 2020

**SUBJECT:** **Recommended enactment of Ordinance 3135-2020.**

---

The purpose of this memo is to recommend enactment of Ordinance 3135-2020 appropriating FY2021 Capital Plan Projects in the Kenai Multipurpose Facility Capital Improvement Fund. Funding for FY2021 projects will be from a General Fund transfer, included in the FY2021 Adopted Budget, and residual funds from previous Kenai Multipurpose Facility Capital Projects. The projects include the installation of an exhaust fan, \$75,000 and corrosion remediation, \$80,000. Your support for enactment is respectfully requested.



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2020-26**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING ITS COMPREHENSIVE SCHEDULE OF RATES, CHARGES, AND FEES TO INCORPORATE CHANGES INCLUDED IN THE FY2021 BUDGET TO INCLUDE ADJUSTING THE KENAI MUNICIPAL AIRPORT APRON RENTAL RATES, AIRPORT RESERVE LAND ANNUAL LEASE RATES, AND ADJUSTING THE MONTHLY RENTAL RATES AT VINTAGE POINTE.

WHEREAS, the Administration has determined the rental rates for non-signatory apron space on the Kenai Airport are significantly undervalued considering land values, construction cost of improvements, and maintenance costs; and,

WHEREAS, undervalued rental rates for apron space is a significant deterrent to development of airport lease lots; and,

WHEREAS, the proposed increase is part of the administration's six-year plan to increase non-signatory airline apron rental rates to market value with FY21 being the sixth and final year of this plan; and,

WHEREAS, future increase will be evaluated annually and will likely be proposed to increase commensurate with the Consumer Price Index for Anchorage (CPI), as defined in Kenai Municipal Code 21.10.015; and,

WHEREAS, the proposed increase to Airport Reserve Land Annual Lease Rates is commensurate with the 2019 annual change in Consumer Price Index for Anchorage and is a required rate change under Kenai Municipal Code 21.10.090(b); and;

WHEREAS, a rental rate study for Vintage Pointe was completed showing that unit rents were below market value by an average \$63.48 per month with the lowest monthly difference being \$39.17 per month and the highest difference being \$94.61 per month; and,

WHEREAS, below market monthly rental rates at Vintage Pointe are budgeted to increase in FY2021 in an effort to bring the rental rates closer to market rate rents as determined by the 2020 market rent study by Reliant, LLC; and,

WHEREAS, all units will increase by \$35.00 a month in FY2021 and future rental increases will equal the amount needed to achieve the market rental rate, based on the 2020 market rent study and increase annually by Anchorage's annual CPI, not to exceed a maximum of \$35.00 per month until the market rental rate is achieved; and,

WHEREAS, charging market rates will assist in providing adequate funds for ongoing and long-term maintenance of the facility.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

**Section 1.** The Airport Fees section of the City’s Comprehensive Schedule of Rates, Charges and Fees be amended as follows:

**AIRPORT FEES**

|  |   |          |
|--|---|----------|
| 21.05.085                                | <b>Fuel Flowage Fee per gallon</b>  | \$0.02   |
| <b>APX -<br/>Airport<br/>Regulations</b> | <b>Aircraft Parking Fees</b>  |          |
| 6.05.070 (c)                             | -transient, under 4,000 lbs. 0 - 4 hrs.   | FREE     |
| 6.05.070 (c)                             | -transient, under 4,000 lbs. over 4 hrs.  | \$5.00   |
| 6.05.070 (c)                             | -transient, 4,001 - 12,500 lbs. per day   | \$50.00  |
| 6.05.070 (c)                             | -transient, 12,501 - 100,000 lbs. per day   | \$100.00 |
| 6.05.070 (c)                             | -transient, 100,001 lbs. per day  | \$250.00 |
|  | <b>Landing Fees</b>   |          |
| 14.05.010 (a)(2)                         | Signatory per thousand pounds   | \$1.70   |
| 14.05.010 (b)(2)                         | Non-signatory per thousand pounds   | \$2.21   |
|  | exempt -- float planes, test landings due to mechanical or weather, government aircraft |          |
|  | <b>Tie-down Fees, General Aviation</b>  |          |
|  | <b>Paved Areas</b>  |          |
|  | -wheels, per month  | \$40.00  |
|  | -wheels, w/electric per month   | \$60.00  |
|  | <b>Gravel Area</b>  |          |
|  | -wheels/skis, per month   | \$40.00  |
|  | <b>Float Plane Basin, Private</b>   |          |
|  | -daily  | \$5.00   |
|  | -monthly  | \$40.00  |
|  | -season -- May to October   | \$250.00 |
|  | <b>Float Plane Basin, Commercial</b>  |          |
|  | -daily  | \$10.00  |
|  | -monthly  | \$50.00  |
|  | -season -- May to October   | \$300.00 |
|  | -monthly w/electric   | \$75.00  |
|  | <b>Terminal Building Rent -- Exclusive Space</b>  |          |
|  | -signatory - per square foot per year   | \$33.85  |

|  |                        |
|--|------------------------|
| -signatory -- arrival hallway,<br>departure hallway, passenger hold<br>room & baggage claim area (per<br>square foot per year) | \$33.85                |
| <b>Terminal Building Rent -- Joint<br/>Use Space</b>   |                        |
| -signatory -- baggage make up<br>area (per square foot per year)   | \$20.51                |
| -signatory -- baggage break down<br>area (per square foot per year)  | \$20.51                |
| -non-signatory terminal rates 30%<br>higher  |                        |
| <b>Vehicle Parking Fees at Terminal</b>  |                        |
| -short term 0 - 2 hours  | FREE                   |
| -24 hours  | \$7.00                 |
| -annual permit   | \$700.00               |
| -annual parking permit w/electric  | \$1,000.00             |
| <b>Vehicle Parking Fees<br/>Greater Than 1/4 Mile From<br/>Terminal Building (at GA Lot)</b>                                   |                        |
| -calendar day  | \$3.00                 |
| -annual permit   | \$420.00               |
| <b>Business Activity &amp; Airport<br/>Access Permit</b>   |                        |
| -mechanic access (per each)  | \$50.00                |
| -fueling access (annual)   | \$100.00               |
| -dispensing fee (per gallon)   | \$0.02                 |
| -water extraction access (annual)  | \$100.00               |
| -non-tenant use of basin parking<br>apron  | \$75.00                |
| -float plane parking apron (annual)  | \$25.00                |
| -Deposit/replacement proximity<br>card fee (each)  | \$100.00               |
| -Catering/mobile food service  | \$50.00                |
| <b>Commercial Turn Fees</b>  |                        |
| -turn fee (narrow body - (1 aisle)   | \$200.00               |
| -turn fee (regional 50 - 99 seats)   | \$150.00               |
| -turn fee (commuter - fewer than<br>50 seats)  | \$100.00               |
| <b>Helicopter Landing Fees</b>   |                        |
| -Per Landing   | \$25.00                |
| <b>Other Fees</b>  |                        |
| -Taxi cab (per vehicle per pickup)   | \$1.00                 |
| -Terminal building key replacement<br>(per key)  | \$10.00                |
| -Non-signatory airline airport apron<br>rental rate per square foot  | [\$1.04] <u>\$1.21</u> |
| -Signatory, airline, terminal apron<br>parking and GSE storage space rent<br>per square foot                                   | \$0.52                 |

| 21.10.090<br>(a) | <b>Airport Reserve Land Annual Lease Rates</b> | <b>Legal Description of Property</b>   | <b>KPB Parcel ID No.</b> | <b>[FY20] FY21 Annual Rent</b>                            |
|------------------|--|--|--------------------------|---|
|                  |  | Lot 2, Block 2, FBO Subdivision NW 1/4 NW 1/4 Sec, 33 lying W of Marathon Rd. excluding Baron Park 2007 Replat | 04336004<br>04501056     | [\$6,437.92]<br><u>\$6,528.08</u><br>Subject to Appraisal |
|                  |  | Lot 8, Block 2, Cook Inlet Industrial Air Park   | 04322008                 | [\$15,368.88] <u>\$15,584.08</u>                          |
|                  |  | Lot 3, Block 5, Cook Inlet Industrial Air Park   | 04322020                 | [\$5,840.16] <u>\$5,921.92</u>                            |
|                  |  | Lot 4, Block 5, Cook Inlet Industrial Air Park   | 04322021                 | [\$5,884.16] <u>\$5,966.56</u>                            |
|                  |  | [Tract A, General Aviation Apron No.3  | 04324025                 | Subject to Appraisal]                                     |
|                  |  | Lot 9A, Block 5, General Aviation Apron No. 6  | 04324026                 | [\$13,661.68] <u>\$13,852.96</u>                          |
|                  |  | Lot 1, Block 2, FBO Subdivision  | 04336003                 | [\$6,701.68] <u>\$6,795.52</u>                            |
|                  |  | [Lot 6, Block 1, FBO Subdivision   | 04336016                 | \$6,557.44  |
|                  |  | Lot 5, Block 1, FBO Subdivision  | 04336017                 | \$6,557.44]   |
|                  |  | Lot 1, FBO Subdivision No. 7   | 04336034                 | [\$12,546.00] <u>\$12,721.68</u>                          |
|                  |  | Lot 3, FBO Subdivision No. 7   | 04336036                 | [\$17,773.52] <u>\$18,022.32</u>                          |
|                  |  | Lot 5, FBO Subdivision No. 9   | 04336043                 | Subject to Appraisal                                      |
|                  |  | Tract A1, Baron Park 2007 Replat   | 04501031                 | [\$35,858.80] <u>\$36,360.80</u>                          |
|                  |  | Tract C-1, Gusty Subd. No. 8   | 04327034                 | [\$3,479,44] <u>\$3,528.16</u>                            |
|                  |  | Portion of W1/2 of Sec. 28 & SE1/4, Sec. 29, T6N, R11W   | 04101021                 | Subject to Appraisal                                      |
|                  |  | Portion of SW1/4, Sec. 29, T6N, R11W Excluding Airport Float Basin Replat                                      | 04101022                 | Subject to Appraisal                                      |
|                  |  | Portion of Tract A, Kenai Airport Float Plane Basin Replat   | 04318043                 | Subject to Appraisal                                      |
|                  |  | Portion Sec. 32, T6N, R11W Excluding Subs. & Leased Areas & Float Plane Basin                                  | 04318044                 | Subject to Appraisal                                      |
|                  |  | Tract A, FBO Subdivision   | 04336001                 | Subject to Appraisal                                      |

**Section 2.** The Vintage Pointe Rents section of the City’s Comprehensive Schedule of Rates, Charges and Fees be amended as follows:

**VINTAGE POINTE RENTS**

FOR UNITS WITH RENTAL AGREEMENTS GRANDFATHERED PER THE CITY’S POLICY BEFORE JUNE 30, 20[18]20:

|  |              |                   |
|--|--------------|-------------------|
| <u>1-A apartment=586 sq. ft. Ocean Side (8)</u>  |              | <u>\$943.61</u>   |
| <u>1-A apartment=586 sq. ft. Street Side (5)</u> |              | <u>\$891.09</u>   |
| <u>1-B apartment=636 sq. ft. Street Side (6)</u> |              | <u>\$906.83</u>   |
| <u>1-B apartment=637 sq. ft. Ocean Side (4)</u>  |              | <u>\$958.80</u>   |
| <u>1-C apartment=682 sq. ft. Ocean Side (4)</u>  |              | <u>\$958.80</u>   |
| <u>1-C apartment=682 sq. ft. Street Side (4)</u> |              | <u>\$906.83</u>   |
| 2-A apartment=826 sq. ft. Ocean Side (3)         | [\$1,035.20] | <u>\$1,070.20</u> |
| <u>2-A apartment=826 sq. ft. Street Side (1)</u> |              | <u>\$1,019.41</u> |
| <u>2-B apartment=876 sq. ft. Ocean Side (2)</u>  |              | <u>\$1,074.97</u> |
| <u>2-B apartment=876 sq. ft. Street Side (2)</u> |              | <u>\$1,019.41</u> |
| <u>2-C apartment=789 sq. ft. Ocean Side (1)</u>  |              | <u>\$1,059.81</u> |
| Monthly Automatic ACH Payment Fee                |              | \$0.00            |

Note: All Vintage Pointe Rents are subject to a 2% discount for payment by means other than credit card.

**FOR UNITS WITH MARKET RATE RENTAL AGREEMENTS:**

|   |              |                   |
|---|--------------|-------------------|
| 1-A apartment=586 sq. ft. Ocean Side (8)  | [\$908.61]   | <u>\$958.00</u>   |
| 1-A apartment=586 sq. ft. Street Side (5) | [\$856.09]   | <u>\$911.00</u>   |
| 1-B apartment=636 sq. ft. Street Side (6) | [\$871.83]   | <u>\$930.00</u>   |
| 1-B apartment=637 sq. ft. Ocean Side (4)  | [\$924.35]   | <u>\$978.00</u>   |
| 1-C apartment=682 sq. ft. Ocean Side (4)  | [\$924.35]   | <u>\$995.00</u>   |
| 1-C apartment=682 sq. ft. Street Side (4) | [\$871.83]   | <u>\$947.00</u>   |
| 2-A apartment=826 sq. ft. Ocean Side (3)  | [\$1,045.17] | <u>\$1,121.00</u> |
| 2-A apartment=826 sq. ft. Street Side (1) | [\$987.39]   | <u>\$1,066.00</u> |
| 2-B apartment=876 sq. ft. Ocean Side (2)  | [\$1,045.17] | <u>\$1,137.00</u> |
| 2-B apartment=876 sq. ft. Street Side (2) | [\$987.39]   | <u>\$1,082.00</u> |
| 2-C apartment=789 sq. ft. Ocean Side (1)  | [\$1,029.40] | <u>\$1,108.00</u> |
| Monthly Automatic ACH Payment Fee         |              | \$0.00            |

Note: All Vintage Pointe Rents are subject to a 2% discount for payment by means other than credit card.

**Section 3.** That this Resolution takes effect July 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 20<sup>th</sup> day of May, 2020.

\_\_\_\_\_  
BRIAN GABRIEL, SR., MAYOR

ATTEST:

\_\_\_\_\_  
Jamie Heinz, CMC, City Clerk



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Mary Bondurant, Airport Manager

**DATE:** May 8, 2020

**SUBJECT:** Resolution No. 2020-26 FY21 Increase to Apron Rental Rates

---

On May 18, 2016, Council approved a six-year plan to increase aircraft apron parking rates to market value.

Effective July 1, 2020, the apron rental rate per square foot will be increased from \$1.041 to \$1.210. This will be the sixth rate increase to the six-year table.

Thank you for your consideration.





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Elizabeth Appleby, City Planner  
**DATE:** May 14, 2020  
**SUBJECT:** Resolution No. 2020-26 FYI 21 – Lease Rates

---

Resolution 2020-26 will adjust lease rates for parcels within the Airport Reserve published in the City's fee schedule. Kenai Municipal Code 21.10.090(b) states that lease rates within the Airport Reserve shall be, "adjusted annually based on the rate of inflation determined by the consumer price index." The consumer price index (CPI) is defined in Kenai Municipal Code 21.10.015 as follows: "'Consumer price index (CPI)" means the CPI for all urban consumers (CPI-U) for Anchorage, Alaska." The new proposed lease rates reflect this annual change in rent based upon CPI, which is an approximate increase of 1.39% for FY21.

Three parcels were deleted from the proposed FY21 fee schedule. Parcel 04324025 was deleted due to a pending lease. Parcels 04336016 and 04336017 were combined to become parcel 04336049, which also had a pending lease. The fee schedule only lists the lease rates for vacant parcels within the Airport Reserve available to lease.

Thank you for your consideration.



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Kathy Romain, Senior Center Director  
**DATE:** May 12, 2020  
**SUBJECT:** **FY21 Vintage Pointe Rental Rates**

---

Vintage Pointe Manor was built with the intention of being an independent senior housing facility with rents to be based upon market rates. Earlier this year, the City commissioned a market rate study that was performed by Reliant, LLC., which determined rents were below market rate. The City instituted a plan to increase rents to market rates by increasing rents annually by a maximum of \$35.00 until market rate was reached and then annually by the change in the Anchorage Consumer Price Index. Any future rental agreements will be at market rate. This plan has worked well after the previous market study.

Thank you for your consideration.



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Terry Eubank, Finance Director

**DATE:** May 28, 2020

**SUBJECT:** Recommended Amendment to Previously Adopted Legislation, Resolution 2020-26

---

The purpose of this memo is to recommend amendment to previously adopted legislation, Resolution 2020-26. Resolution 2020-26 amended the City's Comprehensive Schedule of Rates, Charges, and Fees for fee increases proposed and adopted in the FY2021 City Budget. Five of the new rates calculated for Vintage Pointe Rents were incorrect and require amendment so all units will see the same \$35.00 per month increase. The following amendment is respectfully requested:

Amend Section 2, Vintage Pointe Rents for units with rental agreements grandfathered per the City's policy before June 30, 2020 by amending

- the rental rate for apartments 1-B 637 sq ft Ocean Side to \$959.35.
- the rental rate for apartments 1-C 682 sq ft Ocean Side to \$959.35
- the rental rate for apartments 2-B 876 sq ft Street Side to \$1,022.39
- the rental rate for apartments 2-B 876 sq ft Ocean Side to \$1,080.17
- the rental rate for apartments 2-C 789 sq ft Ocean Side to \$1,064.40

Your support is respectfully requested.

**KENAI COUNCIL ON AGING  
REGULAR MEETING  
MAY 14, 2020 – 4:30 P.M.  
KENAI SENIOR CENTER  
CHAIR DON ERWIN, PRESIDING**

**MEETING SUMMARY**

**1. CALL TO ORDER**

Chair Erwin called the meeting to order at 4:43 p.m.

**a. Pledge of Allegiance**

Chair Erwin led those assembled in the Pledge of Allegiance.

**b. Roll was confirmed as follows:**

Members Present: D. Erwin, R. Williams, V. Geller, A. Weeks, B. Modigh, M. Milewski

Members Absent: L. Nelson, C. Thornton, S. Bise

Staff/Council Liaison Present: Senior Center Director K. Romain, Administrative Assistant A. Clary, City Clerk J. Heinz, and Council Member J. Glendening

A quorum was present.

**c. Agenda Approval**

**MOTION:**

Member Meeks **MOVED** for approval of the agenda and Member Geller **SECONDED** the motion. There were no objections; **SO ORDERED.**

2. **SCHEDULED PUBLIC COMMENTS** (*Public comment limited to ten (10) minutes per speaker*) – None.
3. **UNSCHEDULED PUBLIC COMMENT** (*Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated*) – None.
4. **APPROVAL OF MEETING SUMMARY**
  - a. January 9, 2020

**MOTION:**

Member Modigh **MOVED** to approve the January 9, 2020 meeting summary as written and Member Geller **SECONDED** the motion. There were no objections; **SO ORDERED.**

5. **UNFINISHED BUSINESS** – None.

6. **NEW BUSINESS**

a. **Discussion** – 2020 Senior Center Survey Report

Director Romain relayed Senior Center Survey results to the Council as significantly favorable. Discussion followed with comments including how the survey would affect support grant funding and that the information was useful for other projects.

It was clarified that the information provided in the packet would be available to the City Manager, City Council and the general public.

b. **Discussion/Recommendation** – FY2021-2025 Capital Improvement Plan

**MOTION:**

Member Weeks **MOVED** to recommend Council adopt the Capital Improvement Plan as presented and Member Williams **SECONDED** the motion. There were no objections; **SO ORDERED**.

7. **REPORTS**

a. **Senior Center Director** – Romain reported the following:

- Commended the Assistant to the City Manager and the Public Works Department for their work on the Capital Improvement Plan portion for the Senior Center and Vintage Pointe;
- In April the Senior Center delivered almost 3,000 home meals; more senior citizens were accessing this service due to community people connecting seniors with the Center;
- Shelf stable bags were also being delivered and were the equivalent to five individual meals;
- Grants were received from Meals on Wheels of America and the State of Alaska Nutrition Transportation Service Program; and
- Opening for the Senior Center is undetermined at this time.

b. **Council on Aging Chair** – No report.

c. **City Council Liaison** – Glendening reviewed the Action Agenda for the Council's previous meetings as provided in the packet and announced an upcoming work session regarding the COVID-19 response.

8. **NEXT MEETING ATTENDANCE NOTIFICATION** – June 11, 2020

9. **COUNCIL MEMBERS COMMENTS AND QUESTIONS**

Council members inquired about what services would look like while closed and moving forward.

10. **ADDITIONAL PUBLIC COMMENT** – None.

11. **INFORMATION ITEMS** – None.

12. **ADJOURNMENT**

**MOTION:**

Member Modigh **MOVED** for adjournment and Member Weeks **SECONDED** the motion. There were no objections; **SO ORDERED**.

There being no further business, the Council on Aging meeting adjourned at 5:50 p.m.

Meeting summary prepared and submitted by:

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Jacquelyn LaPlante  
Deputy City Clerk

DRAFT

**KENAI AIRPORT COMMISSION  
REGULAR MEETING  
MAY 14, 2020 – 6:00 P.M.  
KENAI CITY COUNCIL CHAMBERS  
CHAIR GLENDA FEEKEN, PRESIDING**

**MEETING SUMMARY**

**1. CALL TO ORDER**

Chair Feeken called the meeting to order at 6:00 p.m.

**a. Pledge of Allegiance**

Chair Feeken led those assembled in the Pledge of Allegiance.

**b. Roll was confirmed as follows:**

Commissioners Present: G. Feeken, J. Bielefeld, P. Minelga, K. Dodge, J. Zirul, D. Pitts, D. Leichliter

Commissioners Absent:

Staff/Council Liaison Present: Airport Manager M. Bondurant, Council Liaison T. Navarre

A quorum was present.

**c. Agenda Approval**

**MOTION:**

Commissioner Bielefeld **MOVED** to approve the agenda as written and Commissioner Leichliter **SECONDED** the motion. There were no objections; **SO ORDERED**.

**2. SCHEDULED PUBLIC COMMENT** – None.

**3. UNSCHEDULED PUBLIC COMMENT** – None.

**4. APPROVAL OF MEETING SUMMARY**

a. March 12, 2020

**MOTION:**

Commissioner Bielefeld **MOVED** to approve the meeting summary of March 12, 2020 and Commissioner Dodge **SECONDED** the motion. There were no objections; **SO ORDERED**.

**5. UNFINISHED BUSINESS** – None.

**6. NEW BUSINESS**

a. **Discussion** – Float Plane Basin Fuel Pumps

The Airport Manager addressed the use of WEX (fleet) cards at the float plane fuel pump, noting the cost associated with the fleet card was triple the cost of standard credit cards.

**MOTION:**

Commissioner Zirul **MOVED** to recommend Administration and Council to implement a plan to begin accepting commercial fleet cards and Commissioner Leichliter **SECONDED** the motion. There were no objections; **SO ORDERED**.

b. **Discussion/Recommendation** – Special Use Permit to Everts Air Fuel, Inc.

It was noted this was a renewal for aircraft loading and parking.

**MOTION:**

Commissioner Dodge **MOVED** to approve the Special Use Permit to Everts Air Fuel, Inc. and Commissioner Minelga **SECONDED** the motion. There were no objections; **SO ORDERED**.

c. **Discussion/Recommendation** – Special Use Permit to Crowley Fuels, LLC

It was noted this was a renewal for aviation fueling.

**MOTION:**

Commissioner Minelga **MOVED** to approve the Special Use Permit to Crowley Fuels, LLC and Commissioner Bielefeld **SECONDED** the motion. There were no objections; **SO ORDERED**.

d. **Discussion/Recommendation** – Special Use Permit to United Parcel Service Co.

It was noted this was a renewal for aircraft loading and parking.

**MOTION:**

Commissioner Zirul **MOVED** to approve the Special Use Permit to United Parcel Service Co. and Commissioner Bielefeld **SECONDED** the motion. There were no objections; **SO ORDERED**.

e. **Discussion/Recommendation** – Special Use Permit to Empire Airlines

It was noted this was a renewal for aircraft parking.

**MOTION:**

Commissioner Bielefeld **MOVED** to approve the Special Use Permit to Empire Airlines and Commissioner Dodge **SECONDED** the motion. There were no objections; **SO ORDERED**.

f. **Discussion/Recommendation** – Special Use Permit to Weaver Brothers, Inc.

It was noted Weaver Brothers was requesting additional parking space.



**MOTION:**

Commissioner Zirul **MOVED** to approve the Special Use Permit to Weaver Brothers, Inc. and Commissioner Leichliter **SECONDED** the motion. There were no objections; **SO ORDERED**.

- g. **Discussion/Recommendation** – Second Amendment to Restaurant Concession Agreement

It was noted the terms and conditions would remain the same.

**MOTION:**

Commissioner Zirul **MOVED** to recommend Council approve the Second Amendment to the Restaurant Concession Agreement with Situla LLC d/b/a Brother’s Cafe and Commissioner Minelga **SECONDED** the motion. There were no objections; **SO ORDERED**.

- h. **Discussion/Recommendation** – Resolution 2020-31 Conversion of Lease with State of Alaska, Division of Forestry

**MOTION:**

Commissioner Zirul **MOVED** to recommend Council approve a lease conversion with the State of Alaska Department of Natural Resources, Division of Forestry and Commissioner Leichliter **SECONDED** the motion. There were no objections; **SO ORDERED**.

- i. **Discussion/Recommendation** – FY2021-2025 Capital Improvement Plan

The Commission discussed the proposed FY2021-2025 Capital Improvement Plan.

**MOTION:**

Commissioner Bielefeld **MOVED** to recommend Council approve the FY2021-2025 Capital Improvement plan as presented and Commissioner Leichliter **SECONDED** the motion. There were no objections; **SO ORDERED**.

**7. REPORTS**

- a. **Airport Manager** – Bondurant reported on the following:
  - Provided an update of the Kenai Municipal Airport project and the Fire Training Facility Project;
  - Grant Aviation was keeping up with the public demand of traveling;
  - Working logistics for new sand storage building, hoping for completion in FY20;
  - The Airport Administration Offices were still closed to the public while Brother’s Café and the Upper Deck Bar were now open; and
  - The 20<sup>th</sup> Annual Kenai Peninsula Air Fair was canceled due to the pandemic.
- b. **City Council Liaison** – Navarre reported on the May 6 City Council meeting actions; adding that returning to in-person meetings would be discussed at the next Council meeting.

**8. NEXT MEETING ATTENDANCE NOTIFICATION – June 11, 2020**

**9. COMMISSIONER COMMENTS AND QUESTIONS**

Commission Zirul noted Grant Aviation should enforce that all passengers wear face masks.

**10. ADDITIONAL PUBLIC COMMENT – None.****11. INFORMATION ITEMS**

- a. April 2020 Mid-Month Report
- b. Ordinance No. 3123-2020 CARES Act Grant
- c. Senator Micciche letter – Willie F. Card Nomination for Kenai Tower
- d. U.S. DOT Letter of April 30, 2020 – DBE and ACDBE Program Monitoring During COVID-19 Public Health Emergency Guidance
- e. April 2020 Enplanement Report

**12. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 7:10 p.m.

Meeting summary prepared and submitted by:

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Jacquelyn LaPlante  
Deputy City Clerk

**KENAI PARKS & RECREATION COMMISSION  
MAY 7, 2020 – 6:00 PM  
KENAI CITY HALL  
CHAIR CHARLIE STEPHENS, PRESIDING**

**MEETING SUMMARY**

**1. CALL TO ORDER**

Chair Stephens called the meeting to order at 6:00 p.m.

**a. Pledge of Allegiance**

Chair Stephens led those assembled in the Pledge of Allegiance.

**b. Roll was confirmed as follows:**

Commissioners present: C. Stephens, J. Joanis, S. Kisen, J. Dennis, M. Bernard, T. Winger, T. Wisniewski

Commissioners absent: R. Tomrdle

Staff/Council Liaison present: Parks & Rec Director B. Frates, Deputy City Clerk J. LaPlante, Council Liaison B. Molloy

A quorum was present.

**c. Agenda Approval**

**MOTION:**

Commissioner Joanis **MOVED** to approve the agenda as presented and Commissioner Dennis **SECONDED** the motion. There were no objections; **SO ORDERED.**

**2. SCHEDULED PUBLIC COMMENTS – None.**

**3. UNSCHEDULED PUBLIC COMMENT – None.**

**4. APPROVAL OF MEETING SUMMARY**

**a. March 5, 2020**

**MOTION:**

Commissioner Kisen **MOVED** to approve the meeting summary of March 5, 2020 and Commissioner Dennis **SECONDED** the motion. There were no objections; **SO ORDERED.**

**5. UNFINISHED BUSINESS – None.**

**6. NEW BUSINESS**

**a. Discussion/Recommendation – FY2021-2025 Capital Improvement Plan**

Appreciation was noted to Administration for the thorough document, recognizing the hard work that went into it. There were questions and discussion surrounding a couple Parks and Recreation projects, namely the location of the pedestrian boardwalk and location, and status of the campground. It was clarified that monies were included in the draft plan for a campground, although its specific location was undetermined.

Concern was expressed for supporting the Parks and Recreation section of the Capital Improvement Plan without any finalized or approved plans and costs.

**MOTION:**

Commissioner Kisena **MOVED** to approve the City's Capital Improvement Plan with an understanding of continued pursuit of a campground; and Commissioner Joanis **SECONDED** the motion. There were no objections.

**7. REPORTS**

- a. **Parks and Recreation Director** – Director Frates reported that operationally things were a bit different with COVID-19; noting staff that were on COVID-19 leave returned to work and catching up on maintenance activities, such as cleaning up parks and open space areas, and prepping lawns for mowing. It was further reported that the department was conducting interviews and anticipated summer personnel would be starting June 1.
- a. **Commission Chair** – Chair Stephens expressed appreciation for everyone's input and noted positively about City Administration and staff efforts.
- b. **City Council Liaison** – Council Member Molloy reported on the recent actions and business items of the May 6 City Council meeting, including the student representative policy, City budget, and CARES Act monies for the Kenai Municipal Airport.

**8. NEXT MEETING ATTENDANCE NOTIFICATION** – June 4, 2020

**9. COMMISSION QUESTIONS & COMMENTS** – None.

**10. ADDITIONAL PUBLIC COMMENT** – None.

**11. INFORMATION** – None.

**12. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 6:50 p.m.

Meeting summary prepared and submitted by:

\_\_\_\_\_  
Jacquelyn LaPlante  
Deputy City Clerk

**KENAI PLANNING & ZONING COMMISSION  
REGULAR MEETING  
MAY 13, 2020 – 7:00 P.M.  
KENAI CITY COUNCIL CHAMBERS  
210 FIDALGO AVENUE, KENAI, ALASKA  
CHAIR JEFF TWAIT, PRESIDING**

**MINUTES**

**A. CALL TO ORDER**

Commission Chair J. Twait called the meeting to order at approximately 7:00 p.m.

**1. Pledge of Allegiance**

Commission Chair J. Twait led those assembled in the Pledge of the Allegiance.

**2. Roll Call**

Commissioners present: J. Twait, D. Fikes, V. Askin, R. Springer, T. McIntyre, J. Halstead

Commissioners absent: G. Greenberg

Staff/Council Liaison present: City Planner E. Appleby, City Clerk J. Heinz, Deputy Clerk J. LaPlante, Council Liaison H. Knackstedt

A quorum was present.

**3. Agenda Approval**

Chair Twait noted the following revisions to the agenda and packet:

- Add to Item D.1.      **Resolution No. PZ2020-07**
  - Memorandum of Additional Recommended Conditions

- Add to Item F.1.      **Resolution No. PZ2020-04**
  - Memorandum of Supplemental Information
  - Memorandum Attachment – Written Public Comment Letter from Mr. Jason R. Park and Ms. Hannah C. Parks, 740 Baleen Avenue
  - Memorandum Attachment – Kenai Municipal Code 14.22.010 Land use table

**MOTION:**

Commissioner Askin **MOVED** to approve the agenda with the requested additions to the agenda and packet and Commissioner Springer **SECONDED** the motion. There were no objections; **SO ORDERED.**

#### 4. Consent Agenda

##### MOTION:

Commissioner Halstead **MOVED** to approve the consent agenda and Commissioner Askin **SECONDED** the motion. There were no objections; **SO ORDERED**.

\*All items listed with an asterisk (\*) are considered to be routine and non-controversial by the Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commission Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda as part of the General Orders.

5. \*Excused absences – G. Greenberg

#### B. APPROVAL OF MINUTES

1. \*April 8, 2020

The minutes were approved by the Consent Agenda.

C. SCHEDULED PUBLIC COMMENT – None.

D. UNSCHEDULED PUBLIC COMMENT – None.

#### E. CONSIDERATION OF PLATS

1. **Resolution PZ2020-07** - Preliminary Subdivision Plat of Beaver Loop Acres, Addition No. 2. The plat was submitted by Segesser Surveys, 30485 Rosland Street, Soldotna, AK 99660, on behalf of Beaver Loop Sand and Gravel, LLC, P.O. Box 1290, Kenai, AK 99611 and the Estate of Patrick Doyle and Mary Doyle, 2243 Beaver Loop Rd., Kenai, AK 99611.

##### MOTION:

Commissioner Springer **MOVED** to approve Resolution PZ2020-07 and Commissioner Halstead **SECONDED** the motion.

The City Planner provided the staff report noting the preliminary plat showed that the owner is subdividing parcels into several smaller lots. It was clarified that Beaver Loop Road was currently maintained by the State of Alaska and that maintenance would transfer to the City of Kenai upon completion of paving on Beaver Loop Road this summer. The City Planner further clarified that the proposed Tract A2, Beaver Loop Acres Addition No. 2 was currently a gravel pit operated under a City conditional use permit by Beaver Loop Sand and Gravel, LLC. It was the intention of the property owner to reclaim the lots for the development of the proposed subdivision and the subdivision was in alignment with the reclamation plans of Beaver Loop Sand and Gravel, LLC.

City staff recommended approval of the preliminary plat of Beaver Loop Acres Addition No. 2, subject to the following conditions:

- Further development of the property shall conform to all federal, State of Alaska, and local regulations;
- The title block shall be revised to include that the re-subdivision also covers Lot 2, Beaver Loop Acres Subdivision, Plat 94-15;
- The “former lot line” shall be labeled on Lot 2A. 4. The signature line for Patrick Doyle shall be revised to read “The Estate of Patrick J. Doyle, deceased”; and
- The text box reading “Inlet” superimposed over the word “Map” in “Vicinity Map” shall be deleted.

**VOTE:**

YEA: McIntyre, Halstead, Springer, Fikes, Askin, Twait

NAY:

**MOTION PASSED UNANIMOUSLY.**

**F. PUBLIC HEARINGS**

1. **Resolution PZ2020-04** - Application for the rezoning of an approximately 10.6 acre parcel, described as a portion of the S1/2 SE1/4 SW 1/4, lying North of K-Beach Road, Section 17, T5N, R11W, excepting therefrom VIP Country Estates Subdivision Part 5 from Rural Residential (RR) to Limited Commercial (LC). The application was submitted by the majority property owners, Rick and Connie Vann, P.O. Box 561, Kasilof, AK 99610.

**MOTION:**

Commissioner Springer **MOVED** to approve Resolution PZ2020-04 and Commissioner Halstead **SECONDED** the motion.

The City Planner reviewed the staff report and rationale for how the application met the approval criteria provided in the packet noting the LC Zone was more consistent with the layout of the parcel; adding that the applicant had indicated plans to construct a multi-unit complex that would have commercial development on the first floor. An overview of establishments and residential surrounding the parcel was provided, and concerns about increased traffic was included in the packet, addressing the restrictive and less restrictive uses.

It was noted that the rezone request of 725 Baleen Avenue from the Rural Residential Zone to the Limited Commercial Zone was suitable for an approval recommendation by the Planning and Zoning Commission to the Kenai City Council.

Commission Chair Twait opened the floor for public testimony.

Owner Connie Vann noted this would create economic opportunity and development in Kenai, allowing new businesses to start out at home, to ease startup costs and allow business growth. Commercial access was anticipated from Kalifornsky Beach Road or VIP Drive, with private access for the home from Baleen Avenue.

Resident Hannah Parks noted concerns with increased noise and traffic, safety of pedestrians,

and decreasing property value with the commercial lot and clearing of trees, and submitted a thorough letter to the Commission as provided in the laydown.

There being no one else wishing to be heard, public comment was closed.

Clarification was provided regarding acre size requirement and that this application was specifically about a zone change.

Support was noted with commercial use across the street, a zone change for potential business purpose was highest and best use for this property.

Residents were thanked for submitting public comment.

**VOTE:**

YEA: Fikes, Springer, McIntyre, Askin, Twait, Halstead

NAY:

**MOTION PASSED UNANIMOUSLY.**

- 2. **Resolution PZ2020-11** - Application for a Conditional Use of a Six-Plex for Senior Housing, on an approximately 1.215 acre parcel, described as Lot 1, Kenai Meadows, and located at 2392 Redoubt Avenue. The application was submitted by Kenai Peninsula Housing Initiatives, Inc., P.O. Box 1869, Homer, AK 99603.

The City Planner reviewed the staff report and rationale for how the application met the approval criteria provided in the packet noting this foreclosed property was donated to Kenai Peninsula Housing Initiatives, Inc. in 2016 for restricted income and senior housing. It was further noted the applicant obtained a conditional use permit to construct one six-plex that was completed and in order to add a second six-plex to the parcel, a conditional use permit must be granted by the City of Kenai. The maximum lot coverage allowed under Kenai Municipal Code 14.24 was clarified, noting the applicant exceeded it by approximately 630 square feet and an application for a variance permit was also submitted, which was contingent upon approval of the conditional use permit for the additional structure.

City staff found that the applicant met the criteria for issuance of a Conditional Use Permit as set forth in Kenai Municipal Code 14.20.185, and recommended that the Planning and Zoning Commission approve the Conditional Use Permit application, subject to the conditions outlined in the resolution.

**MOTION:**

Commissioner Springer **MOVED** to approve Resolution PZ2020-11 and Commissioner Askin **SECONDED** the motion.

Commission Chair Twait opened the floor for public testimony.

Owner Connie Vann noted that when the property was donated it was the intention to put two buildings on it.



There being no one else wishing to be heard, public comment was closed.

Favor was expressed with the current building's positive aesthetics and project management, providing improvement to the area.

**VOTE:**

YEA: Twait, Askin, Halstead, Fikes, Springer  
NAY: McIntyre

**MOTION PASSED.**

Chair Twait noted the 15-day appeal period.

3. **Resolution PZ2020-12** - Application for a Variance of Kenai Municipal Code 14.14.020 - Maximum Lot Coverage, on an approximately 1.215 acre parcel, described as Lot 1, Kenai Meadows, and located at 2392 Redoubt Avenue. The application was submitted by Kenai Peninsula Housing Initiatives, Inc., P.O. Box 1869, Homer, AK 99603.

The City Planner reviewed the staff report noting a variance application was submitted due to the lot coverage size being 630 square feet over what was allowed by Kenai Municipal Code. She added that the donation of this property was specifically for the purpose of restricted income and senior housing, and the value of the property would revert to the City if a sale occurred within 20 years of the land transfer.

City staff finds the applicant meets the criteria for issuance of a variance permit in accordance with Kenai Municipal Code and recommended that the Planning and Zoning Commission approve the application, subject to the following conditions:

- Further development of the property shall conform to all federal, State of Alaska, and local regulations;
- Prior to issuance of a Building Permit for an additional structure on the property, a Landscape/Site plan must be reviewed and approved by the City Planner; and
- Prior to issuance of a Building Permit for a second six-plex, a conditional use permit must be approved by the City of Kenai Planning and Zoning Commission.

Commission Chair Twait opened the floor for public testimony.

Owner Connie Vann reiterated that it was always the intent to have two buildings on the lot. The funds were previously awarded and granted for this purpose, and until recently was not aware of the variance concern.

There being no one else wishing to be heard, public comment was closed.

Clarification was provided that even if this application was approved, the 15-day appeal must pass on the Conditional Use Permit before the variance approval was valid.

Commissioner McIntyre noted concern that the second condition was not met and subsequently lost connection from the meeting.

COMMISSIONER MCINTYRE DISCONNECTED FROM THE MEETING AT 8:25 PM

COMMISSIONER MCINTYRE RE-JOINED THE MEETING AT 8:31 PM

**VOTE:**

YEA: Askin, Halstead, Fikes, Springer, Twait  
NAY: McIntyre

**MOTION PASSED.**

Chair Twait noted the 15-day appeal period.

**G. UNFINISHED BUSINESS** – None.

**H. NEW BUSINESS** – None.

**I. PENDING ITEMS** – None.

**J. REPORTS**

1. **City Council** – Council Member Knackstedt reported on the actions from the April 15 and May 6, 2020 City Council meetings.
2. **Borough Planning** – Commissioner Fikes reported that an anadromous waters habitat protection permit application was denied; will be able to pursue a conditional use permit; a lease was recommended to the Borough Assembly for a wireless communication tower in Kenai; and the Borough Planning and Zoning Commission would be reorganized.
3. **Administration** – City Planner Appleby reported the Hazard Mitigation Plan was adopted and annexed to the Borough’s plan; the budget and efficiency initiative report would be before Council at their next meeting; and an overview was provided of the permit approval process for the wireless communication tower.

**K. ADDITIONAL PUBLIC COMMENT** – None.

**L. INFORMATIONAL ITEMS** – None.

**M. NEXT MEETING ATTENDANCE NOTIFICATION** – May 27, 2020

**N. COMMISSION COMMENTS & QUESTIONS**

Commissioner McIntyre noted regret with missing a portion of discussion and would be contacting the City Attorney to discuss specifics of the applications.

Chair Twait encouraged completion of the 2020 Census.

**O. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 9:12 p.m.

Minutes prepared and submitted by:

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Jacquelyn LaPlante  
Deputy City Clerk

DRAFT



Daniel Rodgers  
Executive Director  
CICADA  
10200 Kenai Spur Hwy  
Kenai, AK 99611

May 29, 2020

Dear Daniel,

I am writing to express my full support for CICADA's Support, Treatment & Resources for Individuals in the Kenai with Effects from COVID-19 (Project STRIKE) that provides intensive mental health and substance use disorder (SUD) treatment to individuals affected by the Covid-19 pandemic. Project STRIKE will provide:

- evidence-based mental and/or substance use disorder treatment services
- Crisis mental health services
- treatment services for individuals with a Serious Mental Illness, for children and youth with a Serious Emotional Disorder and for individuals with a SUD, and
- outreach and services to other individuals in the community who are struggling with increases in depression, anxiety, trauma, grief, and substance misuse

Project STRIKE is a collaborative effort between behavioral health agencies serving the Kenai Planning Area, and it involves a commitment to work together to provide the best system of care for individuals suffering from new or exacerbated mental health or SUD issues as a result of the Covid-19 pandemic. As the City Manager of Kenai, I support this effort to address the heightened need in our communities.

It is critical to that individuals in our communities can access mental health and substance abuse treatment during this pandemic. We have already seen a rise in individuals affected by anxiety and the uncertainty caused by this health crisis. This project will improve the lives of those suffering, and I fully support it.

Please accept this letter of support for Project STRIKE.

Sincerely,

City Manager  
City of Kenai



## Kenai Chamber of Commerce and Visitor Center

### Kenai Visitor and Cultural Center Report March 2020

#### KVCC Walk in Visitor Count

| Month | 2016  | 2017  | 2018  | 2019 | 2020 |
|-------|-------|-------|-------|------|------|
| March | 1,548 | 1,180 | 1,283 | 689  | 648  |

\*Of the 648 KVCC walk-ins, we estimate 297 attendees for facility rentals, 59 attendees for luncheon and the remaining 292 would be visitor traffic. As of March 18, 2020, KVCC has been closed to the public.

#### Official Kenai Guide Mailings

| Month | 2016 | 2017  | 2018 | 2019  | 2020 |
|-------|------|-------|------|-------|------|
| March | 1643 | 2,956 | 779  | 1,250 | 285  |

2020 Kenai Guides arrived March 30, 2020.

The above along with cancellation of MatSu and Great Alaska Sportsshow is the reason for the significantly low March numbers

#### Official Kenai Guide Display Racks

| Location                 | 2016       | 2017         | 2018       | 2019       | 2020      |
|--------------------------|------------|--------------|------------|------------|-----------|
| Airport Hotel – Kenai    |            | 96           | 0          | 0          | 0         |
| Aspen – Kenai            | 0          | 0            | 0          | 0          | 0         |
| Aspen – Soldotna         | 0          | 0            | 0          | 0          | 0         |
| Charlotte’s Restaurant   |            |              | 100        | 62         | 0         |
| City Hall                | 15         | 0            | 0          | 0          | 0         |
| Country Foods/IGA        | 105        | 96           | 0          | 0          | 0         |
| Diamond M Ranch          | 0          | 0            | 0          | 0          | 0         |
| Everything Bagels        |            | 0            | 0          | 0          | 0         |
| Kenai Airport            | 180        | 221          | 125        | 103        | 0         |
| Mad Moose Restaurant     |            | 0            |            |            |           |
| Paradisos Restaurant     | 45         | 64           | 75         | 50         | 0         |
| Quality Inn              | 45         | 192          | 0          | 0          | 15        |
| Safeway – Kenai          | 110        | 345          | 150        | 0          | 0         |
| Safeway – Soldotna       |            |              | 125        | 0          | 0         |
| Soldotna Inn             | 50         | 196          | 0          | 0          | 35        |
| Sportsmans Warehouse     | 50         | 126          | 0          | 43         | 0         |
| The Cannery Lodge        |            |              |            | 0          | 0         |
| Three Bears              | 90         | 192          | 0          | 50         | 0         |
| Veronica’s               | 25         | 32           | 0          | 13         | 0         |
| <b>Total Guide Count</b> | <b>715</b> | <b>2,472</b> | <b>575</b> | <b>321</b> | <b>50</b> |

Due to COVID19, we stopped community rack fulfillment on March 18, 2020.



# Kenai Chamber of Commerce and Visitor Center

## Kenai Visitor and Cultural Center Report March 2020

\*Note: In January, we send guides to Anchorage Brochure Distribution to distribute to the following locations throughout the year. ABD also supplies literature to many hotels and businesses that do not have one of their displays.\*

### **Downtown**

- Downtown Tour Group
- 4th Street Mall
- Anchorage Guesthouse
- Anchorage Grand Hotel
- Anchorage Historic Hotel
- Clarion Suites
- Comfort Inn
- International Auto Logistics
- Marriott
- Ramada
- Ship Creek RV
- The Aviator
- Quality Inn

### **JBER**

- Outdoor Rec Ft. Rich
- Oasis Travel
- YMCA
- Outdoor Rec Elm AFB
- Airforce Inn

### **Whittier/Girdwood**

- Inn at Whittier
- Portage Train Station

### **Midtown**

- Best Western Golden Lion
- AAA Travel
- Clippership RV
- Extended Stay
- Golden Nugget RV
- Cruise America RV Rentals
- Fairfield Inn Marriott
- Hilton Garden Inn
- Home2 by Hilton
- Marriott
- Springhill Suites 36th
- Springhill Suites Providence

### **Spenard**

- ABC Motorhome
- ALEX Inn & Suites
- Coast International Inn
- Comfort Suites
- Courtyard Marriott
- Executive Suites
- Holiday Inn Express
- La Quinta
- Midnight Sun Car Rental
- Rent-A-Subaru
- Puffin Inn
- Microtel
- Barratts Travel Lodge

# of guides sent to Anchorage Brochure Distribution in January  
5yr Comparison

|                                 | 2016   | 2017   | 2018   | 2019   | 2020   |
|---------------------------------|--------|--------|--------|--------|--------|
| Anchorage Brochure Distribution | 20,000 | 15,000 | 15,000 | 15,000 | 25,000 |



## Kenai Chamber of Commerce and Visitor Center

### Kenai Visitor and Cultural Center Report

March 2020

#### Facility Rental/Community Usage

| <u>Organization/Company</u>                           | <u>Hours of Usage</u> |
|---|-----------------------|
| Alaska Support Industry Alliance Membership Luncheons | 2.5                   |
| Kenai Chamber of Commerce Luncheon                    | 3                     |
| Kenai Historical Society Membership Meetings          | 10.5                  |
| Private Celebration of Life                           | 6                     |
| Total Facility Usage:                                 | 22                    |

**PURCHASE ORDERS BETWEEN \$2,500.00 AND \$15,000.00 FOR COUNCIL REVIEW**  
**COUNCIL MEETING OF: JUNE 3, 2020**

| <b>VENDOR</b>      | <b>DESCRIPTION</b>          | <b>DEPT.</b>  | <b>ACCOUNT</b>        | <b>AMOUNT</b> |
|--------------------|-----------------------------|---------------|-----------------------|---------------|
| HDL ENGINEERING    | APDES PERMIT ASSISTANCE     | WWTP          | PROFESSIONAL SERVICES | 7,000.00      |
| C.A.R .SERVICES    | EVAPORATOR PARTS FOR COOLER | BUILDINGS     | REPAIR & MAINTENANCE  | 3,108.08      |
| WEST COAST PAPER   | COMPARTMENT MEAL TRAYS      | SENIOR CENTER | OPERATING SUPPLES     | 3,499.10      |
| GCR TIRES          | TIRES                       | SHOP          | OPERATING SUPPLES     | 10,198.00     |
| MOTOROLA SOLUTIONS | MOBILE RADIOS               | POLICE        | MACHINERY & EQUIPMENT | 10,657.55     |
| HOMER SAW          | RESCUE SAWS                 | FIRE          | SMALL TOOLS           | 2,679.84      |
| BEACON OHSS        | PROPANE FOR ARFF TRAINING   | AIRPORT       | OPERATING SUPPLES     | 5,000.00      |
| WORLD BOOK         | NON-FICTION SETS            | LIBRARY       | BOOKS                 | 2,847.20      |