



## Kenai City Council - Regular Meeting

September 15, 2021 – 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)*

1. **Coy West** - City of Kenai Marketing Update.

#### C. UNSCHEDULED PUBLIC COMMENTS

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

#### D. PUBLIC HEARINGS

1. **Ordinance No. 3224-2021** - Repealing and Reenacting Kenai Municipal Code Title 6 - Elections, to Provide Clarity, Housekeeping, and Process Improvements. (Vice Mayor Molloy and City Clerk)
  - **Substitute Ordinance No. 3224-2021**  
*[Clerk's Note: At the August 4 Council Meeting, this item was postponed to the September 15 Council Meeting for a second public hearing. A motion to enact is on the floor.]*
2. **Ordinance No. 3238-2021** - Accepting and Appropriating an Interlibrary Cooperation Grant from the Alaska State Library for the Kenai Community Library Storywalk® Project. (Administration)
3. **Ordinance No. 3239-2021** - Increasing Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting a Grant From the Department of Justice Passed Through the Alaska Internet Crimes Against Children Task Force for the Purchase of Forensic Software. (Administration)

- 4. Ordinance No. 3240-2021** - Amending Kenai Municipal Code Section 23.55.030 – Qualification Pay, to Amend the Salary Ranges to Accurately Reflect Recognition Pay and Entitlements. (Administration)
- 5. Ordinance No. 3241-2021** - Declaring that, T 5N R 11W Sec 6 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 8, Also Known as 604 Inlet Street, Kenai, Alaska, Whose Last Record Owner Under Borough Assessment Records was Peter F. Mysing, Whose Address is, PO Box 8134, Nikiski, Alaska, 99635-8134 and Estate of Peter F. Mysing CO/ Dale Dolifka, PO Box 498, Soldotna, AK, 99669-0498, Shall be Retained by the City of Kenai for a Public Purpose. (Administration)
- 6. Ordinance No. 3242-2021** - Declaring that, T 5N R 11W Sec 5 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 20, Also Known as 905 Mission Avenue, Kenai, Alaska, Whose Last Record Owner Under Borough Assessment Records Was Keith K. Knight, General Delivery, Kenai, Alaska, Shall be Retained by the City of Kenai for a Public Purpose. (Administration)
- 7. Ordinance No. 3243-2021** - Amending Kenai Municipal Code 14.20.150-Conditional Use Permits, to Clarify Roles and Responsibilities of Applicants, the Planning Director, and the Planning Commission in the Conditional Use Process and Make Housekeeping Changes. (Vice Mayor Molloy)
- 8. Ordinance No. 3245-2021** - Authorizing a Budget Transfer in and Increasing Estimated Revenues and Appropriations in the Congregate Housing Fund for the Purchase and Installation of Equipment to Provide Residents Basic Television and Wireless Internet Service. (Administration)
- 9. Resolution No. 2021-57** - Declaring a Right-Of-Way for a 60' by 254' Portion of the Frontage Road Along Wildwood Drive as Dedicated on Lot 4-A, Block 8, Black Gold Estates Subdivision No. 2 (Plat KN 84-76), and as Set Forth on the Attached Exhibit "A" is Not Needed for a Public Purpose and Consenting to its Vacation. (Administration)
- 10. Resolution No. 2021-58** - Authorizing an Agreement for Professional Engineering Services to Provide Construction Documents for Sewer Lift Station Upgrades. (Administration)

**E. MINUTES**

**F. UNFINISHED BUSINESS**

**G. NEW BUSINESS**

- 1. \*Action/Approval** - Bills to be Ratified. (Administration)
- 2. \*Action/Approval** - Non-Objection to the Renewal of Marijuana Licenses for Grateful Bud, LLC. (City Clerk)
- 3. \*Action/Approval** - Appointing Election Precinct Boards for the October 5, 2021 Regular Election. (City Clerk)
- 4. \*Action/Approval** - Special Use Permit to RAVN for Warm Storage. (Administration)

- 5.** \*Ordinance No. 3246-2021 - Accepting and Appropriating an Airport Improvement Program Grant from the Federal Aviation Administration in the Airport Equipment Capital Project Fund for the Purchase of Snow Removal Equipment– Multi-Purpose Broom/Blower. (Administration)
- 6.** \*Ordinance No. 3247-2021 - Increasing Estimated Revenues and Appropriations in the Water and Sewer Special Revenue and Water and Sewer Improvements Capital Project Funds, Awarding a Professional Services Agreement and Corresponding Purchase Order for Mission Avenue Water Main Repairs. (Administration)
- 7.** Discussion - Request to Schedule a Joint Work Session for the Draft Land Management Plan. (Administration)
- 8.** Discussion - Set a Special Meeting for City Clerk Candidate Review. (City Clerk)

#### **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**

#### **M. PENDING ITEMS**

#### **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.*

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Sponsored by: Vice Mayor Molloy and City Clerk

## CITY OF KENAI

### ORDINANCE NO. 3224-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, REPEALING AND REENACTING KENAI MUNICIPAL CODE TITLE 6 - ELECTIONS, TO PROVIDE CLARITY, HOUSEKEEPING, AND PROCESS IMPROVEMENTS.

WHEREAS, Alaska Statute 29.26.010 provides that local governing bodies may establish their own procedures governing local elections; and,

WHEREAS, the City has traditionally collaborated with the Kenai Peninsula Borough (KPB) on the administration of the annual regular municipal elections resulting in efficiencies to the local election process; and,

WHEREAS, at their April 20, 2021 meeting the KPB Assembly authorized the Borough Clerk to purchase new election equipment to be used for local elections removing the need for the use of state equipment in local elections; and,

WHEREAS, at the July 7, 2021 meeting the City Council authorized the City Manager to enter into a Memorandum of Agreement for intergovernmental administration of KPB and City Municipal Elections; and,

WHEREAS, Kenai Municipal Code (KMC) currently references state election statutes in Title 15 for many of its election procedures which is no longer a best practice as state election equipment will no longer be used; and,

WHEREAS, it is in the best interest of the City to provide for procedures in its elections that are established locally, with local public process, and align with those of KPB; and,

WHEREAS, additionally, much of the election process is located in one chapter of Kenai Municipal Code (KMC) and this ordinance seeks to subdivide the chapter into several chapters of like topics.

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.
- 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.

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(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 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

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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.

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(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 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

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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 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

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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.

(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	SIX YEARS
DISCLOSURE FORM	

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

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 – Definitions**

When used in this Title, the following words and phrases have the meaning set forth in this section, except where the context clearly indicates a different meaning:

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

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

"Election" includes a regular or special City election.

"Election official" means the City Clerk, Clerk's office staff, Kenai Peninsula Borough Clerk, Borough Clerk's office staff, and members of all election boards.

"Election supervisor" means the City Clerk.

"Oath" includes affirmation on penalty of perjury.

"Precinct" means the geographical area within which resident voters may cast votes at one polling place.

"Precinct register" means the register maintained by the Director of the State Division of Elections.

"Proposition" means an initiative, referendum, recall, or other question submitted to the public at an election.

"Qualified voter" means a person who is qualified to vote in City elections under KMC 6.10.010.

"Questioned voter" means any person whose name does not appear on the register in the precinct where the voter attempts to vote, a voter who has received an absentee ballot and does not turn it in when voting at his/her precinct on election day, a voter who does not bear identification or is not personally known to an election official though his/her name appears on the precinct register, or a voter who is questioned for good cause at the polls in writing.

"Registration" or "registered" refers to the form of registration required by the state election statute. 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.

"Regular election" means the City election held on the first Tuesday of October annually as prescribed by Kenai Charter section 10-1.

"Signature" and "subscription" both include 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".

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

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

The Clerk shall supervise all City elections and shall determine whether candidates for City office are qualified in accordance with this Title and City Charter.



#### **6.05.030 – 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 propositions and 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 and may submit questions to the qualified voters of the City as authorized by the City Charter, Section 10-8. 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 an 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.

#### **6.05.040 – 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 order a recount of ballots pursuant to KMC 6.45.030. 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.

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

- (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) Financial disclosure forms shall be maintained for a period of six years and then may be destroyed.
- (c) Election registers, nominating petitions, declaration of candidacy, and rejected ballots shall be retained for one year after the certification of the election. These materials may be destroyed after their retention period has lapsed unless their destruction is stayed by an order of the court.

#### **6.05.060 – 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.

**6.05.070 – Initiative, Referendum, and Recall.**

- (a) The initiative and referendum process 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.

**6.05.080 – Proposition and Questions.**

A resolution or ordinance brought forward by the City Council placing a proposition before the voters must be adopted at least 53 days or more before a regular election, and at least 60 days or more before a special election.

**Chapter 6.10**  
**Voter Qualifications**

**6.10.010 – Voter Qualifications**

A person is qualified to vote in a City election only if the person:

- (1) is qualified to vote in state elections under AS 15.05.010;
- (2) has been a resident of the City for 30 days immediately preceding the election;
- (3) 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; and
- (4) is not disqualified under article V of the state constitution.

**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 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, 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) Any qualified person may have their name placed on the ballot for the election as a candidate for Council or Mayor 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 statement 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; and
  4. The length of the term of office for which the petitioners are nominating the candidate; 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 sworn statement of candidacy and certification of qualification shall include:
1. The office for which the candidate accepts nomination; and
  2. A statement that the candidate agrees to serve, if elected; and
  3. A statement that the candidate is qualified for the office as provided by law; and
  4. The date and signature of the candidate; and
  5. Attestation and date by the Clerk; and
- (e) A candidate shall provide any other information the Clerk reasonably requires to determine whether the candidate is qualified for the office as provided by law.
- (f) 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.
- (g) Any candidate for office may withdraw their 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.

#### **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 – Campaign Reporting.**

All candidates for elective City office shall comply with the Alaska Public Offices Commission campaign reporting requirements in Alaska Statute Chapter 15.13.

**6.15.050 – Notice of Vacancy.**

At least ten (10) 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 statement of candidacy for the offices.

**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 a notice of election to be published at least twice in a newspaper of general circulation. 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. The location of the polling place(s) and the hours the polling place(s) shall be open;
  4. The offices to which candidates are to be elected;
  5. The subjects of propositions to be voted upon;
  6. Voter qualifications and instructions for registration; and
  7. 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 an election board of at least four judges in a precinct. A judge shall be a voter of the City. The Clerk shall designate one election judge from each precinct as the chairperson, who shall be primarily responsible for administering the election in the precinct. After Council approval, the Clerk may assign additional officials if deemed necessary for proper conduct of the election.
- (b) All City election personnel shall be appointed without regard to their membership in any political party.
- (c) If any appointed election official is not able or refuses to serve, the Clerk may appoint a replacement for that official.
- (d) 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.
- (e) 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 15 days before each regular election and at least 10 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 arrange for delivery of ballots to each election board prior to or on the date of the election before the opening of the polls. The ballots shall be delivered in separate containers, with the number of ballots enclosed in each container clearly marked on the outside. A receipt for each package shall be taken from the election board to which it was delivered.
- (d) No ballots shall be taken from the precinct before the closing of the polls unless the Clerk for good cause directs that the ballots be removed. A record shall be kept by the election official of the ballots removed from the precinct.
- (e) 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 all absentee in person and polling locations.

#### **6.20.050 – Ballot Shortage**

- (a) Under no circumstance shall a precinct close due to ballot shortage. The election board chairperson for the precinct shall monitor the ballot supply at the precinct throughout Election Day and apprise the Clerk of any projected shortage in the number of available ballots.
- (b) Upon being informed by an election official that there is a projected shortage of ballots, the Clerk shall promptly supply the precinct with additional printed ballots. If sufficient additional printed ballots are not available, the Clerk shall supply the precinct with copies of the original ballot marked "Alternate Ballot."

#### **6.20.060 – Reporting Voting Information to the State.**

Within 60 days after each election held in the City, the Clerk shall send to the State of Alaska Division of Elections the official precinct register, questioned voter register, absentee in person voter register and special needs voting register containing the names, residence address, and the voter identification of all persons who voted in that election.

### **Chapter 6.25** **Polling Site Procedures**

#### **6.25.010 - Prohibitions.**

- (a) During the hours that the polls are open, no election official may discuss any political party, candidate or issue while on duty.



- (b) During the hours the polls are open, no person who is in the polling place or within 200 feet of any entrance to the polling place 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. For the purposes of this section, the entrance to a polling place is the entrance to the building. The election board 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 KMC 6.25.080.
- (d) While the polls 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 polling place with the official ballot that the person received to mark.

### **6.25.020 - Opening of Polling Place.**

On the day of the election, each election board shall open the polls for voting at 7:00 a.m., shall close the polls for voting at 8:00 p.m., and shall keep the polls continuously open during the time between those hours. The election board shall report to the polling place by 6:30 a.m. so that voting will start promptly at 7:00 a.m. The chair of the election board shall rotate times at which election judges, board members, and Clerks may be relieved for breaks or meals; provided, however, that at all times at least two judges from the election board are present at the polling place.

### **6.25.030 – Watchers.**

- (a) Each candidate, or organized group that sponsors or opposes a proposition, may designate one person at a time to be a poll watcher in each precinct.
- (b) A person wishing to serve as a poll watcher shall request authorization from the city clerk no later than 5:00 p.m. the Tuesday prior to the election. The authorization must include:
1. The name of the person to act as a poll watcher;
  2. The name of the candidate, group, or organization the poll watcher is representing;
  3. The date of the election; and
  4. The precinct the poll watcher wishes to observe.
- (c) The poll watcher must present authorization as defined in subsection (b) of this section to the election official upon request. The poll watcher will be provided an area to view all actions of the election board. If the poll watcher does not provide the requested authorization, an election official may require the poll watcher to leave the poll watcher area.
- (d) The poll watcher observing may:
1. Observe the conduct of the election; and
  2. Check the polling booths after each voter to make sure campaign materials have not been left in the booth.
  3. Remain in the polling place until all procedures are completed.
    - a. Request the election board to print an additional copy of the results tape for the poll watcher.

(e) The poll watcher may not:

1. Have any duties in the conduct of the election;
2. Be allowed to touch any of the election materials; and
3. Interfere or disturb the orderly conduct of the election.

(f) If the poll watcher violates this section or any regulations adopted by the city clerk, the election official may require the poll watcher to leave the poll watcher area.

**6.25.040 - Ballot Box Security.**

Before issuing any ballots, the election board must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place. The ballot box then shall be closed and not opened again or removed from the polling place until the polls have closed.

**6.25.050 - Voter Register.**

(a) The Clerk shall order from the State of Alaska Division of Elections an official voter register showing all persons registered to vote in state elections at a residence address within the City at least 30 days before the date of the election.

(b) The election board shall keep a register in which each voter's signature, residence and mailing address shall be entered before the voter receives a ballot. A record shall be kept in the register in the space provided of the names of persons who offered to vote but who actually did not vote and a brief statement of explanation. A voter's signing of the register shall constitute a declaration that the voter is qualified to vote.

(c) If a person's name does not appear on the official registration list in the precinct in which the person seeks to vote, the person may vote a questioned ballot.

**6.25.060 - Voter Identification.**

(a) Before being allowed to vote, each voter shall exhibit to an election official one form of identification, including but not limited to an official voter registration card, driver's license, passport, hunting or fishing license.

(b) An election official may waive the identification requirement if the election official knows the identity of the voter.

(c) A voter who cannot exhibit a satisfactory form of identification shall be allowed to vote a questioned ballot.

**6.25.070 - Providing Ballot to Voter.**

When a voter has qualified to vote, the election official shall give the voter an official ballot. The voter shall retire to a booth or private place to mark the ballot.

**6.25.080 - Questioned Voting.**

- (a) If the polling place of a voter is in question, the voter shall vote a questioned ballot after complying with Subsection C of this section.
- (b) Every election official and any other person qualified to vote may question a person attempting to vote if the questioner has good reason to suspect that the person is not qualified to vote. All questions regarding a person's qualification to vote shall be made in writing, setting out the reason that the person has been questioned.
- (c) Before voting, a person whose qualification to vote is questioned or whose name does not appear on the official voter register shall subscribe to an oath or affirmation on a form provided by the election official attesting to the fact that in each particular the person meets all the qualifications of a voter, is not disqualified, and has not voted in the same election.
- (d) A voter who casts a questioned ballot shall vote his/her ballot in the same manner as prescribed for other voters. After the election judge removes the numbered stub from the ballot, the voter shall vote the ballot then insert the voted ballot into a small envelope and put the small envelope into a larger envelope on which the statement he/she previously signed is located.

#### **6.25.090 - Assistance to Voters.**

A qualified voter who cannot read, mark the ballot or sign his/her name may request an election official or not more than two persons of his/her choice assist him/her. If the election official is requested, he/she shall assist the voter. If any other person is requested, the person shall state upon oath before the election official that he/she will not divulge the vote cast by the person whom he/she assists.

#### **6.25.100 - Spoiled Ballots.**

If a voter mutilates, improperly marks, spoils or otherwise damages the voter's ballot, the voter may request the election official provide another ballot upon the voter returning the damaged ballot to the election official. Without examining the spoiled ballot, the election official shall tear the ballot in half and place half in an envelope provided by the Clerk for a portion of each spoiled ballot and discard the remaining half. The election official shall then issue a new ballot of the same type to the voter. A voter may obtain a maximum of three replacement ballots under this section.

#### **6.25.110 - Alternate ballots.**

If the use of alternate ballots is required as prescribed in KMC 6.20.050(b) the voter shall vote his/her ballot in the same manner as prescribed for other voters. The voter shall then place his/her voted ballot in the side compartment of the ballot box.

#### **6.25.120 - Placing Ballots 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.

#### **6.25.130 - Closing of Polls.**

- (a) Fifteen minutes before the closing of the polls, and at the time of closing the polls, 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 fifteen minutes before closing time shall not in any way invalidate the election or extend the time for closing the polls. After closing, no person will be allowed to enter the polling place for purposes of voting. Every qualified voter present and in line at the time prescribed for closing the polls may vote.
- (b) When the polls are closed and the last vote has been cast, the election board shall account for all ballots by completing a ballot statement containing, in a manner prescribed by the Clerk, the number of official ballots supplied.
- (c) The election board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted on the ballot statement.

#### **6.25.140 - Unused Ballots.**

The number of ballots not issued shall be recorded and then all such ballots shall be disposed of as instructed by the Clerk. The number of ballots damaged by voters and replaced by election officials shall also be recorded. The record of ballots not issued and ballots damaged shall be preserved for 30 days unless the election is contested.

### **Chapter 6.30** **Absentee 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 instructions to absentee voters regarding the procedure for absentee voting.

#### **6.30.020 - Eligibility.**

Any qualified voter may vote an absentee ballot for the precinct in which they reside and are registered.

#### **6.30.030 - Materials for Absentee Voting.**

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

#### **6.30.040 - Absentee Voting in Person.**

- (a) A qualified voter may apply in person for an absentee ballot at the location designated for absentee voting by the Clerk 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 absentee voting official shall issue the ballot to the applicant.
- (c) The voter shall proceed to mark the ballot in secret, place the ballot in the secrecy sleeve and place the secrecy sleeve in the larger envelope in the presence of the election official who shall sign as attesting official and date of his/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 the intent to influence other voters. If the absentee voter improperly marks or otherwise damages the ballot, the voter may request, and the election official shall provide, him/her with another ballot up to a maximum of three. Exhibited, improperly marked or damaged ballots shall be destroyed. The number of ballots destroyed shall be noted on the ballot statement.
- (e) If the qualifications of the absentee voter is subject to question, the voter shall vote a questioned ballot as provided in KMC 6.25.070.
- (f) Each absentee voting official shall keep a record of the names and signatures of voters who cast absentee ballots before him/her and the dates on which the ballots were cast.

#### **6.30.050 – 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 (7) days before an election. A voter may request their 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, a voter identifier such as a voter number, social security number or date of birth, and the applicant's signature.
- (b) After receipt of an application for an absentee ballot 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 postage paid return envelope sent with the materials shall be addressed to the Clerk.

- (c) Upon receipt of an absentee ballot by mail, the voter 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 who shall sign as attesting official and shall date their signature. Officials recognized to attest to the veracity of signatures listed in this subsection are: a notary public, a commissioned officer of the armed forces, including the National Guard, state court judge, state court clerk, United States postal official, or other person qualified to administer oaths. 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, they 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 ballots of the election.
- (e) The Clerk shall, as soon as practicable, make a reasonable effort to contact each absentee by mail voter, whose absentee ballot would be rejected under KMC 6.40.030(a), explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.
- (f) 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 their identity.
- (g) 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.

### **6.30.060 – 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 (7) days prior to the election, the ballot will be mailed in the manner provided in KMC 6.30.050 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 polling place 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 may 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 seventh (7<sup>th</sup>) 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 of the polls.
- (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) The Clerk shall, as soon as practicable, make a reasonable effort to contact each absentee by electronic transmission voter, whose absentee ballot would be rejected under KMC 6.40.030(a), explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.
- (h) 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.

### **6.30.070 – Special Needs Voting.**

A qualified voter with a disability who, because of that disability, is unable to go to a polling place 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.

### **6.30.080 – Prohibitions.**

- (a) During the hours that the absentee voting locations are open, no election official may discuss any political party, candidate or issue while on duty.
- (b) During the hours the absentee voting locations are open, no person who is in the absentee voting location or within 200 feet of any entrance to the absentee voting location 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 absentee voting locations 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 absentee voting location with the official ballot that the person received to mark.

### **6.30.090 - Assistance to Voters.**

A qualified voter who cannot read, mark the ballot or sign his/her name may request an election official or not more than two persons of his/her choice assist him/her. If the election official is requested, he/she shall assist the voter. If any other person is requested, the person shall state upon oath before the election official that he/she will not divulge the vote cast by the person whom he/she assists.

### **6.30.100 - Counting of Absentee Ballots.**

To be counted in the election, an absentee ballot must be postmarked or electronically submitted on or before Election Day and be received by the Clerk no later than noon the Tuesday following the election. Ballot envelopes received after the canvass board has completed absentee ballot counting shall not be opened, but shall be marked "invalid" with the date of receipt noted thereon. Such envelopes shall be retained with the other election records and destroyed with them as provided by the City's records retention schedule. Absentee ballot envelopes shall be examined by the canvass board who shall determine whether the absentee voter is qualified to vote at the election or whether the ballot has been properly cast.

### **6.30.110 - Names of Absentee Voters.**

The Clerk shall maintain a record of the name of each voter whom an absentee ballot is sent under this section. The record must list the date on which the ballot is mailed or provided by electronic transmission, the date on which the ballot is received by the Clerk and the dates on which the ballot was executed and, if by mail, postmarked. The record shall be available for public inspection. The absentee voting officials shall provide the Clerk the names and addresses of those persons who voted or attempted to vote absentee in person.

## **Chapter 6.35** **Ballot Counting Procedures.**

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

- (a) For counting of paper ballots, when the polls are closed and the last vote has been cast, the election board shall immediately proceed to open the ballot box, separate the questioned ballot envelopes from other ballots and then proceed to count the votes cast. In all cases the election board shall cause the count to be continued without adjournment until the count is complete. The Clerk may authorize the appointment of counters to assist in the counting of



ballots. Before undertaking the duties of the office, each counter shall subscribe to an oath to honestly, faithfully, impartially and promptly carry out the duties of the position. An election judge may administer the oath. If an appointed counter fails to appear and subscribe to the oath at the time designated by the Clerk, the election board may appoint any qualified voter to fill the vacancy.

- (b) In optical scan or other computer-read precincts, when the polls have closed and the last vote has been cast, the election board shall immediately transmit election results to the Borough Clerk following the written instructions provided to each precinct. Once the election results have been transmitted, the election board shall open the ballot box, separate questioned and write-in ballots from other ballots cast, place all ballots in the tamper proof containers provided, and proceed with the ballot accountability and poll closing procedures provided by the Clerk.

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

- (a) The election supervisor 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; and
  2. The number of official ballots voted; and
  3. The number of official ballots spoiled; and
  4. The number of official ballots unused and destroyed.
- (b) The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted and the numbers included in the certificate prescribed by the election supervisor.
- (c) When hand counting ballots, the election board 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 may have a marking device in hand or remove a ballot from the immediate vicinity of the polls.
- (d) Ballots may not be counted before 8:00 p.m., local time, on the day of the election.

### **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 polling place 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 marks 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.**

- (a) 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.
- (b) 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.
- (c) 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.

### **6.35.080 – Other Ballot Counting Systems.**

Nothing in this title prohibits the use of other ballot counting systems which have been approved for use in state or borough elections. The election supervisor, subject to any further approval as may be required by law, may prescribe rules for the use of these systems or may adopt such rules, regulations and procedures as have been adopted by the state for use in state elections or adopted by the borough in borough elections.

## **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 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) 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 – 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. 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 canvass board. A mistake which has been made in precinct returns that is not clearly an error in the transfer of the results from the tallies to the certificate of results empowers the canvass board to recommend a recount of the results of the precinct or precincts for that portion of the returns in question. 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.

- (b) 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.

#### **6.40.030 – Procedures for Handling Questioned Ballots.**

The canvass board by majority vote may refuse to accept the question and count the ballot of a person properly questioned. If the ballot is refused, the Clerk shall return a copy of the statement questioning the ballot to the voter, and shall enclose all rejected ballots in a separate envelope with statements of the basis for the question. The envelope shall be labeled with "rejected ballots" and shall be preserved with other voted ballots. If the ballot is not refused, the large envelope shall be opened; the smaller inner envelope shall be placed in a container and mixed with other absentee ballot envelopes or, in the case of counting questioned ballots, with other questioned ballot envelopes. The mixed smaller envelopes shall be drawn from the container and opened, and the ballots shall be counted according to the rules for determining properly marked ballots.

#### **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.**

- (a) 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 majority vote 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.
- (b) 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.
- (c) 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.
- (d) 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 (10) 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 four percent (4%) 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 (5) o'clock p.m. on the day of the certification of the election or to the Council 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 – Voting by mail—Ballots—Ballot review—Ballot envelopes.**

- (a) The 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 Alaska Statute 15.07.125 for that election. The ballot shall be sent 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, nonforwardable mail no less than 22 days 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 return envelope supplied to each by-mail voter. The return envelope shall have printed upon it an affidavit by which the voter shall declare his/her qualifications to vote, followed by provision for attestation by a person qualified to

administer oaths or one attesting witness who is at least 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, will be mailed to each voter with the ballot.

**6.55.020 - Casting ballots.**

- (a) Upon receipt of a mail-in ballot, the voter shall cast their ballot in the manner specified in KMC 6.30.050. 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 their ballot in person as specified in KMC 6.30.040.
- (c) A voter may return the mail-in ballot to the City Clerk as provided in KMC 6.55.040.
- (d) The Clerk shall immediately make a reasonable effort to contact each voter, whose absentee ballot would be rejected under KMC 6.40.030, explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.

**6.55.030 - 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 posted in each precinct and the notice published in newspapers of general circulation in the area of the election jurisdiction will include the information specified in KMC 6.20.020.

**6.55.040 - Absentee voting official—Duties.**

- (a) The City Clerk, or designee, shall act as absentee voting official. The Clerk shall supply adequate voting supplies and ballots to the absentee voting officials. The Clerk shall provide moderate compensation to the absentee voting official to cover added expenses of the administration of this service, which shall be agreed to by the absentee voting official.
- (b) The duties of the absentee voting officials shall be as follows:
  1. Provide absentee voting in person on any date including the day of the election following the procedures in KMC 6.30.040 and special needs voting on any date including the day of the election following the procedures in KMC 6.30.070; and
  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/her own ballot; and
  3. Accept receipt of a by-mail voter's hand-delivered ballot, which has been sworn to, attested and sealed in the by-mail return envelope; and
  4. Provide general voter assistance, including but not limited to, assistance to a qualified voter who cannot read, mark the ballot, or sign his/her name, and providing



replacement ballots to voters who have improperly marked or damaged their ballots;  
and

5. Date-stamp all ballots received; and

6. Provide for the security and safekeeping of all ballots received and present those  
ballots to the Clerk for canvassing. The Clerk will specify the means of returning the  
voted ballots and all other election supplies to the City.

**6.55.050 - 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 counting of ballots.

**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 this ordinance shall take effect on January 1, 2022.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 4<sup>th</sup> day of August, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Introduced: July 7, 2021  
Enacted: August 4, 2021  
Effective: January 1, 2022



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** June 28, 2021  
**SUBJECT:** Ordinance No. 3224-2021

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Because the City has traditionally collaborated with the Kenai Peninsula Borough (KPB) on the administration of the annual regular municipal elections and is considering entering into a Memorandum of Agreement (MOA) to memorialize that collaboration along with utilizing KPB's new equipment, to include ADA Accessible equipment, and no longer using State election equipment, I felt it was in the best interest of the City to re-write our election code, Title 6, to align our election practices with the Borough's.

This ordinance also makes the following policy changes:

- 1) Incorporate the opportunity for absentee voters who can, to cure their envelope in what would have previously been a rejection situation. This feature was appreciated during the work session in June 2020 when considering a vote by mail method of voting and seeks to include as many ballots as possible instead of to reject them.
- 2) Makes the clarification that the Clerk determines qualifications of candidates (Charter provides that Council determine qualifications of its members which would be after election). This matches KPB, Soldotna, and the Municipality of Anchorage.
- 3) Adds a process for determining qualifications of candidates which matches KPB and Municipality of Anchorage. This provides for an administrative process without the person getting elected, Council having to conduct the process, and leaving a vacancy for Council to appoint.
- 4) Amends the retention for election records. I recommend retaining for one year instead of the three and four years currently required due to the personally identifiable information included in these records. Election contests and appeals must be brought within ten days of certification so the records will certainly be available for those actions. One year is consistent with KPB.
- 5) Provides a timeline for adoption of legislation to place a proposition on a ballot which coincides with KPB. This has been our practice in order for us to collaborate with the KPB, this spells it out in code.
- 6) Requires publication of a notice of voter registration as a reminder to voters to update their registration; this has been past practice and will be added to code.
- 7) Requires compliance with APOC requirements for campaign reporting. This has been past practice to notify the candidates of their requirement; now it will be in code.

- 8) Requires a public notice announcing vacancies for offices to be filled at the election and procedures for filing. This is consistent with past practices.
- 9) Requires noticing of bonded indebtedness before a General Obligation Bond election. This is consistent with KPB, Soldotna, and Municipality of Anchorage noticing requirements.
- 10) Spells out requirements for ballot form consistent with KPB given the likely transition to utilizing their equipment instead of the State's.
- 11) Reporting voter information to the State. This has also been a past practice.
- 12) Added clarifications to poll watchers; this is consistent with State policy and Fairbanks North Star Borough.

The above additions and addressing our ADA needs provides value added to our election processes in a way that honors the wishes of the majority of the voters.

Following is a section by section analysis of what is proposed to be new in our election code and why, how our current election code was incorporated into this ordinance, and highlights potential policy changes.

Chapter 6.05 – General Provisions. This chapter compiles the sections containing general provisions of elections.

6.05.010 – Definitions. This section is new and helps the user understand terms we regularly use in administration of elections. The definitions are consistent with state and borough law.

6.05.020 – Powers and Duties of the Clerk. This is similar to what is in current code (6.05.070); matches the Municipality of Anchorage and City of Soldotna. A new policy in this section provides that the Clerk determines whether a candidate for City office is qualified based on the qualifications provided in Charter and Title 6. City Charter provides that the Council judges qualifications of its members; this proposed code would provide for an administrative process to take place prior to a name being placed on the ballot, before a candidate becomes a member.

6.05.030 – Election Times. This section restates Charter.

6.05.040 – Votes Required for Election to Office. This section restates Charter.

6.05.050 – Preservation of Election Ballots, Papers, and Materials. This section is similar to what is in current code. A modification to the policies being proposed here is a reduction in the length of retention of registers, nominating petitions, and declarations of candidacy is from three or four years to one year. The reason is due to personally identifiable information included in these records to include dates of birth and/or social security numbers. An election contest can be brought within ten days after certification. Beyond that, we need to balance the security risk with the benefit to keeping the records. One year matches the length of time that the Kenai Peninsula Borough retains their records.

6.05.060 – Election Expenses. This section is similar to what is in current code (6.05.050).

6.05.070 – Initiative, Referendum, and Recall. This section restates charter and is similar to what is in current code (Chapters 6.20 and 6.30).



6.05.080 – Proposition and Questions. This is a new add and coincides with the borough's requirements for ballot preparation.

Chapter 6.10 – Voter Qualifications. This chapter compiles the sections pertaining to voter qualifications.

6.10.010 – Voter Qualifications. This section fleshes out Kenai Charter and the Alaska Constitution; it is copied from AS 29.26.050 which indicates that it applies to home rule municipalities.

6.10.020 – Rules for Determining Residence of Voters. This section would be new to our code; restates Alaska Statute 15.05.020 regarding residency.

6.10.030 – Notice of voter registration. This section would be new in our code but has been our practice for several years. We publish this ad jointly with the City of Soldotna, each city publishing twice, for a total of four publications in the newspaper to reach a bigger audience.

Chapter 6.15 – Filing for Office. This chapter compiles the sections pertaining to candidates filing for office.

6.15.010 – Candidate Qualifications. This section is new to code; restates charter.

6.15.020 – Nomination and Declaration of Candidacy. This section restates what is in current code (6.10.010, 6.10.020, and 6.10.030).

6.15.030 – Review of Candidate Qualifications. This section goes with the new policy that the Clerk determines qualifications of candidates. These are the rules the Clerk is to use for determining candidate qualifications and also includes a process for challenging the Clerk's determination. These are the administrative processes mentioned in the analysis of 6.05.020 and are materially the same as KPB's and Municipality of Anchorage's procedures.

6.15.040 – Campaign Reporting. This section adds that candidates are to comply with APOC's campaign reporting requirements. Our practice has been to provide the information to candidates in the candidate filing packet. Adding this section memorializes the requirement.

6.15.050 – Notice of Vacancy. This section is new to code; has been past practice for many years.

Chapter 6.20 – Administration of Elections. This chapter compiles the sections pertaining to election administration.

6.20.010 – Election Notices. This section is what is in current code (6.05.100) and adds a few provisions which has been past practice (type of election, voter qualifications, and instructions for absentee voting). It also lengthens what is in current code from ten days to twenty days to provide voters ample time to navigate absentee voting, if needed.

6.20.020 – Election Officials. This section is in current code (6.05.040).

6.20.030 – Ballot form. This section spells out what the ballot needs to look like and was taken from the borough. Our current code (6.05.080(a)) says the provisions of state law should be followed; however, given we will be using KPB equipment, we should follow KPB requirements.



6.20.040 – Ballot Preparation and Distribution. Much of this section is current code (6.05.080). Some is new in code but is current practice and aligns with KPB code.

6.20.050 – Ballot Shortage. This is new in the code. It is common in codes as a safety net and is also in State law (AS 15.15.140).

6.20.060 – Reporting Voting Information to the State. This is new in the code but has been common practice to assist with keeping voter history records accurate.

Chapter 6.25 – Polling Site Procedures. This chapter compiles the sections pertaining to procedures at the polling places.

6.25.010 – Prohibitions. This was copied from KPB and City of Soldotna code and has been past practice; had been incorporated into our current code by reference (6.05.110) where it says Alaska Statutes 15.15 –15.20 should be followed in conducting an election. The provisions specific to this section were AS 15.15.160 and AS 15.15.170.

6.25.020 – Opening of Polling Place. This section is new in our code and was copied from KPB, has been past practice, and should remain given the city and borough are cooperatively administering elections.

6.25.030 – Watchers. We traditionally allow for poll watchers in current code (6.05.060); this section now clarifies what poll watchers may do and provides a registration process similar to state law and Fairbanks North Star Borough.

6.25.040 – Ballot Box Security. This section is new in our code and was copied from KPB. It has been past practice in local and state elections and is a part of the instructions manuals.

6.25.050 – Voter Register. This section restates current code (6.05.080(c) and 6.05.020(a)).

6.25.060 – Voter Identification. This section restates current code (6.05.020(b)) and also State law, AS 15.15.225.

6.25.070 – Providing Ballot to Voter. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110). The procedure has been practice. The language is similar to KPB's code and is also in State law, AS 15.15.230.

6.25.080 – Questioned Voting. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.198 and AS 15.15.210. The procedure has been past practice and the language is similar to KPB's code.

6.25.090 – Assistance to Voters. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.240. The procedure has been past practice and the language is similar to KPB's code.

6.25.100 – Spoiled Ballots. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.250. The procedure has been past practice and the language is similar to KPB's code.

6.25.110 – Alternate Ballots. This section is newly spelled out in our code. The procedure has been past practice and the language is similar to KPB's code.



6.25.120 – Placing Ballots in Ballot Box. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.260. The procedure has been past practice and the language is similar to KPB's code.

6.25.130 – Closing of Polls. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.310 – AS 15.15.330 and AS15.15.350. The procedure has been past practice and the language is similar to KPB's code.

6.25.140 – Unused Ballots. This section is newly spelled out in our code; it has been past practice in state and local elections. The language of this section is similar to KPB's code.

Chapter 6.30 – Absentee Voting. This chapter compiles the sections pertaining to absentee voting.

6.30.110 – Administration of Absentee Voting. This section is similar to current code (6.05.140).

6.30.020 – Eligibility. This section is similar to current code (6.05.140 and 6.05.150).

6.30.030 – Materials for Absentee Voting. This section is similar to current code (6.05.160).

6.30.040 – Absentee Voting in Person. This section is similar to current code (6.05.145).

6.30.050 – Absentee Voting - By Mail. A portion of this section is similar to current code (6.05.150). The remainder of it was incorporated by reference as it is in State law, AS 15.20.081. The procedure has been past practice and the language is similar to KPB's code.

6.30.060 – Absentee Voting - By Electronic Transmission. This section is the same as current code (6.05.335).

6.30.070 – Special Needs Voting. This section is newly spelled out in our code, referencing state law. It was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.20.072. The procedure has been past practice and the language is similar to KPB's code.

6.30.080 – Prohibitions. This section was modified the previous section specific to in person voting; they are the same prohibitions specific to absentee voting. This was copied from KPB and City of Soldotna code and has been past practice; had been incorporated into our current code by reference (6.05.110) where it says Alaska Statutes 15.15 –15.20 should be followed in conducting an election. The provisions specific to this section were AS 15.15.160 and AS 15.15.170.

6.30.090 – Assistance to Voters. This section was modified the previous section specific to in person voting; it is the same assistance information specific to absentee voting. This was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.240. The procedure has been past practice and the language is similar to KPB's code.

6.30.100 – Counting of Absentee Ballots. This section is, for the most part, in current code (6.05.120(c)). It has been adapted to match KPB code.

6.30.110 – Names of Absentee Voters. This section is new in code, has been past practice, and was copied from KPB code.



Chapter 6.35 – Ballot Counting Procedures This chapter compiles the sections pertaining to procedures for counting ballots.

6.35.010 – Commencement of Ballot Count. This section is new in code, has been past practice, and was copied from KPB code to align with cooperative administration of elections.

6.35.020 – General Procedure for Ballot Count. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS15.15.350. The procedure has been past practice and the language is similar to KPB's code.

6.35.030 – Rules for Counting Hand-Marked Ballots. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS15.15.360. This section provides guidance for ballots which the optical scanner or other computer read ballot was unable to read.

6.35.040 – Write-in Votes. This section would be newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.365 and AS 15.15.361.

6.35.050 – Disqualified Candidates. This section would be newly spelled out in our code; it goes along with the new policy that the Clerk determines qualifications of candidates. Because it is possible for the candidate to be disqualified after the ballots have been ordered, this section addresses not counting those votes. The language in this section is similar to KPB.

6.35.060 – Tally of Votes. This section would be new in our code. It is copied from KPB code. It gives provisions for counting ballots in the event of an equipment failure or power outage.

6.35.070 – Completion of Ballot Count. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.370. This section provides guidance for returning the completed election materials to the clerk.

6.35.080 – Other Ballot Counting Systems. This section would be new in our code. It is copied from KPB code. It gives provides for using equipment approved for use in state and borough elections.

Chapter 6.40 – Canvassing and Certification of Election Results. This chapter compiles the sections pertaining to canvassing and certifying the election.

6.40.010 – Canvass Board. This section is in current code (6.05.120(a)(1&2)). I've added that they must take an oath which is consistent with past practice and was copied from KPB code.

6.40.020 – Canvass of Returns. This section restates current code (6.05.120(b))

6.40.030 – Procedures for Handling Questioned Ballots. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.20.207. This section provides guidance for counting or rejecting questioned ballots.

6.40.040 – Voters Not on Official Registration List. This section is newly spelled out in our code; it was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.15.198. This section provides guidance for rejecting ballots of voters whose registrations have been canceled.



6.40.050 – Certification of the Election Results. This section would be new in our code. It fleshes out Charter and was copied from KPB; it provides guidance on Council action after receipt of the report of the Canvass Board.

Chapter 6.45 – Election Recount. This chapter compiles the sections pertaining to an election recount.

6.45.010 – Recount Application. This section, for the most part, is in current code (6.05.220). It has been expanded to include additional details about the recount request on the application which has been modified from AS 15.20.440 and KPB code.

6.45.020 – Date of Recount – Notice. This section is substantially the same as current code (6.05.220(c)). It adds provisions for notifying the applicant for recount and interested parties of the time and place the recount will be taking place.

6.45.030 – Procedure for Recount. This section is newly spelled out in our code and is similar to KPB code. It was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.20.480.

6.45.040 – Certification of Recount Result. This section is newly spelled out in our code and is similar to KPB code. It was incorporated by reference in current code (6.05.110) as it is in State law, AS 15.20.490.

6.45.050 – Return of Deposit and Apportionment of Expenses Upon Recount. This section expands on current code (6.05.220(b)). It is similar to KPB code and addresses partial refunds and recovering excess costs should the recount not change the results by 4% or more.

6.45.060 – Appeal to the Courts After Recount. This section is in current code (6.05.230)

Chapter 6.50 – Contest of Election. This chapter compiles the sections pertaining to an election contest and is addressed in current code (6.05.240) where guidance is to use same grounds and in the same manner, as nearly as may be, as in election contests arising out of State elections. State law has been written into this chapter of the ordinance as adapted from State law, AS 15.20.540 - 550. Also, pursuant to AS 29.26.070, which provides that governing bodies may, by ordinance, set the procedure for the contest of an election, provisions similar to KPB, Ketchikan Gateway Borough, Mat-Su Borough, and City of Soldotna, related to a local investigation process were incorporated prior to the matter being elevated to superior court.

Chapter 6.55 - Special Elections. This chapter compiles the sections pertaining to a special election and is in this ordinance as it is in current code (6.05.300 – 6.05.340).

To the extent possible, 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:

- 6.05.190 which addresses a receiving board which has traditionally been the members of the Clerk's Office, and a data processing control board which KPB has traditionally provided for and is incorporated in the MOA considered in Resolution No. 2021-46;
- 6.05.210 which speaks to computer testing which KPB has traditionally provided for and is incorporated in the MOA considered in Resolution No. 2021-46; and,





- 6.05.250 which speaks to rules and regulations developed by the Director of Elections at the state level also applying to City elections, however, by collaborating with KPB, we should match KPB as much as possible.
- 6.05.270 which addressed offenses and penalties; those offenses and penalties are addressed in state law, carry heavier penalties in state law, and we can prosecute those offenses.

Your consideration is appreciated.





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** July 27, 2021  
**SUBJECT:** Ordinance No. 3224-2021 – Title 6 Rewrite

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On July 7, 2021 you introduced Ordinance No. 3224-2021. Also at your July 7 2021 meeting, you authorized entering into a Memorandum of Agreement with the Borough regarding election administration. This memorandum requests the following amendment to Ordinance No. 3224-2021.

**Move to insert the word authorized in the blank in fourth whereas clause.**

Thank you for your consideration.



Sponsored by: Vice Mayor Molloy and City Clerk

## CITY OF KENAI

### SUBSTITUTE ORDINANCE NO. 3224-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, REPEALING AND REENACTING KENAI MUNICIPAL CODE TITLE 6 - ELECTIONS, TO PROVIDE CLARITY, HOUSEKEEPING, AND PROCESS IMPROVEMENTS.

WHEREAS, Alaska Statute 29.26.010 provides that local governing bodies may establish their own procedures governing local elections; and,

WHEREAS, the City has traditionally collaborated with the Kenai Peninsula Borough (KPB) on the administration of the annual regular municipal elections resulting in efficiencies to the local election process; and,

WHEREAS, at their April 20, 2021 meeting the KPB Assembly authorized the Borough Clerk to purchase new election equipment to be used for local elections removing the need for the use of state equipment in local elections; and,

WHEREAS, at the July 7, 2021 meeting the City Council authorized the City Manager to enter into a Memorandum of Agreement for intergovernmental administration of KPB and City Municipal Elections; and,

WHEREAS, Kenai Municipal Code (KMC) currently references state election statutes in Title 15 for many of its election procedures which is no longer a best practice as state election equipment will no longer be used; and,

WHEREAS, it is in the best interest of the City to provide for procedures in its elections that are established locally, with local public process, and align with those of KPB; and,

WHEREAS, additionally, much of the election process is located in one chapter of Kenai Municipal Code (KMC) and this ordinance seeks to subdivide the chapter into several chapters of like topics.

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.
- 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.

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(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.

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(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 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



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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

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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 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 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

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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, INFLECTS, OR THREATENS TO INFLECT 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.

(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 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



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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.

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(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 \_\_\_\_\_ BY: \_\_\_\_\_  
FILED: \_\_\_\_\_

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

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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 – Definitions**

When used in this Title, the following words and phrases have the meaning set forth in this section, except where the context clearly indicates a different meaning:

“Bonded Indebtedness” is the amount of debt the City owes for capital improvements secured by

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a bond, which has been approved by voters at an election, pursuant to City Charter, Section 6-1.

"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 City Clerk, Clerk's office staff, Kenai Peninsula Borough Clerk, Borough Clerk's office staff, and members of all election boards.

"Election supervisor" means the City Clerk.

"Oath" includes affirmation on penalty of perjury.

"Precinct" means the geographical area within which resident voters may cast votes at one polling place.

"Precinct register" means the register maintained by the Director of the State Division of Elections.

"Proposition" means an initiative, referendum, recall, or other question submitted to the public at an election.

"Qualified voter" means a person who is qualified to vote in City elections under KMC 6.10.010.

"Questioned voter" means any person whose name does not appear on the register in the precinct where the voter attempts to vote, a voter who has received an absentee ballot and does not turn it in when voting at his/her precinct on election day, a voter who does not bear identification or is not personally known to an election official though his/her name appears on the precinct register, or a voter who is questioned for good cause at the polls in writing.

"Registration" or "registered" refers to the form of registration required by the state election statute. 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.

"Regular election" means the City election held on the first Tuesday of October annually as prescribed by Kenai Charter section 10-1.

"Signature" and "subscription" both include 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".

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

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

The Clerk shall supervise all City elections and shall determine whether candidates for City office are qualified in accordance with this Title and City Charter.

### **6.05.030 – 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 propositions and 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 and may submit questions to the qualified voters of the City as authorized by the City Charter, Section 10-8. 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 an 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.

### **6.05.040 – 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 order a recount of ballots pursuant to KMC 6.45.030. 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.

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

- (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) Financial disclosure forms shall be maintained for a period of six years and then may be destroyed.
- (c) Election registers, nominating petitions, declaration of candidacy, and rejected ballots shall be retained for one year after the certification of the election. These materials may be destroyed after their retention period has lapsed unless their destruction is stayed by an order of the court.

### **6.05.060 – 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.

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

- (a) The initiative and referendum process 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.

#### **6.05.080 – Proposition and Questions.**

A resolution or ordinance brought forward by the City Council placing a proposition before the voters must be adopted at least 53 days or more before a regular election, and at least 60 days or more before a special election.

### **Chapter 6.10** **Voter Qualifications**

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

A person is qualified to vote in a City election only if the person:

- (1) is qualified to vote in state elections under AS 15.05.010;
- (2) has been a resident of the City for 30 days immediately preceding the election;
- (3) 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; and
- (4) is not disqualified under article V of the state constitution.

#### **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 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, 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 be at least twenty-one (21) years of age and 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) Any qualified person may have their name placed on the ballot for the election as a candidate for Council or Mayor 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 statement 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; and
4. The length of the term of office for which the petitioners are nominating the candidate; 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) A sworn statement of candidacy and certification of qualification shall include:

1. The office for which the candidate accepts nomination; and
2. A statement that the candidate agrees to serve, if elected; and
3. A statement that the candidate is qualified for the office as provided by law; and
4. The date and signature of the candidate; and
5. Attestation and date by the Clerk; and

(d) A candidate shall provide 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.

(f) Any candidate for office may withdraw their 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.

### **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 – Campaign Reporting.**

All candidates for elective City office shall comply with the Alaska Public Offices Commission campaign reporting requirements in Alaska Statute Chapter 15.13.

### **6.15.050 – Notice of Vacancy.**

At least ten (10) 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 statement of candidacy for the offices.

## **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 a notice of election to be published at least twice in a newspaper of general circulation. 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. The location of the polling place(s) and the hours the polling place(s) shall be open;
  4. The offices to which candidates are to be elected;
  5. The subjects of propositions to be voted upon;
  6. Voter qualifications and instructions for registration; and
  7. 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 an election board of at least four judges in a precinct. A judge shall be a voter of the City. The Clerk shall designate one election judge from each precinct as the chairperson, who shall be primarily responsible for administering the election in the precinct. After Council approval, the Clerk may assign additional officials if deemed necessary for proper conduct of the election.
- (b) All City election personnel shall be appointed without regard to their membership in any political party.
- (c) If any appointed election official is not able or refuses to serve, the Clerk may appoint a replacement for that official.
- (d) 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.
- (e) 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.
- (f) 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 15 days before each regular election and at least 10 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 arrange for delivery of ballots to each election board prior to or on the date of the election before the opening of the polls. The ballots shall be delivered in separate containers, with the number of ballots enclosed in each container clearly marked on the outside. A receipt for each package shall be taken from the election board to which it was delivered.
- (d) No ballots shall be taken from the precinct before the closing of the polls unless the Clerk for good cause directs that the ballots be removed. A record shall be kept by the election official of the ballots removed from the precinct.
- (e) 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 all absentee in person and polling locations.

**6.20.050 – Ballot Shortage**

- (a) Under no circumstance shall a precinct close due to ballot shortage. The election board chairperson for the precinct shall monitor the ballot supply at the precinct throughout Election Day and apprise the Clerk of any projected shortage in the number of available ballots.
- (b) Upon being informed by an election official that there is a projected shortage of ballots, the Clerk shall promptly supply the precinct with additional printed ballots. If sufficient additional printed ballots are not available, the Clerk shall supply the precinct with copies of the original ballot marked "Alternate Ballot."

**6.20.060 – Reporting Voting Information to the State.**

Within 60 days after each election held in the City, the Clerk shall send to the State of Alaska Division of Elections the official precinct register, questioned voter register, absentee in person voter register and special needs voting register containing the names, residence address, and the voter identification of all persons who voted in that election.

**Chapter 6.25**  
**Polling Site Procedures**

**6.25.010 - Prohibitions.**

- (a) During the hours that the polls are open, no election official may discuss any political party, candidate or issue while on duty.
- (b) During the hours the polls are open, no person who is in the polling place or within 200 feet of any entrance to the polling place 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. For the purposes of this section, the entrance to a polling place is the entrance to the building. The election board 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 KMC 6.25.080.
- (d) While the polls 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 polling place with the official ballot that the person received to mark.

#### **6.25.020 - Opening of Polling Place.**

On the day of the election, each election board shall open the polls for voting at 7:00 a.m., shall close the polls for voting at 8:00 p.m., and shall keep the polls continuously open during the time between those hours. The election board shall report to the polling place by 6:30 a.m. so that voting will start promptly at 7:00 a.m. The chair of the election board shall rotate times at which election judges, board members, and Clerks may be relieved for breaks or meals; provided, however, that at all times at least two judges from the election board are present at the polling place.

#### **6.25.030 – Watchers.**

- (a) Each candidate, or organized group that sponsors or opposes a proposition, may designate one person at a time to be a poll watcher in each precinct.
- (b) A person wishing to serve as a poll watcher shall request authorization from the city clerk no later than 5:00 p.m. the Tuesday prior to the election. The authorization must include:
  - 1. The name of the person to act as a poll watcher;
  - 2. The name of the candidate, group, or organization the poll watcher is representing;
  - 3. The date of the election; and
  - 4. The precinct the poll watcher wishes to observe.
- (c) The poll watcher must present authorization as defined in subsection (b) of this section to the election official upon request. The poll watcher will be provided an area to view all actions of the election board. If the poll watcher does not provide the requested authorization, an election official may require the poll watcher to leave the poll watcher area.
- (d) The poll watcher observing may:
  - 1. Observe the conduct of the election; and
  - 2. Check the polling booths after each voter to make sure campaign materials have not been left in the booth.
  - 3. Remain in the polling place until all procedures are completed.

4. Request the election board to print an additional copy of the results tape for the poll watcher.

(e) The poll watcher may not:

1. Have any duties in the conduct of the election;
2. Be allowed to touch any of the election materials; and
3. Interfere or disturb the orderly conduct of the election.

(f) If the poll watcher violates this section or any regulations adopted by the city clerk, the election official may require the poll watcher to leave the poll watcher area.

#### **6.25.040 - Ballot Box Security.**

Before issuing any ballots, the election board must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place. The ballot box then shall be closed and not opened again or removed from the polling place until the polls have closed.

#### **6.25.050 - Voter Register.**

(a) The Clerk shall order from the State of Alaska Division of Elections an official voter register showing all persons registered to vote in state elections at a residence address within the City at least 30 days before the date of the election.

(b) The election board shall keep a register in which each voter's signature, residence and mailing address shall be entered before the voter receives a ballot. A record shall be kept in the register in the space provided of the names of persons who offered to vote but who actually did not vote and a brief statement of explanation. A voter's signing of the register shall constitute a declaration that the voter is qualified to vote.

(c) If a person's name does not appear on the official registration list in the precinct in which the person seeks to vote, the person may vote a questioned ballot.

#### **6.25.060 - Voter Identification.**

(a) Before being allowed to vote, each voter shall exhibit to an election official one form of identification, including but not limited to an official voter registration card, driver's license, passport, hunting or fishing license.

(b) An election official may waive the identification requirement if the election official knows the identity of the voter.

(c) A voter who cannot exhibit a satisfactory form of identification shall be allowed to vote a questioned ballot.

#### **6.25.070 - Providing Ballot to Voter.**

When a voter has qualified to vote, the election official shall give the voter an official ballot. The voter shall retire to a booth or private place to mark the ballot.



**6.25.080 - Questioned Voting.**

- (a) If the polling place of a voter is in question, the voter shall vote a questioned ballot after complying with Subsection C of this section.
- (b) Every election official and any other person qualified to vote may question a person attempting to vote if the questioner has good reason to suspect that the person is not qualified to vote. All questions regarding a person's qualification to vote shall be made in writing, setting out the reason that the person has been questioned.
- (c) Before voting, a person whose qualification to vote is questioned or whose name does not appear on the official voter register shall subscribe to an oath or affirmation on a form provided by the election official attesting to the fact that in each particular the person meets all the qualifications of a voter, is not disqualified, and has not voted in the same election.
- (d) A voter who casts a questioned ballot shall vote his/her ballot in the same manner as prescribed for other voters. After the election judge removes the numbered stub from the ballot, the voter shall vote the ballot then insert the voted ballot into a small envelope and put the small envelope into a larger envelope on which the statement he/she previously signed is located.

**6.25.090 - Assistance to Voters.**

A qualified voter who cannot read, mark the ballot or sign his/her name may request an election official or not more than two persons of his/her choice assist him/her. If the election official is requested, he/she shall assist the voter. If any other person is requested, the person shall state upon oath before the election official that he/she will not divulge the vote cast by the person whom he/she assists.

**6.25.100 - Spoiled Ballots.**

If a voter mutilates, improperly marks, spoils or otherwise damages the voter's ballot, the voter may request the election official provide another ballot upon the voter returning the damaged ballot to the election official. Without examining the spoiled ballot, the election official shall tear the ballot in half and place half in an envelope provided by the Clerk for a portion of each spoiled ballot and discard the remaining half. The election official shall then issue a new ballot of the same type to the voter. A voter may obtain a maximum of three replacement ballots under this section.

**6.25.110 - Alternate ballots.**

If the use of alternate ballots is required as prescribed in KMC 6.20.050(b) the voter shall vote his/her ballot in the same manner as prescribed for other voters. The voter shall then place his/her voted ballot in the side compartment of the ballot box.

**6.25.120 - Placing Ballots 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.

#### **6.25.130 - Closing of Polls.**

- (a) Fifteen minutes before the closing of the polls, and at the time of closing the polls, 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 fifteen minutes before closing time shall not in any way invalidate the election or extend the time for closing the polls. After closing, no person will be allowed to enter the polling place for purposes of voting. Every qualified voter present and in line at the time prescribed for closing the polls may vote.
- (b) When the polls are closed and the last vote has been cast, the election board shall account for all ballots by completing a ballot statement containing, in a manner prescribed by the Clerk, the number of official ballots supplied.
- (c) The election board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted on the ballot statement.

#### **6.25.140 - Unused Ballots.**

The number of ballots not issued shall be recorded and then all such ballots shall be disposed of as instructed by the Clerk. The number of ballots damaged by voters and replaced by election officials shall also be recorded. The record of ballots not issued and ballots damaged shall be preserved for 30 days unless the election is contested.

### **Chapter 6.30** **Absentee 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 instructions to absentee voters regarding the procedure for absentee voting.

#### **6.30.020 - Eligibility.**

Any qualified voter may vote an absentee ballot for the precinct in which they reside and are registered.

#### **6.30.030 - Materials for Absentee Voting.**

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

#### **6.30.040 - Absentee Voting in Person.**

- (a) A qualified voter may apply in person for an absentee ballot at the location designated for absentee voting by the Clerk 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 absentee voting official shall issue the ballot to the applicant.
- (c) The voter shall proceed to mark the ballot in secret, place the ballot in the secrecy sleeve and place the secrecy sleeve in the larger envelope in the presence of the election official who shall sign as attesting official and date of his/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 the intent to influence other voters. If the absentee voter improperly marks or otherwise damages the ballot, the voter may request, and the election official shall provide, him/her with another ballot up to a maximum of three. Exhibited, improperly marked or damaged ballots shall be destroyed. The number of ballots destroyed shall be noted on the ballot statement.
- (e) If the qualifications of the absentee voter is subject to question, the voter shall vote a questioned ballot as provided in KMC 6.25.070.
- (f) Each absentee voting official shall keep a record of the names and signatures of voters who cast absentee ballots before him/her and the dates on which the ballots were cast.

#### **6.30.050 – 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 (7) days before an election. A voter may request their 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, a voter identifier such as a voter number, social security number or date of birth, and the applicant's signature.
- (b) After receipt of an application for an absentee ballot 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 postage paid return envelope sent with the materials shall be addressed to the Clerk.

- (c) Upon receipt of an absentee ballot by mail, the voter 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 who shall sign as attesting official and shall date their signature. Officials recognized to attest to the veracity of signatures listed in this subsection are: a notary public, a commissioned officer of the armed forces, including the National Guard, state court judge, state court clerk, United States postal official, or other person qualified to administer oaths. If none of the officials listed in this subsection are reasonably accessible, an absentee voter shall have the ballot witnessed by a person who is eighteen (18) years of age or older.
- (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, they 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 ballots of the election.
- (e) The Clerk shall, as soon as practicable, make a reasonable effort to contact each absentee by mail voter, whose absentee ballot would be rejected under KMC 6.40.030(a), explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.
- (f) 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 their identity.
- (g) 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.

### **6.30.060 – 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 (7) days prior to the election, the ballot will be mailed in the manner provided in KMC 6.30.050 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 polling place 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 eighteen (18) years of age or older.
- (d) The voter shall mark the ballot on or before the date of the election and may 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 seventh (7<sup>th</sup>) 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 of the polls.
- (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) The Clerk shall, as soon as practicable, make a reasonable effort to contact each absentee by electronic transmission voter, whose absentee ballot would be rejected under KMC 6.40.030(a), explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.
- (h) 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.

### **6.30.070 – Special Needs Voting.**

A qualified voter with a disability who, because of that disability, is unable to go to a polling place 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.

### **6.30.080 – Prohibitions.**

- (a) During the hours that the absentee voting locations are open, no election official may discuss any political party, candidate or issue while on duty.
- (b) During the hours the absentee voting locations are open, no person who is in the absentee voting location or within 200 feet of any entrance to the absentee voting location 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 absentee voting locations 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 absentee voting location with the official ballot that the person received to mark.

### **6.30.090 - Assistance to Voters.**

A qualified voter who cannot read, mark the ballot or sign his/her name may request an election official or not more than two persons of his/her choice assist him/her. If the election official is requested, he/she shall assist the voter. If any other person is requested, the person shall state upon oath before the election official that he/she will not divulge the vote cast by the person whom he/she assists.

### **6.30.100 - Counting of Absentee Ballots.**

To be counted in the election, an absentee ballot must be postmarked or electronically submitted on or before Election Day and be received by the Clerk no later than noon the Tuesday following the election. Ballot envelopes received after the canvass board has completed absentee ballot counting shall not be opened, but shall be marked "invalid" with the date of receipt noted thereon. Such envelopes shall be retained with the other election records and destroyed with them as provided by the City's records retention schedule. Absentee ballot envelopes shall be examined by the canvass board who shall determine whether the absentee voter is qualified to vote at the election or whether the ballot has been properly cast.

### **6.30.110 - Names of Absentee Voters.**

The Clerk shall maintain a record of the name of each voter whom an absentee ballot is sent under this section. The record must list the date on which the ballot is mailed or provided by electronic transmission, the date on which the ballot is received by the Clerk and the dates on which the ballot was executed and, if by mail, postmarked. The record shall be available for public inspection. The absentee voting officials shall provide the Clerk the names and addresses of those persons who voted or attempted to vote absentee in person.

## **Chapter 6.35** **Ballot Counting Procedures.**

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

- (a) For counting of paper ballots, when the polls are closed and the last vote has been cast, the election board shall immediately proceed to open the ballot box, separate the questioned ballot envelopes from other ballots and then proceed to count the votes cast. In all cases the election board shall cause the count to be continued without adjournment until the count is complete. The Clerk may authorize the appointment of counters to assist in the counting of

ballots. Before undertaking the duties of the office, each counter shall subscribe to an oath to honestly, faithfully, impartially and promptly carry out the duties of the position. An election judge may administer the oath. If an appointed counter fails to appear and subscribe to the oath at the time designated by the Clerk, the election board may appoint any qualified voter to fill the vacancy.

- (b) In optical scan or other computer-read precincts, when the polls have closed and the last vote has been cast, the election board shall immediately transmit election results to the Borough Clerk following the written instructions provided to each precinct. Once the election results have been transmitted, the election board shall open the ballot box, separate questioned and write-in ballots from other ballots cast, place all ballots in the tamper proof containers provided, and proceed with the ballot accountability and poll closing procedures provided by the Clerk.

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

- (a) The election supervisor 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; and
  2. The number of official ballots voted; and
  3. The number of official ballots spoiled; and
  4. The number of official ballots unused and destroyed.
- (b) The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted and the numbers included in the certificate prescribed by the election supervisor.
- (c) When hand counting ballots, the election board 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 may have a marking device in hand or remove a ballot from the immediate vicinity of the polls.
- (d) Ballots may not be counted before 8:00 p.m., local time, on the day of the election.

### **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 polling place 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 marks 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.**

- (a) 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.
- (b) 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.
- (c) 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.

### **6.35.080 – Other Ballot Counting Systems.**

Nothing in this title prohibits the use of other ballot counting systems which have been approved for use in state or borough elections. The election supervisor, subject to any further approval as may be required by law, may prescribe rules for the use of these systems or may adopt such rules, regulations and procedures as have been adopted by the state for use in state elections or adopted by the borough in borough elections.

## **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 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) 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 – 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. 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 canvass board. A mistake which has been made in precinct returns that is not clearly an error in the transfer of the results from the tallies to the certificate of results empowers the canvass board to recommend a recount of the results of the precinct or precincts for that portion of the returns in question. 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.

- (b) 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.

#### **6.40.030 – Procedures for Handling Questioned Ballots.**

The canvass board by majority vote may refuse to accept the question and count the ballot of a person properly questioned. If the ballot is refused, the Clerk shall return a copy of the statement questioning the ballot to the voter, and shall enclose all rejected ballots in a separate envelope with statements of the basis for the question. The envelope shall be labeled with "rejected ballots" and shall be preserved with other voted ballots. If the ballot is not refused, the large envelope shall be opened; the smaller inner envelope shall be placed in a container and mixed with other absentee ballot envelopes or, in the case of counting questioned ballots, with other questioned ballot envelopes. The mixed smaller envelopes shall be drawn from the container and opened, and the ballots shall be counted according to the rules for determining properly marked ballots.

#### **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.**

- (a) 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 majority vote 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.
- (b) 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.
- (c) 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.
- (d) 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 (10) 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 four percent (4%) 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 (5) o'clock p.m. on the day of the certification of the election or to the Council 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 – Voting by Mail—Ballots—Ballot Review—Ballot Envelopes.**

- (a) The 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 Alaska Statute 15.07.125 for that election. The ballot shall be sent 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, nonforwardable mail no less than 22 days 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 return envelope supplied to each by-mail voter. The return envelope shall have printed upon it an affidavit by which the voter shall declare his/her qualifications to vote, followed by provision for attestation by a person qualified to

administer oaths or one attesting witness who is at least 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, will be mailed to each voter with the ballot.

**6.55.020 - Casting Ballots.**

- (a) Upon receipt of a mail-in ballot, the voter shall cast their ballot in the manner specified in KMC 6.30.050. 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 their ballot in person as specified in KMC 6.30.040.
- (c) A voter may return the mail-in ballot to the City Clerk as provided in KMC 6.55.040.
- (d) The Clerk shall immediately make a reasonable effort to contact each voter, whose absentee ballot would be rejected under KMC 6.40.030, explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.

**6.55.030 - 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 posted in each precinct and the notice published in newspapers of general circulation in the area of the election jurisdiction will include the information specified in KMC 6.20.020.

**6.55.040 - Absentee Voting Official—Duties.**

- (a) The City Clerk, or designee, shall act as absentee voting official. The Clerk shall supply adequate voting supplies and ballots to the absentee voting officials. The Clerk shall provide moderate compensation to the absentee voting official to cover added expenses of the administration of this service, which shall be agreed to by the absentee voting official.
- (b) The duties of the absentee voting officials shall be as follows:
  1. Provide absentee voting in person on any date including the day of the election following the procedures in KMC 6.30.040 and special needs voting on any date including the day of the election following the procedures in KMC 6.30.070; and
  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/her own ballot; and
  3. Accept receipt of a by-mail voter's hand-delivered ballot, which has been sworn to, attested and sealed in the by-mail return envelope; and
  4. Provide general voter assistance, including but not limited to, assistance to a qualified voter who cannot read, mark the ballot, or sign his/her name, and providing

replacement ballots to voters who have improperly marked or damaged their ballots;  
and

5. Date-stamp all ballots received; and

6. Provide for the security and safekeeping of all ballots received and present those  
ballots to the Clerk for canvassing. The Clerk will specify the means of returning the  
voted ballots and all other election supplies to the City.

**6.55.050 - 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 counting of ballots.

**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 this ordinance shall take effect on January 1, 2022.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15<sup>th</sup> day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Introduced: July 7, 2021  
Enacted: August 4, 2021  
Effective: January 1, 2022



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** September 8, 2021  
**SUBJECT:** Amendments Made in Substitute Ordinance No. 3224-2021

---

At Council's work session of September 1, 2021 an overview of Ordinance No. 3224-2021, repealing and replacing the City's election code was provided. During that work session, a number of amendments were discussed. The amendments below have been included in the substitute ordinance to assist in the amendment process. As a reminder, after a motion has been made and seconded to amend the ordinance by substitute ordinance, any Council Member may request to divide the question and identify which of the amendments they wanted to be taken separately from the rest. This will force a separate vote on the identified amendment.

1. Council Member Glendening suggested adding a definition of "bonded indebtedness." To accomplish this we have added the following definition to Section 6.05.010 – Definitions on page 19 of the substitute ordinance, "Bonded Indebtedness" is the amount of debt the City owes for capital improvements secured by a bond, which has been approved by voters at an election, pursuant to City Charter, Section 6-1."
2. Mayor Gabriel suggested that the age requirement of, "at least twenty-one (21) years old," which was provided for in Charter, also be included in Section 6.15.010 – Candidate Qualifications. To accomplish this 6.15.010 (a), on page 23 of the substitute ordinance, has been amended to state, "Shall be at least twenty-one (21) years of age and have the qualifications required in City Charter, Section 2-1(b), as of the date of the declaration of candidacy."
3. Council Member Glendening suggested allowing a voter to sign all nominating petitions that a voter wants to sign in Section 6.15.020 – Nominating and Declaration of Candidacy. To accomplish this we've **deleted** subsection (c), on page 24 of the ordinance, which stated, "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," and renumbered the remaining subsections.



4. The City Clerk corrected a scrivener's error in Section 6.20.020 – Election Officials, on page 27 of the substitute ordinance; there were two subsection (e)'s and the second one was renumbered to (f).
5. The City Clerk suggested renumbering 6.25.030(d)(3)(a), on page 30 of the substitute ordinance to 6.25.030(d)(4).

Two additional amendments were discussed at the work session and the City Clerk agreed to reach out to the Borough Clerk for input. The suggested amendments are not addressed in the substitute ordinance. The suggested amendments, input from the Borough Clerk, and staff recommendation are as follows:

1. Council Member Winger noted she would like to see the removal of the statement that an election official may waive the identification requirement if the election official knows the identity of the voter. This provision is in our current code, Borough Code, State Law, and can be found on page 30 of the substitute ordinance in section 6.25.060(b). When asked, the Borough Clerk agreed that removal of the provision is problematic and staff does not recommend this because it does not offer consistency across all elections. Voters will not know what to expect from election to election. State voters voting in Primary and General elections will not be required to show ID if they are personally known, Borough voters voting in Borough elections will not be required to show ID if they are personally known; however, if a City voter wants their city ballot, they will have to show ID which will be confusing to voters. The city, state, and borough need for procedures to match as much as possible to prevent voter confusion. Addressing this at the state level, with state legislators is the recommended path forward and, if the state law changes, it is a simple amendment to the City Code to make the change at the city level.
2. Council Member Winger noted she would like to see an addition to the ordinance of limitations on the City's ability to designate a change in a polling place location. When asked, the Borough Clerk agreed that providing this provision in City Code is problematic and staff does not recommend this because, again, the city, state, and borough all need to be consistent in their polling places. If one agency needs to change a polling place for any particular reason (i.e. facility management chooses not to rent the facility in a particular election, an emergency situation, or a natural disaster situation) the city, borough, and state election supervisors need to be able to collaborate to find and select a new location that all three agencies can use for the foreseeable future so a polling place isn't changing from year to year or election to election causing voter confusion. There are no provisions for polling place changes in borough code and, if an emergency arises, and the borough changes locations, but the particular emergency isn't addressed in city code, the city is going to be stuck in a situation that is not ideal.

Your consideration is appreciated.





Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3238-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING AN INTERLIBRARY COOPERATION GRANT FROM THE ALASKA STATE LIBRARY FOR THE KENAI COMMUNITY LIBRARY STORYWALK® PROJECT.

WHEREAS, the Kenai Community Library has been awarded State funds in the amount of \$5,476 from the Alaska State Library for the purchase and installation of a StoryWalk®; and,

WHEREAS, a StoryWalk® is a series of outdoor signs featuring pages from a children’s book; and,

WHEREAS, the StoryWalk® provides a great opportunity for parents and caregivers to be their children’s first teacher while reading and playing outdoors; and,

WHEREAS, Library staff will use the StoryWalk® to engage patrons outside the library and provide early literacy programs and activities; and,

WHEREAS, it is in the best interest of the City of Kenai to appropriate these funds for the purpose intended.

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 a grant in the amount of \$5,476 from the Alaska State Library, execute any necessary grant agreements, and to expend the grant in accordance with grant provisions and this Ordinance.

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

General Fund:

Increase Estimated Revenues –	
State Grants - Library	<u>\$5,476</u>
 Increase Appropriations –	
Library -- Books	\$ 120
Library – Operating, Repair & Maintenance Supplies	4,726
Library – Postage	400
Library –Rentals	<u>230</u>
	 <u>\$5,476</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 15<sup>th</sup> day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Approved by Finance: 

Introduced: September 1, 2021  
Enacted: September 15, 2021  
Effective: September 15, 2021



# 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:** Katja Wolfe, Library Director  
**DATE:** August 24, 2021  
**SUBJECT:** Ordinance 3238-2021

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The Alaska State Library has awarded the Kenai Community Library State funds in the amount of \$5,476 for the purchase and installation of a StoryWalk®. A StoryWalk® consists of a series of signs along an outdoor path and features the pages from a rotating collection of children's books. Children and adults alike will be able to enjoy a story and the outdoors at the same time. Library staff will utilize the StoryWalk® to offer early literacy programs and other outdoor programming activities.

Your consideration is appreciated.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3239-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND – POLICE DEPARTMENT AND ACCEPTING A GRANT FROM THE DEPARTMENT OF JUSTICE PASSED THROUGH THE ALASKA INTERNET CRIMES AGAINST CHILDREN TASK FORCE FOR THE PURCHASE OF FORENSIC SOFTWARE.

WHEREAS, the Kenai Police Department is an active member in good standing with Alaska Internet Crimes Against Children (ICAC) Task Force; and,

WHEREAS, Investigators at the Kenai Police Department operate a Cellebrite system for performing forensic device data extraction and examination, which requires regular software updates; and,

WHEREAS, the Alaska ICAC has approved reimbursing the Kenai Police Department for the current costs of those software updates (\$4,257).

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 grant funds in the amount of \$4,257 and to expend those funds pursuant to all grant terms and conditions and 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>\$4,257</u>
Increase Appropriations –	
Police – Software	<u>\$4,257</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 15<sup>th</sup> day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Approved by Finance: 

Introduced: September 1, 2021  
Enacted: September 15, 2021  
Effective: September 15, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** David Ross – Police Chief

**DATE:** August 23, 2021

**SUBJECT:** **Ordinance No. 3239-2021 ICAC funds for Cellebrite Software**

---

The Kenai Police Department is a member agency of the Alaska Internet Crimes Against Children (ICAC) Task Force. That Task Force receives funding from the Department of Justice to assist in its mission. As a member of the ICAC, the Kenai Police Department has been allocated some of those grant funds.

The Department operates a Cellebrite device for forensic data extraction of devices, such as smart phones. That device requires software updates and the ICAC has approved reimbursement for software updates to that device for \$4,257.00.

I am respectfully requesting consideration of the ordinance accepting and appropriating these grant funds for the purpose they were intended.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3240-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA AMENDING KENAI MUNICIPAL CODE SECTION 23.55.030 – QUALIFICATION PAY, TO AMEND THE SALARY RANGES TO ACCURATELY REFLECT RECOGNITION PAY AND ENTITLEMENTS.

WHEREAS, the City Council recently passed Ordinance 3210-2021 amending the Kenai Municipal Code to remove the Salary Schedule table to allow concurrent adoption of the Salary Schedule, Classification Plan, and the budget for the following fiscal year; and,

WHEREAS, upon further review, KMC 23.55.030 – Qualification Pay, references a previous version of the Salary Schedule, which was updated upon enactment by City Council of the ordinance adopting the FY2022 annual budget; and,

WHEREAS, an amendment to KMC 23.55.030 is necessary to accurately reflect recognition pay and entitlement pay; and,

WHEREAS, this amendment to the pay ranges does not affect employee pay or require an increase to the adopted annual budget for the FY2022 budget; and,

WHEREAS, amending the Kenai Municipal Code Section 23.55.030 – Qualification pay, to amend the specific salary ranges to accurately reflect recognition pay and entitlements is in the best interests of the City.

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

**Section 1.** Amendment of Section 23.55.030 of the Kenai Municipal Code: That Kenai Municipal Code, Section 23.55.030 (b)(1)(ii) Recognition Pay for Qualified Senior Officers, is hereby amended as follows:

Senior officer pay is for police officers who have completed step [16]21E subject to an overall evaluation rating of “Meets Expectations” or better, as follows:

Advance one (1) pay grade from [16]21E to [17]22E.

**Section 2.** Amendment of Section 23.55.030 of the Kenai Municipal Code: That Kenai Municipal Code, Section 23.55.030 (b) (2)– Fire Department, is hereby amended as follows:

(iii) Recognition entitlements for driver/operator qualified personnel for eligible grades of fire fighter are as follows:



Driver/Operator Qualified      One (1) pay range increase (pay range [13]18 to pay range [14]19)

**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 July 1, 2021.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Introduced: September 1, 2021  
Enacted: September 15, 2021  
Effective: October 15, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Stormy Brown, Human Resources

**DATE:** August 5, 2021

**SUBJECT:** **Ordinance 3240-2021 – Amending KMC 23.55.030 to Amend Specific Salary Range and Grade References to Accurately Reflect Recognition Pay and Entitlements**

---

With the FY22 budget approval, the City’s Salary Schedule was updated to standardize the grade assignments for each graded position within the City.

Recently, upon reviewing language in Chapter 23, it was discovered that previous grades were referenced by number in part of the language in *KMC 23.55.030, Qualification Pay*, and needed to be corrected to accurately reflect the recent changes.

To correct this, we are recommending a replacement of the grade numbers within the affected code section, changing them to correctly match the City’s FY22 Salary Schedule. Making these corrections will have no effect on employee pay.

Your support of this update is respectfully requested.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3241-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, DECLARING THAT T 5N R 11W SEC 6 SEWARD MERIDIAN KN 0002970 ORIGINAL TOWNSITE OF KENAI LOT 3 BLK 8, ALSO KNOWN AS 604 INLET STREET, KENAI, ALASKA, WHOSE LAST RECORD OWNER UNDER BOROUGH ASSESSMENT RECORDS WAS PETER F. MYSING, WHOSE ADDRESS IS, PO BOX 8134, NIKISKI, ALASKA, 99635-8134 AND ESTATE OF PETER F. MYSING CO/ DALE DOLIFKA, PO BOX 498, SOLDOTNA, AK, 99669-0498, SHALL BE RETAINED BY THE CITY OF KENAI FOR A PUBLIC PURPOSE.

WHEREAS, the City has identified a parcel of property foreclosed upon by the Kenai Peninsula Borough for unpaid real property taxes that will serve a public purpose for the City; and,

WHEREAS, the parcel is T 5N R 11W SEC 6 SEWARD MERIDIAN KN 0002970 ORIGINAL TOWNSITE OF KENAI LOT 3 BLK 8, also known as 604 Inlet Street, Kenai, Alaska; and,

WHEREAS, the City of Kenai desires to retain the above-referenced tax-foreclosed property for public purposes, including bluff stabilization control measures and dunes stabilization; and,

WHEREAS, AS 29.45.460 requires that the City determine by ordinance whether a tax-foreclosed property shall be retained for a public purpose and shall provide the former record owner, by certified mail, notice of the public hearing on that ordinance; and,

WHEREAS, the last record owner of the property as the name appears on the Kenai Peninsula Borough's assessment roll is, Peter F. Mysing, whose address is, PO Box 8134, Nikiski, Alaska, 99635-8134 and Estate of Peter F. Mysing co/ Dale Dolifka, PO Box 498, Soldotna, AK, 99669-0498; and,

WHEREAS, on \_\_\_\_\_ the Clerk sent a copy of the publicized notice of the hearing on this ordinance to the last record owner of the property as the name appears on the Borough assessment rolls by certified mail; and,

WHEREAS, after passage of an ordinance declaring the City's retention of tax foreclosed property for a public purpose, the right of the former record owner to repurchase the property ceases.

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

**Section 1.** Form: This is a non-code ordinance.

**Section 2.** T 5N R 11W SEC 6 SEWARD MERIDIAN KN 0002970 ORIGINAL TOWNSITE OF KENAI LOT 3 BLK 8, also known as 604 Inlet Street, Kenai, Alaska, whose last record owner under Borough assessment records was Peter F. Mysing, whose address is, PO Box 8134,

Ordinance No. 3241-2021  
Page 2 of 2

Nikiski, Alaska, 99635-8134 and Estate of Peter F. Mysing co/ Dale Dolifka, PO Box 498, Soldotna, AK, 99669-0498; and, is hereby retained by the City of Kenai for a public purpose.

**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 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15<sup>th</sup> day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Introduced: September 1, 2021  
Enacted: September 15, 2021  
Effective: October 15, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** August 23, 2021

**SUBJECT:** **Ordinance 3241-2021 – Declaring that 604 Inlet Street, also known as KP# 04707403, shall be retained by the City of Kenai for a public purpose**

---

The purpose of this correspondence is to request that the City Council adopt the above referenced ordinance authorizing the City Manager to purchase property for a public purpose. The Kenai Peninsula Borough Land Management has prepared a preliminary list of foreclosed parcels to be disposed of in the Borough's 2021 Tax Foreclosure Auction. The City of Kenai has reviewed the list and submitted an application for requesting conveyance of 604 Inlet Street (KP# 04707403). Pursuant to AS 29.45.450 Deed to Borough or City; a city may request conveyance of tax foreclosed property when the city has an immediate need for that property. Property may be deeded to the city subject to taxes owed through judgment date, interest, and any out of pocket cost incurred by the KP through the date of the actual payment. The current back taxes owed on this parcel is \$369.30. The City of Kenai has identified the subject parcel for the public purpose of bluff stabilization control measures and dunes stabilization.

Thank you for your consideration.



# Land Management

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2205 • (907) 714-2378 Fax

*A Division of the Planning Department*

Charlie Pierce  
Borough Mayor

## APPLICATION TO REQUEST CONVEYANCE OF REAL PROPERTY FORECLOSED FOR DELINQUENT PROPERTY TAX FOR A PUBLIC PURPOSE PURSUANT TO A.S. 29.45.450

Name of city requesting conveyance: City of Kenai

Attention to: Paul Ostrander

Mailing Address: 210 Fidalgo Avenue City Kenai State AK Zip

KPB Assessor Parcel ID No.: 047-074-03

Is parcel within city limits?  Yes  No

(Optional)

Proposed public purpose: Bluff stabilization control measures/ dunes stabilization

(Optional)

Explanation of public purpose that parcel is being requested for should include:

- Reference to city code or other authority that supports the public purpose conveyance.
- Specific and immediate use of parcel.
- Attach additional pages or exhibits as needed.

AS29.45.460, KMC 22.05.135

Bluff stabilization control measures/ dunes stabilization

Proposed method of payment: Check

### Authorized City Official

Paul Ostrander, City Manager  
Printed Name, Title

Paul Ostr  
Signature/Date

8/13/21

### Invoice (Completed by KPB Finance Dept.)

Parcel ID NO. \_\_\_\_\_

Amount: \_\_\_\_\_

Recording Fee: \_\_\_\_\_

TOTAL DUE: \_\_\_\_\_

DUE DATE: \_\_\_\_\_, 2021



**ORDINANCE 3241-2021**  
**T 5N R 11W SEC 6 SEWARD MERIDIAN**  
**KN 0002970 ORIGINAL TOWNSITE OF KENAI**  
**LOT 3 BLK 8**  
**604 Inlet Street, KPB #04707403**



Data Source: Kenai Peninsula Borough. Data is for graphic representation only. Imagery may not match true parcel boundaries.





# KENAI

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

September 9, 2021

Certified Mail: 7020 0640 0002 2738 2120

Peter F. Mysing  
P.O. Box 8134  
Nikiski, AK 99635-8134

**RE: Declaring that T 5N R 11W SEC 6 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 8, also Known as 604 Inlet Street, Kenai, Alaska, Whose Last Record Owner under Borough Assessment Records Was Peter F. Mysing, whose address is, PO Box 8134, Nikiski, Alaska, 99635-8134 and estate of Peter F. Mysing C/O Dale Dolifka, P.O. Box 498, Soldotna, AK, 99669-0498, shall be retained by the City of Kenai for a public purpose.**

Dear Mr. Mysing:

The Kenai City Council will be conducting a public hearing to determine whether foreclosed property deeded to the City shall be retained for a public purpose. The hearing will be held on **Wednesday, September 15, 2021 at 6:00 p.m.** in the **Kenai City Council Chambers, 210 Fidalgo Avenue, Kenai, Alaska.**

Because you are the last record owner of property located at 604 Inlet Street, Kenai, AK on the Kenai Peninsula Borough's assessment rolls, you are hereby notified of the hearing date, time, and place, pursuant to AS 29.45.460.

Sincerely,

Jamie Heinz, MMC  
City Clerk

Enclosures: Ordinance No. 3241-2021  
Published Notice of Hearing





# KENAI

## PUBLIC NOTICE

Notice is hereby given; that on Wednesday, September 15, 2021 the Kenai City Council will conduct a public hearing to determine whether foreclosed property T 5N R 11W Sec 6 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 8, also known as 604 Inlet Street, Kenai, Alaska, shall be retained by the City of Kenai for a public use. The meeting will begin at 6:00 p.m and held in Council Chambers at City Hall, 210 Fidalgo Avenue, Kenai, Alaska. Due to COVID-19 virtual and telephonic options are available.

The agenda and any supporting documents can be located on the City's website, [www.kenai.city](http://www.kenai.city) . If you have any questions related to this meeting, please contact the Kenai City Clerk's Office at 283-8231.

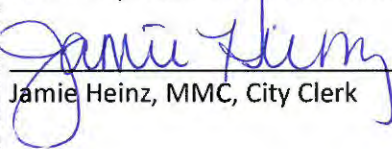
Jamie Heinz, MMC, City Clerk  
Publish: 09/09/21

D/211

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### CERTIFICATE OF PUBLICATION & POSTING

I, Jamie Heinz, Clerk of the City of Kenai, do hereby certify that on the 7<sup>th</sup> day of September, 2021, I electronically mailed or caused to be mailed the foregoing Notice of Candidate Forum to the Peninsula Clarion, and requested that this Notice be published in the September 9, 2021 edition of their newspaper. This notice was also posted at Kenai City Hall and on the internet at [www.kenai.city](http://www.kenai.city).

  
\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk



# KENAI

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

September 9, 2021

Certified Mail: 7020 0640 0002 2738 2144

Estate of Peter F. Mysing  
C/O Dale Dolifka  
P.O. Box 498  
Soldotna, AK 99669-0498

**RE: Declaring that T 5N R 11W SEC 6 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 8, also Known as 604 Inlet Street, Kenai, Alaska, Whose Last Record Owner under Borough Assessment Records Was Peter F. Mysing, whose address is, PO Box 8134, Nikiski, Alaska, 99635-8134 and estate of Peter F. Mysing C/O Dale Dolifka, P.O. Box 498, Soldotna, AK, 99669-0498, shall be retained by the City of Kenai for a public purpose.**

Dear Mr. Dolifka:

The Kenai City Council will be conducting a public hearing to determine whether foreclosed property deeded to the City shall be retained for a public purpose. The hearing will be held on **Wednesday, September 15, 2021 at 6:00 p.m.** in the **Kenai City Council Chambers, 210 Fidalgo Avenue, Kenai, Alaska.**

Because you are the last record owner of property located at 604 Inlet Street, Kenai, AK on the Kenai Peninsula Borough's assessment rolls, you are hereby notified of the hearing date, time, and place, pursuant to AS 29.45.460.

Sincerely,

Jamie Heinz, MMC  
City Clerk

Enclosures: Ordinance No. 3241-2021  
Published Notice of Hearing



# KENAI

## PUBLIC NOTICE

Notice is hereby given; that on Wednesday, September 15, 2021 the Kenai City Council will conduct a public hearing to determine whether foreclosed property T 5N R 11W Sec 6 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 8, also known as 604 Inlet Street, Kenai, Alaska, shall be retained by the City of Kenai for a public use. The meeting will begin at 6:00 p.m and held in Council Chambers at City Hall, 210 Fidalgo Avenue, Kenai, Alaska. Due to COVID-19 virtual and telephonic options are available.

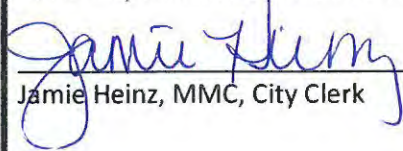
The agenda and any supporting documents can be located on the City's website, [www.kenai.city](http://www.kenai.city) . If you have any questions related to this meeting, please contact the Kenai City Clerk's Office at 283-8231.

Jamie Heinz, MMC, City Clerk  
Publish: 09/09/21

D/211

### CERTIFICATE OF PUBLICATION & POSTING

I, Jamie Heinz, Clerk of the City of Kenai, do hereby certify that on the 7<sup>th</sup> day of September, 2021, I electronically mailed or caused to be mailed the foregoing Notice of Candidate Forum to the Peninsula Clarion, and requested that this Notice be published in the September 9, 2021 edition of their newspaper. This notice was also posted at Kenai City Hall and on the internet at [www.kenai.city](http://www.kenai.city).

  
\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk



Sponsored by: Administration

## CITY OF KENAI

### ORDINANCE NO. 3242-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, DECLARING THAT T 5N R 11W SEC 5 SEWARD MERIDIAN KN 0002970 ORIGINAL TOWNSITE OF KENAI LOT 3 BLK 20, ALSO KNOWN AS 905 MISSION AVENUE, KENAI, ALASKA, WHOSE LAST RECORD OWNER UNDER BOROUGH ASSESSMENT RECORDS WAS KEITH K. KNIGHT, GENERAL DELIVERY, KENAI, ALASKA, SHALL BE RETAINED BY THE CITY OF KENAI FOR A PUBLIC PURPOSE.

WHEREAS, the City has identified a parcel of property foreclosed upon by the Kenai Peninsula Borough for unpaid real property taxes that will serve a public purpose for the City; and,

WHEREAS, the parcel is T 5N R 11W SEC 5 SEWARD MERIDIAN KN 0002970 ORIGINAL TOWNSITE OF KENAI LOT 3 BLK 20, also known as 905 Mission Avenue, Kenai, Alaska; and,

WHEREAS, the City of Kenai desires to retain the above-referenced tax-foreclosed property for public purposes, including bluff stabilization control measures; and,

WHEREAS, AS 29.45.460 requires that the City determine by ordinance whether a tax foreclosed property shall be retained for a public purpose and shall provide the former record owner, by certified mail, notice of the public hearing on that ordinance; and,

WHEREAS, the last record owner of the property as the name appears on the Kenai Peninsula Borough's assessment roll is Keith K. Knight, whose address is, General Delivery, Kenai, Alaska 99611; and,

WHEREAS, on \_\_\_\_\_ the Clerk sent a copy of the publicized notice of the hearing on this ordinance to the last record owner of the property as the name appears on the Borough assessment rolls by certified mail; and,

WHEREAS, after passage of an ordinance declaring the City's retention of tax foreclosed property for a public purpose, the right of the former record owner to repurchase the property ceases.

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

**Section 1.** Form: This is a non-code ordinance.

**Section 2.** T 5N R 11W SEC 5 SEWARD MERIDIAN KN 0002970 ORIGINAL TOWNSITE OF KENAI LOT 3 BLK 20, also known as 905 Mission Avenue, Kenai, Alaska, whose last record owner under Borough assessment records was Keith K. Knight, whose address is, General Delivery, Kenai, Alaska 99611; and, is hereby retained by the City of Kenai for a public purpose.

**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 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15<sup>th</sup> day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Introduced: September 1, 2021  
Enacted: September 15, 2021  
Effective: October 15, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** August 23, 2021

**SUBJECT:** **Ordinance 3242-2021 – Declaring that 905 Mission Avenue, also known as KPB# 04709303, shall be retained by the City of Kenai for a public purpose**

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The purpose of this correspondence is to request that the City Council adopt the above referenced ordinance authorizing the City Manager to purchase property for a public purpose. The Kenai Peninsula Borough Land Management has prepared a preliminary list of foreclosed parcels to be disposed of in the Borough's 2021 Tax Foreclosure Auction. The City of Kenai has reviewed the list and submitted an application for requesting conveyance of 905 Mission Avenue (KPB# 04709303). Pursuant to AS 29.45.450 Deed to Borough or City; a city may request conveyance of tax foreclosed property when the city has an immediate need for that property. Property may be deeded to the city subject to taxes owed through judgment date, interest, and any out of pocket cost incurred by the KPB through the date of the actual payment. The current back taxes owed on this parcel is \$1,294.24. The City of Kenai has identified the subject parcel for the public purpose of bluff stabilization control measures.

Thank you for your consideration.



# Land Management

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2205 • (907) 714-2378 Fax

*A Division of the Planning Department*

Charlie Pierce  
Borough Mayor

## APPLICATION TO REQUEST CONVEYANCE OF REAL PROPERTY FORECLOSED FOR DELINQUENT PROPERTY TAX FOR A PUBLIC PURPOSE PURSUANT TO A.S. 29.45.450

Name of city requesting conveyance: City of Kenai

Attention to: CHRISTINE WNNINGHAM

Mailing Address: 210 PIDALGO AVE. City KENAI State AK Zip 99611

KPB Assessor Parcel ID No.: 04709303

Is parcel within city limits?  Yes  No

(Optional)  
Proposed public purpose: BLUFF STABILIZATION CONTROL MEASURES

(Optional)  
Explanation of public purpose that parcel is being requested for should include:  
 - Reference to city code or other authority that supports the public purpose conveyance.  
 - Specific and immediate use of parcel.  
 - Attach additional pages or exhibits as needed.  
AS 29.45.460, KMC 22.05.135  
BLUFF STABILIZATION CONTROL MEASURES

Proposed method of payment: CHECK

Authorized City Official  
PAUL OSTRANDER, CITY MANAGER Paul Ostrander  
 Printed Name, Title Signature/Date

**Invoice (Completed by KPB Finance Dept.)**

Parcel ID NO. \_\_\_\_\_

Amount: \_\_\_\_\_

Recording Fee: \_\_\_\_\_

TOTAL DUE: \_\_\_\_\_

DUE DATE: \_\_\_\_\_, 2021




**ORDINANCE 3242-2021**  
**T 5N R 11W SEC 5 SEWARD MERIDIAN**  
**KN 0002970 ORIGINAL TOWNSITE OF KENAI**  
**LOT 3 BLK 20**  
**905 Mission Avenue, KPB #04709303**



**MISSION AVE**

**LEGEND**

 Subject Parcel

0 20 40 Feet

**Date: 8/24/2021**



Data Source: Kenai Peninsula Borough. Data is for graphic representation only. Imagery may not match true parcel boundaries.





# KENAI

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

September 9, 2021

Certified Mail: 7020 0640 0002 2738 2137

Keith K. Knight  
General Delivery  
Kenai, AK 99611

**RE: Declaring that T 5N R 11W Sec 5 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 20, also Known as 905 Mission Avenue, Kenai, Alaska, Whose Last Record Owner under Borough Assessment Records was Keith K. Knight, General Delivery, Kenai, Alaska, Shall be Retained by the City of Kenai for a Public Purpose.**

Dear Mr. Knight:

The Kenai City Council will be conducting a public hearing to determine whether foreclosed property deeded to the City shall be retained for a public purpose. The hearing will be held on **Wednesday, September 15, 2021 at 6:00 p.m.** in the **Kenai City Council Chambers, 210 Fidalgo Avenue, Kenai, Alaska.**

Because you are the last record owner of property located at 905 Mission Avenue, Kenai, AK on the Kenai Peninsula Borough's assessment rolls, you are hereby notified of the hearing date, time, and place, pursuant to AS 29.45.460.

Sincerely,

Jamie Heinz, MMC  
City Clerk

Enclosures: Ordinance No. 3242-2021  
Published Notice of Hearing



# KENAI

## PUBLIC NOTICE

Notice is hereby given; that on Wednesday, September 15, 2021 the Kenai City Council will conduct a public hearing to determine whether foreclosed property T 5N R 11W Sec 5 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 20, also known as 905 Mission Avenue, Kenai, Alaska, deeded to the City shall be retained by the City of Kenai for a public use. The meeting will begin at 6:00 p.m and held in Council Chambers at City Hall, 210 Fidalgo Avenue, Kenai, Alaska. Due to COVID-19 virtual and telephonic options are available.

The agenda and any supporting documents can be located on the City's website, [www.kenai.city](http://www.kenai.city) . If you have any questions related to this meeting, please contact the Kenai City Clerk's Office at 283-8231.

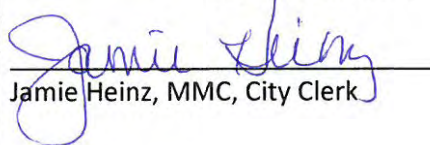
Jamie Heinz, MMC, City Clerk  
Publish: 09/09/21

D/211

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### CERTIFICATE OF PUBLICATION & POSTING

I, Jamie Heinz, Clerk of the City of Kenai, do hereby certify that on the 7<sup>th</sup> day of September, 2021, I electronically mailed or caused to be mailed the foregoing Notice of Candidate Forum to the Peninsula Clarion, and requested that this Notice be published in the September 9, 2021 edition of their newspaper. This notice was also posted at Kenai City Hall and on the internet at [www.kenai.city](http://www.kenai.city).

  
\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk



Sponsored by: Vice Mayor Molloy

**CITY OF KENAI**

**ORDINANCE NO. 3243-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING KENAI MUNICIPAL CODE 14.20.150-CONDITIONAL USE PERMITS, TO CLARIFY ROLES AND RESPONSIBILITIES OF APPLICANTS, THE PLANNING DIRECTOR, AND THE PLANNING COMMISSION IN THE CONDITIONAL USE PROCESS AND MAKE HOUSEKEEPING CHANGES.

WHEREAS, Kenai Municipal Code 14.20.150 describes the process for application and review of conditional use permits; and,

WHEREAS, the conditional use permit process is intended to recognize that some uses that are not permitted by the Land Use Table in certain zones may be conditionally allowed if certain conditions are met; and,

WHEREAS, the amendments below clarify that the grant or denial of a conditional use permit is a discretionary act by the Commission and the applicant has the burden of proof to show that a conditional use permit should be granted; and,

WHEREAS, the amendments also require a pre-application meeting with the Planning Director or designee prior to submittal of an application for public hearing to assist the applicant in preparing for the public hearing and providing the Commission with relevant information to make a decision; and,

WHEREAS, the amendments require the applicant to be present or available during the public hearing to present information to the Commission about the application; and,

WHEREAS, the amendments require the Commission to make findings specific to the six criteria that must be met to approve a conditional use permit and provide that the Commission may consider all relevant information in making its decision; and,

WHEREAS, the amendments describe the role of the Planning Director or designee in providing a staff report during public hearings and that the recommendations of the Planner may be considered but are not accorded deference by the Commission; and,

WHEREAS, on \_\_\_\_\_ the Planning and Zoning Commission met and recommended the City Council \_\_\_\_\_ this Resolution.

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

**Section 1.** Amendment of Section of the Kenai Municipal Code 14.20.150: That Kenai Municipal Code, Section 14.20.150 – Conditional Use Permits, is hereby amended as follows:

#### 14.20.150 Conditional ~~[U]~~Use ~~[P]~~Permits.

(a) *Intent.* It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The ~~[ALLOWED]~~ conditional uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed. The grant, denial, modification, or revocation of a conditional use permit is discretionary.

(b) *Pre-Application Meeting.* Every conditional use permit applicant must contact the Planning Director for a pre-application meeting with the Planning Director or designee before the application is submitted to the Commission in order to ensure applications are complete and the applicant is familiar with the conditional use permit public hearing process. If an application is determined to be incomplete by the Planning Director, the application may be re-submitted to the Planning Director with changes or new information as many times as necessary, or the applicant may request a review with the City Manager whose determination shall be final. The review by the Planning Director is to determine that sufficient information is presented to allow the Commission a meaningful review, and has no bearing on whether an application should be granted or denied by the Commission.

~~([B]c)~~ *Applications.* Applications for a conditional use permit shall be filed in writing with the Planning Department. The application shall include, but is not limited to, the following:

- (1) Name and address of the applicant and name and address of the property owner if not the applicant;
- (2) Verification by the owner of the property concerned if other than the applicant;
- (3) The street address and [A] a legal description of the property involved;
- (4) A description of the proposed use and how the use satisfies the review criteria;
- (5) Dimensioned plot plans showing the location of all existing and proposed buildings or alteration, conceptual drawing and such data as may be required; and
- (6) The appropriate fee as set forth in the City's schedule of fees adopted by the City Council.

The application and its plans shall be posted to the City's website at time of publication of Commission packet.

([C]d) *Public Hearing.* If the application is in order, a public hearing shall be scheduled in accordance with the requirements of KMC [14.20.280](#). An applicant or representative of the applicant must be present in person or by remote device for the application to be considered at the public hearing.

([D]e) *Review Criteria.* Prior to granting a conditional use permit, it shall be established that the use satisfies all the following [CONDITIONS] criteria:

- (1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;
- (2) The economic and non-economic value of the adjoining property and neighborhood will not be significantly impaired;
- (3) The proposed use is in harmony with the Comprehensive Plan;
- (4) Public services and facilities are adequate to serve the proposed use;
- (5) The proposed use will not be harmful to the public safety, health or welfare; and
- (6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions [SHOULD BE MET BY THE APPLICANT]. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

The Commission may approve, approve with conditions, or deny the application. The Commission must make specific findings in its decision addressing all six of the required criteria stated above. Any relevant evidence may be considered by the Commission in its decision.

(f) *Burden of Proof.* The applicant for a conditional use permit has the burden to show by substantial evidence that the six criteria above are satisfied. Substantial evidence is such relevant evidence a reasonable mind might accept as adequate to support a conclusion.

(g) *Staff Report.* The Planning Director or designee will provide a staff report on the application to the Commission at the public hearing. The staff report may contain any information deemed pertinent by the Planning Director or designee, and may include a recommendation and proposed findings on whether the requirements of this Chapter have been met and whether any additional specific conditions are recommended. The Commission may consider the recommendations of

*the Planning Director or designee, but shall accord it no deference. The staff report does not relieve the applicant's burden of proof.*

([E]h) *Issuance of the Permit.* Following approval by the Commission, the administrative official shall not issue the permit until the expiration of the fifteen (15) day appeal period contained in KMC [14.20.290](#). After approval by the Commission and before the issuance of the permit, the administrative official must determine that the applicant is current on all obligations (e.g., sales tax, property tax, lease payments, utility payments) to the City or has entered into an approved payment plan with the City on any obligations owed and the applicant is in compliance with the payment plan and (if the permit is for a use required to collect sales tax) must show a valid borough sales tax account. If a timely appeal is filed pursuant to KMC [14.20.290](#), the permit shall not be issued unless authorized by the Board of Adjustment.

([F]i) *Yearly Reports.* The permit holder shall submit a yearly report between October 1st and December 31st to the administrative official. Such report shall include a summary of the on-site activity.

([G]j) *Revocation for Noncompliance/Compliance Notices.* If the Commission determines, based on the yearly review or any other investigation undertaken by the official, that the conduct of the operation(s) is not in compliance with: (1) the terms and conditions of the permit; (2) the provisions of the Kenai Zoning Code; (3) or that the permit holder is not current on any obligations (e.g., sales tax, property tax, utility payments, lease payments) to the City unless the applicant has entered into an approved payment with the City on any obligations owed and the applicant is in compliance with the payment plan, the Commission may revoke the permit. The Commission shall not revoke the permit until the permit holder has been notified and given reasonable opportunity to correct the deficiency(s) or to provide information relating to or rebutting the alleged deficiency(s). Appeals from decisions under this section shall be made in accordance with the provisions of KMC [14.20.290](#). If the administrative official determines the permit holder is in compliance with the conditions in this subsection, it shall send a notice of compliance to the Commission and the permit holder.

([H]k) *Modification of Final Approval.*

(1) An approved conditional use permit may, upon application by the permittee, be modified by the Planning and Zoning Commission:

(a) When changed conditions cause the conditional use to no longer conform to the standards for its approval,

(b) To implement a different development plan conforming to the standards for its approval;

(2) The modification application shall be subject to a public hearing and the appropriate fee as set forth in the City's schedule of fees adopted by the City Council in order to help cover the costs of the public hearing notice.

~~([!])~~ *Expiration—Extensions—Transferability.*

(1) An approved conditional use permit lapses twelve (12) months after approval if no building permit is procured or if the allowed use is not initiated.

(2) A conditional use permit shall automatically expire if for any reason the conditioned use ceases for a period of one (1) year or longer.

(3) The Commission may grant time extensions to stay the lapse or the expiration of a permit for periods not to exceed one (1) year each upon a finding that circumstances have not changed sufficiently to warrant reconsideration of the approval of the conditional use permit or that good cause exists to grant the time extension. A permittee must request a time extension in writing, and submit any supporting materials, within ninety (90) days of the date of the administrative official's written notice to the permittee that either the permit has lapsed under subsection [\(1\)](#) or that the permit has expired under subsection [\(2\)](#) by a date certain. If the administrative official does not issue a written notice concerning lapse or expiration, the permittee may request a time extension at any time within two (2) years of the date the permit was issued or the use ceased, whichever is later. A permittee may be granted time extensions not to exceed a total of two (2) years from the date of the Commission's grant of the first time extension. The Commission may, but is not required to, hold a public hearing prior to issuing a decision under this subsection.

(4) A permittee who disputes the administrative official's determination that the conditioned use has not been timely initiated or has ceased for a period of one (1) year or longer may appeal the official's determination to the Board of Adjustment in accordance with KMC [14.20.290](#). If the permittee has requested a stay under subsection [\(3\)](#), above, the time for appeal of the administrative official's determination of lapse or expiration shall not run until such time as the Commission has made a final decision on the request for a stay.

(5) A conditional use permit is not transferable from one (1) parcel of land to another. Conditional use permits may be transferred from one (1) owner to another for the same use, but if there is a change in use on the property, a new permit must be obtained.

(6) Appeals from decisions of the Commission under this section shall be made in accordance with the provisions of KMC [14.20.290](#).

(J) A proposed conditional use permit shall not be considered if a substantially similar conditional use permit has been considered and denied within the nine (9) months immediately preceding.

**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 15 day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Introduced: September 1, 2021  
Enacted: September 15, 2021  
Effective: October 15, 2021





## MEMORANDUM

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

**FROM:** Vice-Mayor Bob Molloy

**DATE:** August 26, 2021

**SUBJECT:** **Ordinance 3243-2021 – An ordinance amending KMC 14.20.150-Conditional Use Permits to clarify roles and responsibilities in the conditional use permit process and to make housekeeping changes**

**- Memo #1 - Introduction, Postponement and Referral**

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The Planning & Zoning Commission, the City Council, the Board of Adjustment, and public comments have identified issues in **KMC 14.20.150 Conditional use permits** that should be addressed regarding roles and responsibilities. **Ordinance 3243-2021** proposes to amend **KMC 14.20.150 Conditional use permits** to address some of these issues by clarifying the roles and responsibilities of applicants, the Planning Director, and the Planning and Zoning Commission in the conditional use permit process.

The sponsor verbally presented the highlights of the proposed amendments to the Planning & Zoning Commission during Additional Public Comment at the Commission's 8/25/21 meeting. The Commissioners were very interested in and asked pertinent questions during the discussion of the highlights of the proposed amendments. It's the sponsor's understanding that the Commission has no other item at present for its 9/08/21 meeting.

At introduction, a request will be made for Council to postpone this ordinance to and for a public hearing at the Council's 9/15/21 meeting, and to refer this ordinance to the Planning & Zoning Commission for a public hearing at its 9/08/21 meeting, and for the Commission to make recommendations. If the Commission requests more time, then on 9/15/18 Council could refer the ordinance again to the Commission for its 9/22/21 meeting, and postpone to Council's 10/6/21 meeting for public hearing. There is some time; it's the sponsor's understanding that this ordinance later would fall off of the Council's agenda if no vote is taken at Council's 10/21/21 meeting.

Council's support of introduction and this referral request is respectfully requested.



## MEMORANDUM

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

**FROM:** Vice-Mayor Bob Molloy

**DATE:** August 26, 2021

**SUBJECT:** **Ordinance 3243-2021 – An ordinance amending KMC 14.20.150-Conditional Use Permits to clarify roles and responsibilities in the conditional use permit process and to make housekeeping changes**

**- Memo #2 - Supporting**

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The Planning & Zoning Commission, the City Council, the Board of Adjustment, and public comments have identified issues in **KMC 14.20.150 Conditional use permits** that should be addressed regarding roles and responsibilities. **Ordinance 3243-2021** addresses some of these issues.

Ordinance 3243-2021 proposes to amend **KMC 14.20.150 Conditional use permits** by clarifying the roles and responsibilities of applicants, the Planning Director, and the Planning and Zoning Commission in the conditional use permit process and to make some housekeeping changes. The proposed amendments include the following:

1. Add final sentence to paragraph **(a) Intent** to clarify and state that the Commission has discretion to grant, deny, modify or revoke a Conditional Use Permit (“CUP”).
2. Add a new paragraph **(b) Pre-application meeting** requiring the applicant to have a pre-application meeting with the Planning Director or designee. The purpose is to ensure the application is complete and the applicant is familiar with the conditional use permit public hearing process. The review by the Planning Director is to determine that sufficient information is presented with the application to allow the Planning Commission a meaningful review, and has no bearing on whether an application should be granted or denied by the Commission.
3. Make minor changes to the paragraph on **Applications** regarding the contents of the application, to be consistent with the online form for the application and the practice that there be some kind of conceptual drawings for landscape and site plans and the dimensional plot plans.
4. Add a sentence to the paragraph on **Applications** that the application and plans will be posted to the City’s website when the meeting packet is posted to the website. The City

Clerk and Administration would create a page to list public hearings coming up on applications with a link to the applications and plans.

5. Add to the paragraph on **Public Hearings** the requirement that the applicant or representative must be present in person or by remote electronic device to present the application and the applicant's case.
6. Clarify the second condition or criteria of the **Review Criteria** to provide that the value is the economic and non-economic value, so the second criteria is that the economic and non-economic value of the adjoining property and neighborhood will not be significantly impaired.
7. Add a paragraph to the **Review Criteria** which further clarifies the Commission's discretion to the effect that: The Commission may approve, approve with conditions, or deny the application. The Commission will make findings on the six criteria in its decision. Any other relevant evidence may be considered by the Commission in its decision.
8. Add a new paragraph on **Burden of Proof**, clarifying and stating that the applicant has the burden of proof to show that the six review conditions or criteria are satisfied.
9. Add a new paragraph on **Staff report**, clarifying and stating that the Planning Director or designee will provide a staff report. The staff may include a recommendation and proposed findings on whether the requirements of this Code have been satisfied and whether any additional specific conditions are recommended. The Commission may consider the recommendations of the Planning Director or designee, but does not have to defer to the staff's recommendation. The staff report does not relieve the applicant from the applicant's burden of proof.

Council's consideration and support of Ordinance 3243-2021 is respectfully requested.





# KENAI

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

## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**FROM:** Scott Bloom, City Attorney

**DATE:** September 9, 2021

**SUBJECT:** Ordinance 3243-2021- KMC 14.20.150- Conditional Use Permits

The Planning and Zoning Commission met on September 8, 2021 to consider Ordinance 3243-2021 and recommended Council enact the Ordinance with two amendments.

I request Council move to amend Ordinance 3243-2021 by amending the last Whereas Clause to read:

“WHEREAS, on September 8, 2021 the Planning and Zoning Commission met and recommended the City Council enact this Ordinance with amendments.”

The Commission moved to amend the new section (d) of KMC 14.20.150 to read as follows (new language in red):

[(C)d] *Public Hearing.* If the application is in order, a public hearing shall be scheduled in accordance with the requirements of KMC [14.20.280](#). An applicant or representative of the applicant must be present in person or by remote device for the application to be considered at the public hearing. **If the applicant or representative is not present at the scheduled public hearing and has not provided reasonable timely notice of unavailability to the Planning Department or Commission, the application will be dismissed by the Commission without a public hearing and the applicant may reapply at any time after paying a new application fee.**

This amendment will require a further modification in subsection (e) as provided below:

[(D)e] *Review Criteria.* Prior to granting a conditional use permit, it shall be established that the use satisfies all the following [CONDITIONS] criteria:

- (1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;

- (2) The economic and non-economic value of the adjoining property and neighborhood will not be significantly impaired;
- (3) The proposed use is in harmony with the Comprehensive Plan;
- (4) Public services and facilities are adequate to serve the proposed use;
- (5) The proposed use will not be harmful to the public safety, health or welfare; and
- (6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions [SHOULD BE MET BY THE APPLICANT]. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

The Commission may approve, approve with conditions, dismiss or deny the application. The Commission must make specific findings in its decision addressing all six of the required criteria stated above. Any relevant evidence may be considered by the Commission in its decision.

The Commission recommended this change to provide direction and clarity for the process if an applicant or representative is not present for the hearing. Reasonable timely notice depends on the circumstances, allowing for flexibility in emergency or exigent circumstances. The application fee for a conditional use permit is \$250 as provided in the City's Fee Schedule.

The Commission also expressed a desire to be notified of any written notices of violations provided to conditional use permit holders.

The Commission moved to amend the new section (j) of KMC 14.20.150 to read as follows (new language in red):

*([G]j) Revocation for Noncompliance/Compliance Notices.* If the Commission determines, based on the yearly review or any other investigation undertaken by the official, that the conduct of the operation(s) is not in compliance with: (1) the terms and conditions of the permit; (2) the provisions of the Kenai Zoning Code; (3) or that the permit holder is not current on any obligations (e.g., sales tax, property tax, utility payments, lease payments) to the City unless the applicant has entered into an approved payment with the City on any obligations owed and the applicant is in compliance with the payment plan, the Commission may revoke the permit. The Commission shall not revoke the permit until the permit holder has been notified and given reasonable opportunity to correct the deficiency(s) or to provide information relating to or rebutting the alleged deficiency(s). Appeals from decisions under this section shall be made in accordance with the provisions of KMC [14.20.290](#). If the administrative



official determines the permit holder is in compliance with the conditions in this subsection, or notifies the permit holder of a potential violation in writing, the administrative official [IT] shall send any notice of compliance or notice of violation to the Commission and the permit holder in a timely manner.





**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. 2021-34**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THE COUNCIL OF THE CITY OF KENAI AMEND KENAI MUNICIPAL CODE 14.20.150-CONDITIONAL USE PERMITS, TO CLARIFY ROLES AND RESPONSIBILITIES OF APPLICANTS, THE PLANNING DIRECTOR, AND THE PLANNING COMMISSION IN THE CONDITIONAL USE PROCESS AND MAKE HOUSEKEEPING CHANGES.

WHEREAS, Kenai Municipal Code 14.20.150 describes the process for application and review of conditional use permits; and,

WHEREAS, the conditional use permit process is intended to recognize that some uses that are not permitted by the Land Use Table in certain zones may be conditionally allowed if certain conditions are met; and,

WHEREAS, the amendments below clarify that the grant or denial of a conditional use permit is a discretionary act by the Commission and the applicant has the burden of proof to show that a conditional use permit should be granted; and,

WHEREAS, the amendments also require a pre-application meeting with the Planning Director or designee prior to submittal of an application for public hearing to assist the applicant in preparing for the public hearing and providing the Commission with relevant information to make a decision; and,

WHEREAS, the amendments require the applicant to be present or available during the public hearing to present information to the Commission about the application; and,

WHEREAS, the amendments require the Commission to make findings specific to the six criteria that must be met to approve a conditional use permit and provide that the Commission may consider all relevant information in making its decision; and,

WHEREAS, the amendments describe the role of the Planning Director or designee in providing a staff report during public hearings and that the recommendations of the Planner may be considered, but are not accorded deference by the Commission.

NOW, THEREFORE, BE IT RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

**Section 1.** Amendment of Section of the Kenai Municipal Code 14.20.150: That Kenai Municipal Code, Section 14.20.150 – Conditional Use Permits, is hereby amended as follows:

---

**14.20.150 Conditional [U]Use [P]Permits.**

(a) *Intent.* It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The [ALLOWED] conditional uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed. The grant, denial, modification, or revocation of a conditional use permit is discretionary.

(b) *Pre-Application Meeting.* Every conditional use permit applicant must contact the Planning Director for a pre-application meeting with the Planning Director or designee before the application is submitted to the Commission in order to ensure applications are complete and the applicant is familiar with the conditional use permit public hearing process. If an application is determined to be incomplete by the Planning Director, the application may be re-submitted to the Planning Director with changes or new information as many times as necessary, or the applicant may request a review with the City Manager whose determination shall be final. The review by the Planning Director is to determine that sufficient information is presented to allow the Commission a meaningful review, and has no bearing on whether an application should be granted or denied by the Commission.

~~(B)c~~ *Applications.* Applications for a conditional use permit shall be filed in writing with the Planning Department. The application shall include, but is not limited to, the following:

- (1) Name and address of the applicant and name and address of the property owner if not the applicant;
- (2) Verification by the owner of the property concerned if other than the applicant;
- (3) The street address and [A] a legal description of the property involved;
- (4) A description of the proposed use and how the use satisfies the review criteria;
- (5) Dimensioned plot plans showing the location of all existing and proposed buildings or alteration, conceptual drawing and such data as may be required; and
- (6) The appropriate fee as set forth in the City's schedule of fees adopted by the City Council.



The application and its plans shall be posted to the City's website at time of publication of Commission packet.

([C]d) *Public Hearing.* If the application is in order, a public hearing shall be scheduled in accordance with the requirements of KMC [14.20.280](#). An applicant or representative of the applicant must be present in person or by remote device for the application to be considered at the public hearing. If the applicant or representative is not present at the scheduled public hearing and has not provided reasonable timely notice of unavailability to the Planning Department or Commission, the application will be dismissed by the Commission without a public hearing and the applicant may reapply at any time after paying a new application fee.

([D]e) *Review Criteria.* Prior to granting a conditional use permit, it shall be established that the use satisfies all the following [CONDITIONS] criteria:

- 1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;
- 2) The economic and non-economic value of the adjoining property and neighborhood will not be significantly impaired;
- 3) The proposed use is in harmony with the Comprehensive Plan;
- 4) Public services and facilities are adequate to serve the proposed use;
- 5) The proposed use will not be harmful to the public safety, health or welfare; and
- 6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions [SHOULD BE MET BY THE APPLICANT]. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

The Commission may approve, approve with conditions, dismiss, or deny the application. The Commission must make specific findings in its decision addressing all six of the required criteria stated above. Any relevant evidence may be considered by the Commission in its decision.

(f) Burden of Proof. The applicant for a conditional use permit has the burden to show by substantial evidence that the six criteria above are satisfied. Substantial evidence is such relevant evidence a reasonable mind might accept as adequate to support a conclusion.

(g) Staff Report. The Planning Director or designee will provide a staff report on the application to the Commission at the public hearing. The staff report may contain any information deemed pertinent by the Planning Director or designee, and may include a recommendation and proposed findings on whether the requirements of this Chapter have been met and whether any additional specific conditions are recommended. The Commission may consider the recommendations of the Planning Director or designee, but shall accord it no deference. The staff report does not relieve the applicant's burden of proof.

~~([E]h)~~ *Issuance of the Permit.* Following approval by the Commission, the administrative official shall not issue the permit until the expiration of the fifteen (15) day appeal period contained in KMC [14.20.290](#). After approval by the Commission and before the issuance of the permit, the administrative official must determine that the applicant is current on all obligations (e.g., sales tax, property tax, lease payments, utility payments) to the City or has entered into an approved payment plan with the City on any obligations owed and the applicant is in compliance with the payment plan and (if the permit is for a use required to collect sales tax) must show a valid borough sales tax account. If a timely appeal is filed pursuant to KMC [14.20.290](#), the permit shall not be issued unless authorized by the Board of Adjustment.

~~([F]i)~~ *Yearly Reports.* The permit holder shall submit a yearly report between October 1st and December 31st to the administrative official. Such report shall include a summary of the on-site activity.

~~([G]j)~~ *Revocation for Noncompliance/Compliance Notices.* If the Commission determines, based on the yearly review or any other investigation undertaken by the official, that the conduct of the operation(s) is not in compliance with: (1) the terms and conditions of the permit; (2) the provisions of the Kenai Zoning Code; (3) or that the permit holder is not current on any obligations (e.g., sales tax, property tax, utility payments, lease payments) to the City unless the applicant has entered into an approved payment with the City on any obligations owed and the applicant is in compliance with the payment plan, the Commission may revoke the permit. The Commission shall not revoke the permit until the permit holder has been notified and given reasonable opportunity to correct the deficiency(s) or to provide information relating to or rebutting the alleged deficiency(s). Appeals from decisions under this section shall be made in accordance with the provisions of KMC [14.20.290](#). If the administrative official determines the permit holder is in compliance with

the conditions in this subsection, or notifies the permit holder of a potential violation in writing, the administrative official [IT] shall send any notice of compliance or notice of violation to the Commission and the permit holder in a timely manner.

*[(H)k] Modification of Final Approval.*

- 1) An approved conditional use permit may, upon application by the permittee, be modified by the Planning and Zoning Commission:
  - a) When changed conditions cause the conditional use to no longer conform to the standards for its approval,
  - b) To implement a different development plan conforming to the standards for its approval;
- (2) The modification application shall be subject to a public hearing and the appropriate fee as set forth in the City's schedule of fees adopted by the City Council in order to help cover the costs of the public hearing notice.

*[(I)l] Expiration—Extensions—Transferability.*

- 1) An approved conditional use permit lapses twelve (12) months after approval if no building permit is procured or if the allowed use is not initiated.
- 2) A conditional use permit shall automatically expire if for any reason the conditioned use ceases for a period of one (1) year or longer.
- 3) The Commission may grant time extensions to stay the lapse or the expiration of a permit for periods not to exceed one (1) year each upon a finding that circumstances have not changed sufficiently to warrant reconsideration of the approval of the conditional use permit or that good cause exists to grant the time extension. A permittee must request a time extension in writing, and submit any supporting materials, within ninety (90) days of the date of the administrative official's written notice to the permittee that either the permit has lapsed under subsection (1) or that the permit has expired under subsection (2) by a date certain. If the administrative official does not issue a written notice concerning lapse or expiration, the permittee may request a time extension at any time within two (2) years of the date the permit was issued or the use ceased, whichever is later. A permittee may be granted time extensions not to exceed a total of two (2) years from the date of the Commission's grant of the first time extension. The Commission may, but is not required to, hold a public hearing prior to issuing a decision under this subsection.

- 4) A permittee who disputes the administrative official's determination that the conditioned use has not been timely initiated or has ceased for a period of one (1) year or longer may appeal the official's determination to the Board of Adjustment in accordance with KMC 14.20.290. If the permittee has requested a stay under subsection (3), above, the time for appeal of the administrative official's determination of lapse or expiration shall not run until such time as the Commission has made a final decision on the request for a stay.
- 5) A conditional use permit is not transferable from one (1) parcel of land to another. Conditional use permits may be transferred from one (1) owner to another for the same use, but if there is a change in use on the property, a new permit must be obtained.
- 6) Appeals from decisions of the Commission under this section shall be made in accordance with the provisions of KMC 14.20.290.

(J)m A proposed conditional use permit shall not be considered if a substantially similar conditional use permit has been considered and denied within the nine (9) months immediately preceding.

**Section 2.** That a copy of Resolution PZ2021-34 be forwarded to the Kenai City Council.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 8th day of September, 2021.



JEFF TWAIT, CHAIRPERSON

ATTEST:

  
JAMIE HEINZ, CITY CLERK





Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3245-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AUTHORIZING A BUDGET TRANSFER AND INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE CONGREGATE HOUSING FUND FOR THE PURCHASE AND INSTALLATION OF EQUIPMENT TO PROVIDE VINTAGE POINTE RESIDENTS BASIC TELEVISION AND WIRELESS INTERNET SERVICE.

WHEREAS, pursuant to the Vintage Pointe Manor Tenant Lease Agreement, the City provides a basic cable television package to its tenants to be determined at the City's sole discretion; and

WHEREAS, GCI, Inc., the current cable television provider has announced it will be discontinuing bulk cable television services in September 2021; and,

WHEREAS, after considerable investigation and with no other cable television options, the best solution is to provide basic television channels and internet services to tenants in lieu of basic cable television; and,

WHEREAS, continued television services, along with internet service, are in the best interest of the residents of Vintage Pointe Manor and the City of Kenai.

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

**Section 1.** That the following transfer is authorized:

Congregate Housing Fund:	
Decrease Appropriations –	
Utilities	<u>\$7,071</u>
Increase Appropriations –	
Small Tools/Minor Equipment	<u>\$7,071</u>

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

Congregate Housing Fund:	
Increase Estimated Revenues –	
Appropriation of Retained Earnings	<u>\$11,329</u>
Increase Appropriations –	
Small Tools/Minor Equipment	\$ 2,629
Repair & Maintenance	<u>8,700</u>
	<u>\$11,329</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 15th day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Approved by Finance: \_\_\_\_\_



Introduced: September 1, 2021  
Enacted: September 15, 2021  
Effective: September 15, 2021



# 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:** Kathy Romain, Senior Center Director

**DATE:** August 26, 2021

**SUBJECT:** Ordinance No. 3245-2021 – Congregate Housing Cable Television

Section 6A of the Vintage Pointe Manor Tenant Lease Agreement states:

City shall provide heat, water, sewer, and garbage services for the Premises. City shall also provide a basic cable television package (to be determined at the City’s sole discretion) to Tenant.

GCI, Inc. announced earlier this year it would be discontinuing its cable service and replacing it with an online streaming service (Yukon TV). This would also require hookup to *its* internet service at a significant cost increase to the City. Initially, we had been given to the end of the year, but earlier this month we were told cable television to its bulk contracted services would expire sometime in September. To this date, we have not been able to get a confirmed day this service would end.

Our current cost is approximately \$8,650 per year to provide cable television to 40 apartments and 1 commons area. Each tenant receives a cable receiver and has the option to purchase additional equipment or channels at their own expense. This does not include internet services.

During recent months we have researched different options for a basic television service comparable to what we currently receive. The options to provide something similar to cable would require a dish or satellite service with a locked in 5-year agreement and a big cost increase. As quickly as technology is changing, we believe the equipment would be outdated before the life of the contract ends.

Terry Eubank and Dan Castimore explored an additional option and found we could provide our tenants 18 channels of free television (out of Anchorage) along with internet services for just equipment costs to our building. This would also help ease tenants into the next stages of television viewing without increasing their rent. The ability to provide internet services to tenants would also allow them to stream any desired channels without paying for channels in which they have no interest. Administration estimates that the total cost for installation of this option would total \$18,400, of which \$9,700 is for materials and \$8,700 is for labor. If necessary, updated installation costs and an amendment to this ordinance will be provided at the September 15<sup>Th</sup>

Council meeting. The annual recurring cost, comprised of licensing fees and equipment replacement on a 7-year cycle, would be approximately \$2,000

This option solves many of the difficulties and increased costs associated with losing the cable service through GCI, Inc. After months of discussion and research, I believe this is in the best interest of our tenants. There will be some education and a learning period as tenants adjust to new technology. The Senior Center staff will be prepared and provide such trainings.

I respectfully request consideration of Ordinance 3245-2021.

Thank you.







Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2021-57**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, DECLARING A RIGHT-OF-WAY FOR A 60' BY 254' PORTION OF THE FRONTAGE ROAD ALONG WILDWOOD DRIVE AS DEDICATED ON LOT 4-A, BLOCK 8, BLACK GOLD ESTATES SUBDIVISION NO. 2 (PLAT KN 84-76), AND AS SET FORTH ON THE ATTACHED EXHIBIT "A" IS NOT NEEDED FOR A PUBLIC PURPOSE AND CONSENTING TO ITS VACATION.

WHEREAS, on July 28, 2021, by Resolution No. PZ2021-30 the Kenai Planning and Zoning Commission recommended that the Kenai Peninsula Borough Planning Commission approve the preliminary plat of Black Gold Estates 2021 Replat 2 with a vacation of the 60' right-of-way along the southerly boundary as dedicated on the plat of Lot 4-A, Block 8, Black Gold Estates Subdivision No. 2 (Plat KN 84-76); and,

WHEREAS, on August 23, 2021, the Kenai Peninsula Borough Planning Commission approved the vacation of a 60' by 254' portion of Wildwood Drive on the southeast boundary of Lot 4-A, Block 8, Black Gold Estates Subdivision No. 2 (Plat KN 84-76); and,

WHEREAS, there is no needed public use for the 60' by 254' right-of-way; and,

WHEREAS, on August 25, 2021, the Kenai Peninsula Borough submitted a letter to the Kenai City Council requesting consideration of the vacation in accordance with Alaska Statutes 29.40 .140 that requires the consent of the City Council prior to vacation of a city right-of-way; and,

WHEREAS, Kenai Municipal Code 22.05.110 - Determination as to need for public use, states City Council may vacate rights-of-way or easements by resolution.

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

**Section 1.** The 60' by 254' right-of-way portion of Wildwood Drive on the southeast boundary of Lot 4-A, Block 8, Black Gold Estates Subdivision No. 2 (Plat KN 84-76) is not needed for a public purpose and the Council of the City of Kenai consents to the vacation of the 60' by 254' right-of-way as set forth on the attached Exhibit "A ".

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

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15<sup>th</sup> day of September, 2021.

Resolution No. 2021-57  
Page 2 of 2

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BRIAN GABRIEL SR., MAYOR

ATTEST:

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Jamie Heinz, MMC, City Clerk



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** September 9, 2021

**SUBJECT:** **Resolution No. 2021-57 – Consenting to the Vacation of 60’ by 254’ portion of the frontage road along Wildwood Drive dedicated as Lot 4-A, Block 8, Black Gold Estates Subdivision No. 2**

---

On July 28, 2021, the Planning and Zoning Commission passed Resolution PZ2021-30 recommending the approval of the Black Gold Estates 2021 Replat subject to the following condition: 2. The Kenai City Council must declare the sixty-foot right-of-way not needed for a public purpose and consent to the vacation of the right-of-way as shown on the preliminary plat.

On August 23, 2021, the Kenai Peninsula Borough Planning Commission approved the vacation of a 60’ by 254’ portion of Wildwood Drive on the southeast boundary of Lot 4-A, Block 8, Black Gold Estates Subdivision No. 2 (Plat KN 84-76).

In accordance with Alaska Statutes 29.40.140, no vacation of a City right-of-way and/or easement may be made without consent of the City Council. Kenai Municipal Code 22.05.110, Determination as to the need for public use the Kenai City Council may vacate rights-of-way or easements by resolution. Council passing of Resolution No. 2021-57 would consent to the vacation of the subject 60’ by 254’ right-of-way.

Thank you for your consideration.

### Attachments

Exhibit A: Preliminary Plat identifying recommended vacation of 60’ by 254’ right-of-way

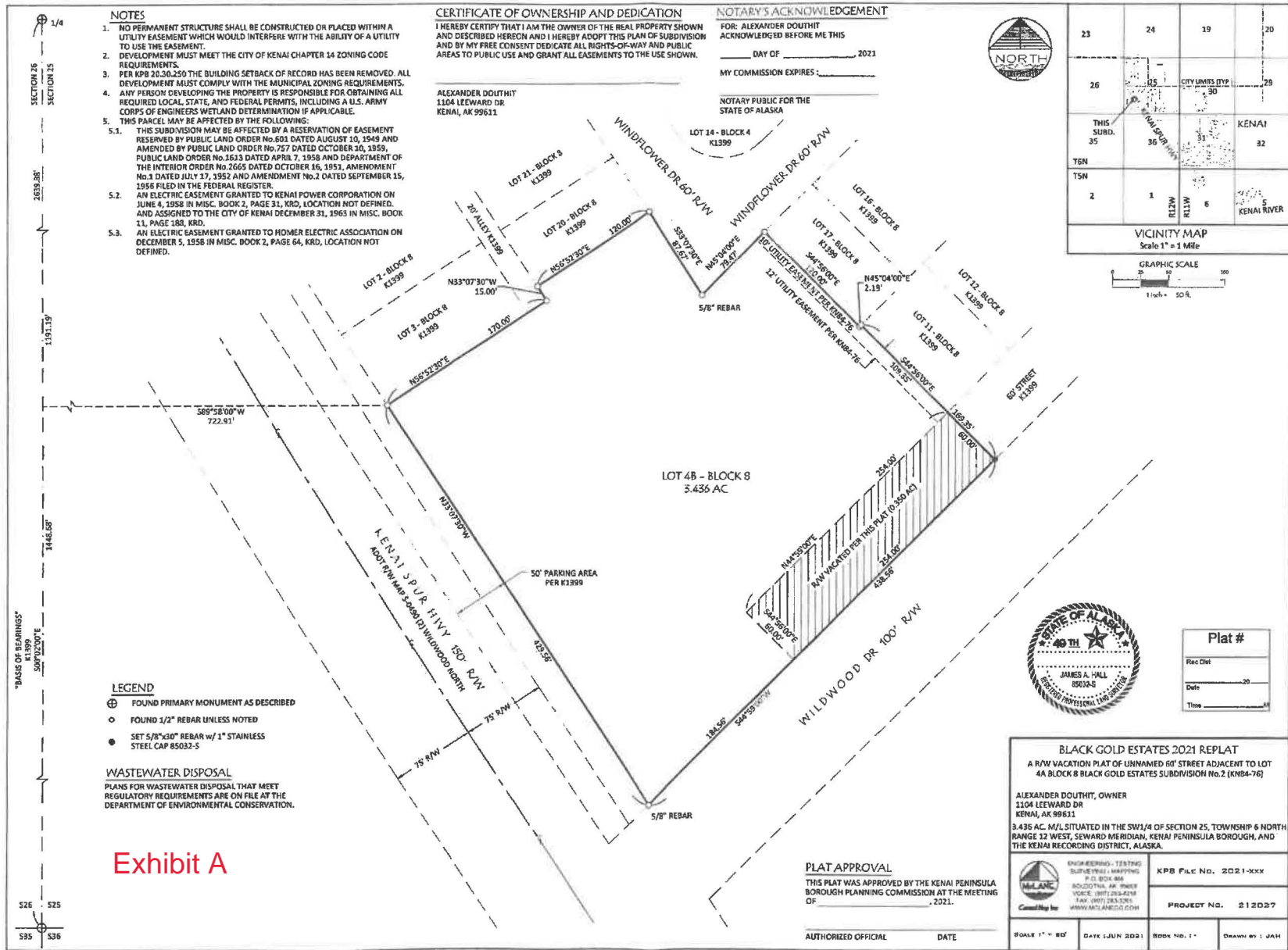
Letter from Kenai Peninsula Borough dated August 25, 2021

Draft Borough Planning Commission Meeting Minutes

Pertinent Materials from Borough Planning Commission Meeting

City of Kenai Planning and Zoning Commission Resolution PZ2021-30

Minutes from July 28, 2021 City of Kenai Planning and Zoning Commission Meeting

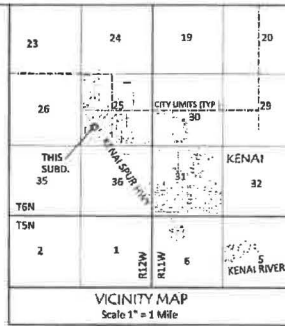


- NOTES**
- NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
  - DEVELOPMENT MUST MEET THE CITY OF KENAI CHAPTER 14 ZONING CODE REQUIREMENTS.
  - PER KPB 20.30.250 THE BUILDING SETBACK OF RECORD HAS BEEN REMOVED. ALL DEVELOPMENT MUST COMPLY WITH THE MUNICIPAL ZONING REQUIREMENTS.
  - ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION IF APPLICABLE.
  - THIS PARCEL MAY BE AFFECTED BY THE FOLLOWING:
    - THIS SUBDIVISION MAY BE AFFECTED BY A RESERVATION OF EASEMENT RESERVED BY PUBLIC LAND ORDER No.601 DATED AUGUST 10, 1949 AND AMENDED BY PUBLIC LAND ORDER No.757 DATED OCTOBER 30, 1959, PUBLIC LAND ORDER No.1613 DATED APRIL 7, 1958 AND DEPARTMENT OF THE INTERIOR ORDER No.2665 DATED OCTOBER 16, 1953, AMENDMENT No.1 DATED JULY 17, 1952 AND AMENDMENT No.2 DATED SEPTEMBER 15, 1956 FILED IN THE FEDERAL REGISTER.
    - AN ELECTRIC EASEMENT GRANTED TO KENAI POWER CORPORATION ON JUNE 4, 1958 IN MISC. BOOK 2, PAGE 31, KR0, LOCATION NOT DEFINED, AND ASSIGNED TO THE CITY OF KENAI DECEMBER 31, 1963 IN MISC. BOOK 11, PAGE 188, KR0.
    - AN ELECTRIC EASEMENT GRANTED TO HOMER ELECTRIC ASSOCIATION ON DECEMBER 5, 1958 IN MISC. BOOK 2, PAGE 64, KR0, LOCATION NOT DEFINED.

**CERTIFICATE OF OWNERSHIP AND DEDICATION**  
 I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

**NOTARY'S ACKNOWLEDGEMENT**  
 FOR: ALEXANDER DOUTHIT  
 ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021  
 MY COMMISSION EXPIRES: \_\_\_\_\_  
 NOTARY PUBLIC FOR THE STATE OF ALASKA

ALEXANDER DOUTHIT  
 1104 LEEWARD DR  
 KENAI, AK 99611



- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
  - FOUND 1/2" REBAR UNLESS NOTED
  - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S

**WASTEWATER DISPOSAL**  
 PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.



**Plat #**

Rec Dist \_\_\_\_\_

Date \_\_\_\_\_

Time \_\_\_\_\_

**BLACK GOLD ESTATES 2021 REPLAT**  
 A R/W VACATION PLAT OF UNNAMED 60' STREET ADJACENT TO LOT 4A BLOCK 8 BLACK GOLD ESTATES SUBDIVISION No.2 (KPB-76)

ALEXANDER DOUTHIT, OWNER  
 1104 LEEWARD DR  
 KENAI, AK 99611

3.436 AC. M/L SITUATED IN THE SW1/4 OF SECTION 25, TOWNSHIP 6 NORTH RANGE 12 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, AND THE KENAI RECORDING DISTRICT, ALASKA.

**PLAT APPROVAL**  
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF \_\_\_\_\_, 2021.

AUTHORIZED OFFICIAL \_\_\_\_\_ DATE \_\_\_\_\_

ENGINEERING, TESTING SURVEYING & MAPPING  
 P.O. BOX 988  
 SOLEDAD, AK 99578  
 VOICE: (907) 234-4281  
 FAX: (907) 234-2591  
 WWW.MTLANDGEO.COM

KPB FILE NO. 2021-XXX  
 PROJECT NO. 212027

SCALE 1" = 80' DATE JUN 2021 BOOK NO. 1 DRAWN BY: JAH

Exhibit A



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce  
Borough Mayor

August 25, 2021

Kenai City Council  
210 Fidalgo Avenue  
Kenai, AK 99611

RE: Right-of-way Vacation: Vacate a portion of the frontage road along Wildwood Drive. Wildwood Drive is a dedicated right of way that is constructed and paved and provides legal access from the Kenai Spur Highway. The westerly portion of the right of way is 120 feet in width with the majority of the right of way 180 feet in width. The frontage road has not been improved and is not being used for access.

Dear Kenai City Council Members:

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The KPB Planning Commission approved the referenced right-of-way vacation during their regularly scheduled meeting of August 23, 2021. This petition is being sent to you for your consideration and action.

The City Council has 30 days from August 24, 2021 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Planning Commission will stand.

Attached are draft, unapproved minutes of the pertinent portion of the meeting and other related material.

Sincerely,

A handwritten signature in blue ink that reads "Melanie Aeschliman". The signature is fluid and cursive.

Melanie Aeschliman  
Planning Director  
Kenai Peninsula Borough

Attachments:  
Unapproved PC Meeting Minutes  
Meeting Packet Materials

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Venuti to approve the consent agenda and the regular agenda.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	1
Yes	Bentz, Brantley, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					
Absent	Chesser				

**AGENDA ITEM E. NEW BUSINESS**

Chair Martin asked Ms. Shirnberg to read the procedure for public testimony.

**AGENDA ITEM E1**

**RIGHT OF WAY VACATION**

**VACATE A 60' BY 254' PORTION OF WILDWOOD DRIVE ON THE SOUTHEAST BOUNDARY OF LOT 4-A BLOCK 8, BLACK GOLD ESTATES SUBDIVISION NO. 2 (PLAT KN 84-76)**

<b>KPB File No.</b>	2021-111V
<b>Planning Commission Meeting:</b>	August 23, 2021
<b>Applicant / Owner:</b>	Alexander Douthit of Kenai, Alaska
<b>Surveyor:</b>	James Hall / McLane Consulting Inc.
<b>General Location:</b>	City of Kenai
<b>Legal Description:</b>	Wildwood Drive, Black Gold Estates Subdivision No. 2 Plat KN 84-76, Kenai Recording District, Section 25, Township 06 North, Range 12 West, S.M.

Staff report given by Scott Huff.

**Specific Request / Purpose as stated in the petition:** Vacate a portion of the frontage road along Wildwood Drive. Wildwood Drive is a dedicated right of way that is constructed and paved and provides legal access from the Kenai Spur Highway. The westerly portion of the right of way is 120 feet in width with the majority of the right of way 180 feet in width. The frontage road has not been improved and is not being used for access.

This right of way was originally dedicated by Black Gold Estates Subdivision (amended) in 1962. The right of way was dedicated as a frontage road to provide access to the residential lots. Black Gold Estates Subd No. 2 (KN 84-76) replatted 9 lots and vacated alleyways to create one parcel that is 3.085 acres in size.

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There are no proposed dedications, as it will reduce the right of way width down to 120 feet from 180 feet.

The block is irregular in shape but does comply with length requirements and is closed. Wildwood Drive, Kenai Spur Highway, an unnamed 60 foot right of way, Windflower Drive, and an unnamed 60 foot right of way, that appears to be an extension of Orchid Way, define the block. Windflower Drive and Wildwood Drive are maintained by the City of Kenai and Kenai Spur Highway is maintained by the State of Alaska. Other right of ways are not maintained or unconstructed.

No lots will be denied access if the vacation is approved.

KPB Roads Dept. comments	Out of jurisdiction, no comments
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**Site Investigation:** The right of way proposed to be vacated is not affected by steep terrain or wetland areas. It does not appear that the right of way has been improved or is being used for vehicular access. There does appear to be local ATV trails that cut across Tract 4-A Block 8.

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Anadromous Waters Habitat Protection District Review	Is not within HPD, no comments
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**Staff Analysis:** The proposed vacation is along Wildwood Drive. The Wildwood complex was constructed in 1953 as a military communications base. In 1974, Wildwood was turned over to the Kenai Native Association as part of the native land settlement. In 1983, the State of Alaska began a lease with option to purchase, converted the structures, and opened the Wildwood Pretrial Facility.

Wildwood Drive was considered as a Federal Military right of way while it was operating as a military base. A subdivision, Black Gold Estates Subdivision (Plat KN 1335), subdivided the Carl F. Ahlstrom Homestead and it depicted the Wildwood Station Road as a military road. That plat was recorded in 1962. In 1964 the plat was revised, Black Gold Estates Subdivision Amended (Plat KN 1399). The amended plat depicted the federal right of way but provided a 60 foot wide right of way running adjoining the north edge of Wildwood Drive. This was to be a frontage road to provide access to the residential lots created by the plat.

When the ownership and use of the Wildwood Complex changed so did the ownership of the right of ways. The Wildwood Complex is under State of Alaska ownership and management but the right of way leading to the property is under the City of Kenai jurisdiction. Several right of ways intersect Wildwood Drive and private lots have direct access. Wildwood Drive right of way ends at the Wildwood Complex.

In 1984, the owner of nine lots combined the lots and vacated alleyways with the recording of Black Gold Estates Subdivision No. 2, Plat KN 84-76. This plat combined the land to create the current lot configuration for Lot 4A Block 8.

Wildwood Drive has a 120 foot width at the intersection of Kenai Spur Highway. Approximately 185 feet from the intersection, the width increases to 180 with the addition of the frontage right of way and continues at that width until it ends at the complex. While it was intended to be used as a frontage road, it was not constructed as such and there is no road name associated other than Wildwood Drive.

The proposed vacation will leave a width of 120 feet for Wildwood Drive. The portion being vacated will be combined back to Lot 4-A

No access to surrounding lots will be affected.

The original plats did not grant any utility easements along or abutting the proposed portion of the right of way vacation. The replat, KN 84-76, did grant a 10 foot utility easement along the eastern boundary. That easement stopped at the right of way dedication as right of ways may be used for utilities. To comply with subdivision code, the plat that will finalize the vacation will be required to grant 10 foot utility easements adjoining the right of ways. This requirement will provide a connection from the previously granted utility easement to Wildwood Drive.

The City of Kenai Planning and Zoning Commission reviewed the plat that will finalize the vacation, Black Gold Estates 2021 Replat, at their July 28, 2021 meeting. They have some conditions for the plat and stated the Kenai City Council must declare the right of way is not needed and approve the vacation.

The Kenai City Council will hear this at their September 2021 meeting if approved by the Planning Commission.

#### 20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases; the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;  
**Staff comments:** This portion was intended to be a frontage road but has not been improved and is not being used for public access. Wildwood Drive will remain and has been improved. The remaining right of way is being used and will provide public access.
  2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** Wildwood Drive will remain 120 feet wide abutting the vacation area and provides an alternate access for the public.
  3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The surrounding area has been subdivided with adequate right of ways and utility easements to provide access to all neighboring lots.
  4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** The frontage road does not provide access to a lake, river, or other area with public interest as it only provides access to private lands.
  5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** There are additional right of ways within the parent subdivision as well as alleys to provide interconnectivity of public access and utilities.
  6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:** The width of Wildwood Drive will provide adequate width for other uses, such as pedestrian walkways or placement of utility lines, as needed.



7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.  
**Staff comments:** The vacation has been sent to the utility companies for review and comments. Utility providers have existing lines in this area. No new utility easements were requested. This platting action will provide a minimum of 10 foot utility easements adjoining all right of ways.
  
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.  
**Staff comments:** This section of the frontage road has not been improved and it not required as the separate lots have been replatted into one parcel.

If approved, Black Gold Estates 2021 Replat will finalize the proposed right of way vacation. The preliminary plat has not been submitted to schedule for a Plat Committee meeting at the time the staff report was prepared. If the sole purpose of the plat is to depict the area approved for vacation the preliminary plat may be submitted under KPB 20.10.080 – Vacation Plat. The plat will be reviewed by staff for completeness and will not require approval from the Planning Commission. If any exceptions from KPB code are requested the plat will need to be submitted for review by the Plat Committee and may not be reviewed under KPB 20.10.080.

**KPB department / agency review:**

Planner – Bryan Taylor	This is located within the City of Kenai and not subject to local option zoning districts or material site review by KPB.
Code Compliance – Eric Ogren	No comments
Addressing – Derek Haws	Affected Addresses: 14224 Kenai Spur Highway (will remain with Lot 4B – Block 8). Existing street names shown are correct
Assessing – Matt Bruns	No concerns form Assessing Department.

**Utility provider review:**

HEA	Reviewed, no comments.
ENSTAR	No comments or recommendations.
ACS	
GCI	Approved as shown.

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(F) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by Kenai City Council.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Kenai City Council and utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

**KPB 20.65.050 – Action on vacation application**

**H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations**

of utility easements under KPB 20.65.070, which do not require the consent of the assembly or city council unless city code specifically provides otherwise.

- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.
- J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

*Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.*

- *Focus Area: Energy and Utilities*
  - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
    - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
    - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
    - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
  - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
    - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

*Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough*

- *Focus Area: Transportation*
  - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
    - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
    - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

#### END OF STAFF REPORT

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

Commissioner Brantley asked to be recused from this vote. He had done work for the petitioner on this

parcel. Chair Martin approved Commissioner Brantley's request to be recused.

**MOTION:** Commissioner Ruffner moved, seconded by Commissioner Ecklund to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	8	Recused	1	Absent	1
Yes	Bentz, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
Recused	Brantley				
Absent	Chesser				

**AGENDA ITEM E2**

Conditional Use Permit – Anadromous Waters Habitat Protection District

**KPB File No.** 2021-27  
**Planning Commission Meeting:** August 23, 2021  
**Applicant** Sharon Keating  
**Mailing Address** 134 Sierra Heights St  
 Soldotna, AK 99669  
**Legal Description** T 5N R 10W SEC 19 SEWARD MERIDIAN KN 0970046  
 POACHER'S COVE MOORE ADDN AMENDED LOT 177B  
**Physical Address** None  
**KPB Parcel Number** 057-487-84

Staff report given by Samantha Lopez.

**Project Description**

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of a recreational structure within the 50-foot Habitat Protection District of the Kenai River, as established in KPB 21.18.040.

**Background Information**

Applicant proposes to remove a prior-existing trailer and replace with a new, two-story residential structure with a footprint measuring 17 by 37 feet. The portion of the structure that falls within the HPD is not along the flowing waters of the main stem of the Kenai River, but along the KPB regulated canal. The new structure will be built in compliance with the current FEMA Floodplain standards and will be elevated in accordance with the KPB Floodplain Permit 12812.

**Project Details within the 50-foot Habitat Protection District**

1. Construction of 17 by 37 foot cabin partially on prior existing structure footprint.
2. The footprint of this structure within the HPD will expand by approximately 150 square feet.
3. Placement of sonotubes into HPD to elevate in accordance to KPB Floodplain Permit RC #12812.
4. Revegetate any areas that are disturbed with the construction.

**General Standards**

**Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems;

## **E. NEW BUSINESS**

### **1. Right-of-Way Vacation**

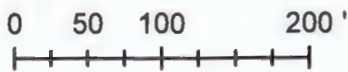
**Location: Wildwood Drive, Black Gold Estates  
Subdivision No. 2 Plat KN 84-76, Kenai Recording  
District, Section 25, Township 06 North, Range 12  
West, S.M.**

**Petitioner: Alexander Douthit**






The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Aerial View



 Right of Way Vacation

PClements, KPB 2021-111  
Imagery 2014 SixInch Kenai



AGENDA ITEM E. NEW BUSINESS

ITEM 1 - RIGHT OF WAY VACATION

VACATE A 60' BY 254' PORTION OF WILDWOOD DRIVE ON THE SOUTHEAST BOUNDARY OF LOT 4-A BLOCK 8, BLACK GOLD ESTATES SUBDIVISION NO. 2 (PLAT KN 84-76)

<b>KPB File No.</b>	2021-111V
<b>Planning Commission Meeting:</b>	August 23, 2021
<b>Applicant / Owner:</b>	Alexander Douthit of Kenai, Alaska
<b>Surveyor:</b>	James Hall / McLane Consulting Inc
<b>General Location:</b>	City of Kenai
<b>Legal Description:</b>	Wildwood Drive, Black Gold Estates Subdivision No. 2 Plat KN 84-76, Kenai Recording District, Section 25, Township 06 North, Range 12 West, S.M.

STAFF REPORT

**Specific Request / Purpose as stated in the petition:** Vacate a portion of the frontage road along Wildwood Drive. Wildwood Drive is a dedicated right of way that is constructed and paved and provides legal access from the Kenai Spur Highway. The westerly portion of the right of way is 120 feet in width with the majority of the right of way 180 feet in width. The frontage road has not been improved and is not being used for access.

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Addressing – Derek Haws	Affected Addresses: 14224 Kenai Spur Highway (will remain with Lot 4B – Block 8) Existing street names shown are correct
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HEA	Reviewed, no comments.
ENSTAR	No comments or recommendations.
ACS	
GCI	Approved as shown.

**RECOMMENDATION:**

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*Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough*








- *Focus Area: Transportation*
  - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
    - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
    - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

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**END OF STAFF REPORT**








### Legend

#### HEA Primary Conductor Placement

-  overhead
-  underground
-  <all other values>
-  KENAI WATER LINES
-  KENAI SEWER LINES
-  BOROUGH MAINTAINED ROADS
-  KPVector.DBO.Pipelines

#### ENSTAR Distribution Main

##### Material

-  <Unknown>
-  Coated Steel
-  Bare Steel
-  Plastic
-  Copper
-  Xtrube
-  <all other values>



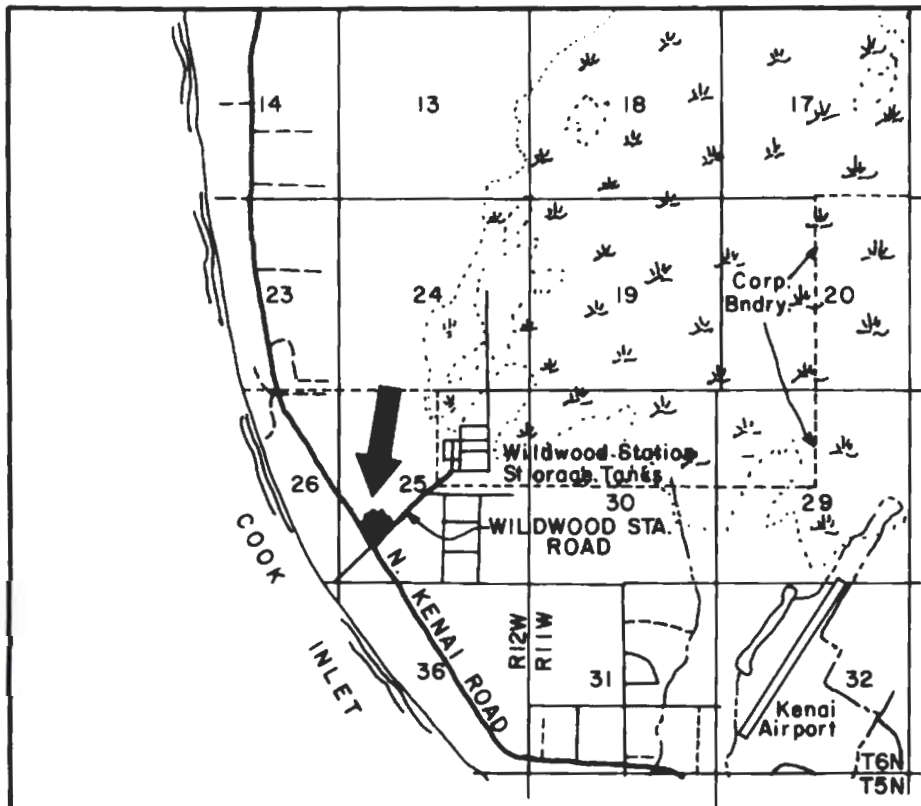
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



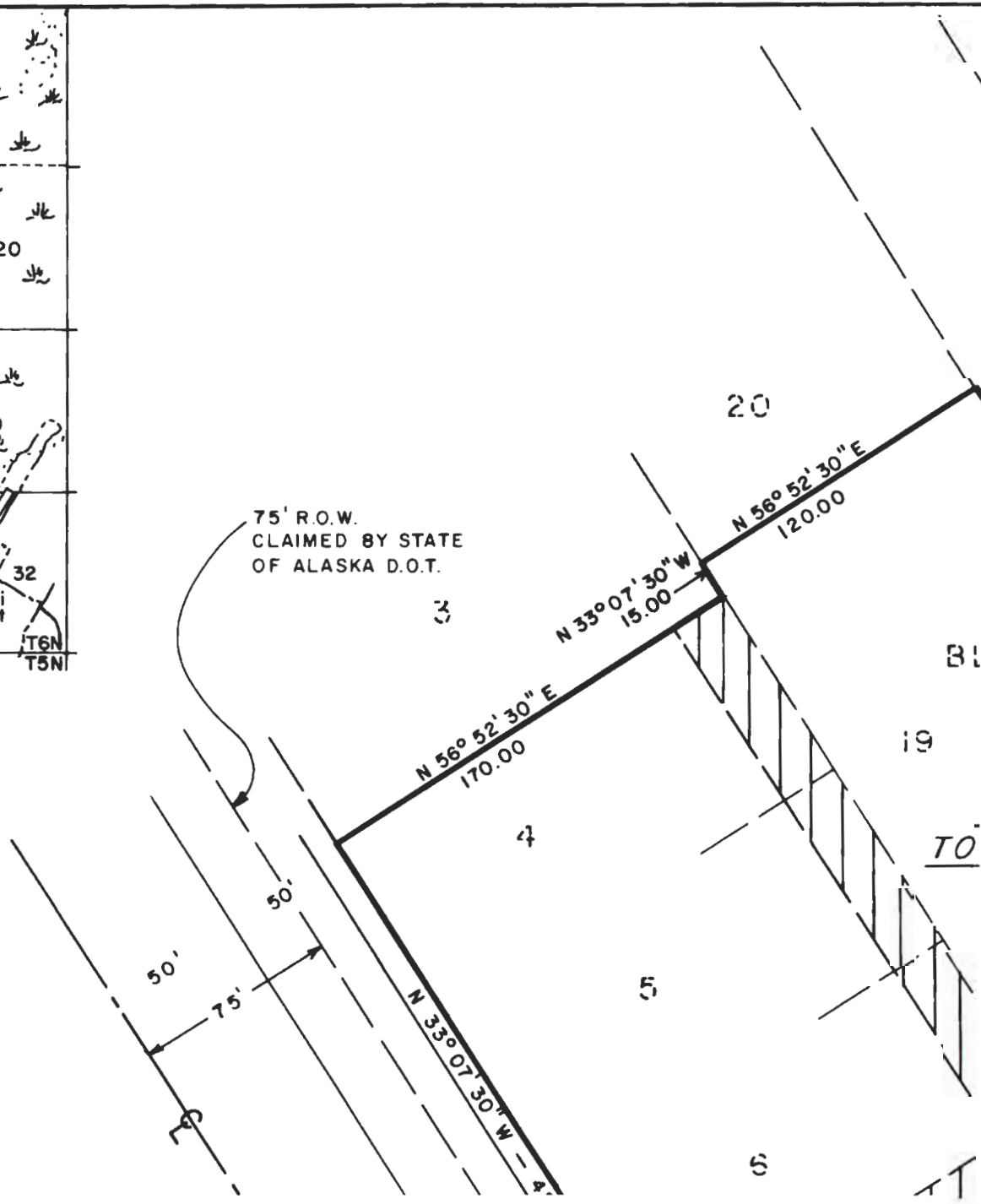
AERIAL IMAGERY 2019

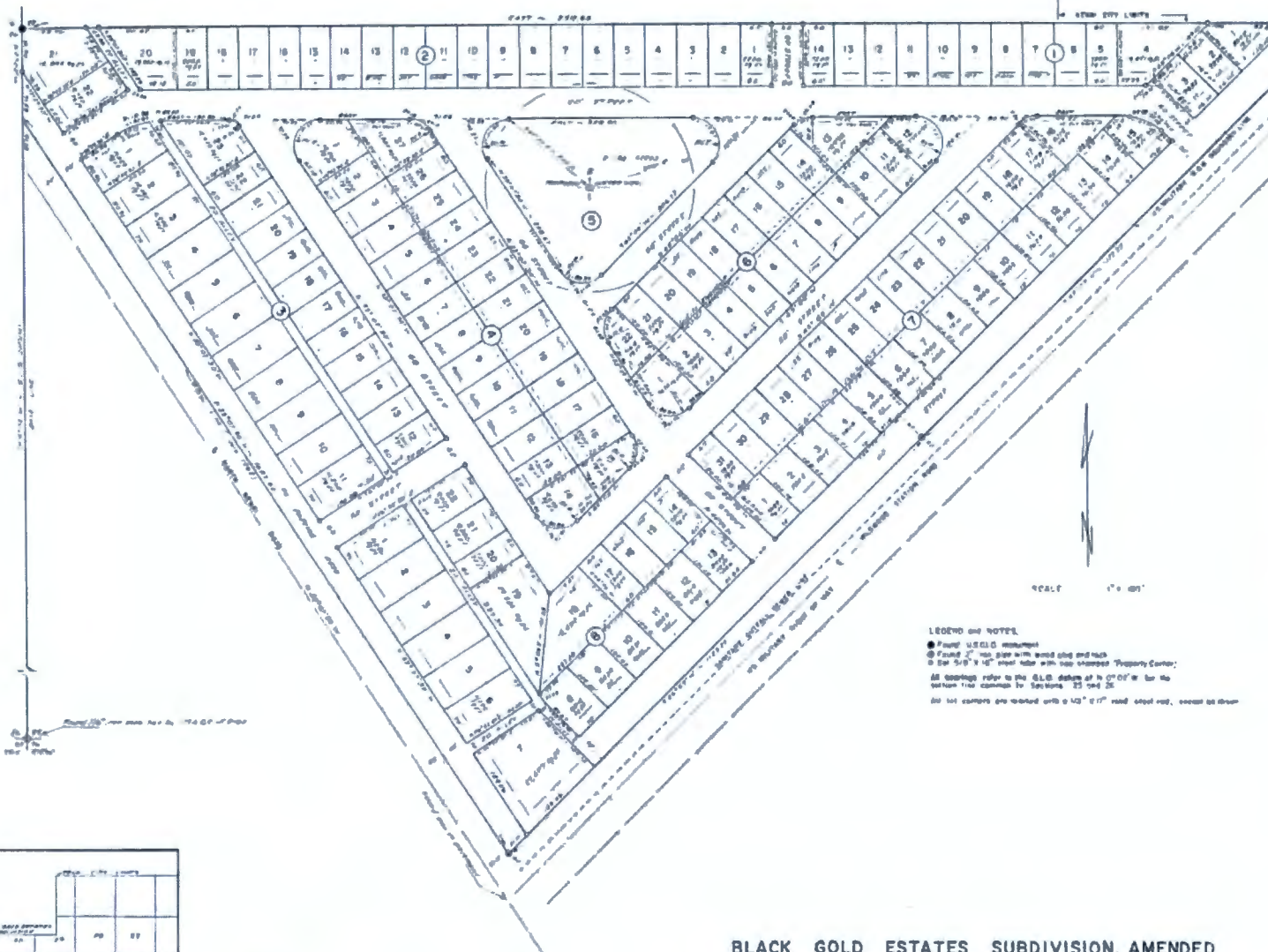
UTILITY INFORMATION

Date: 5/28/2021  
 1:50 PM  
 Scott Huff  
 Platting Manager



VICINITY MAP  
KENAI(C-4)  
1" = 1 mile





**CONVEYANCE OF INTEREST AND EASEMENTS**

Commencing from the N.E. 1/4, Sec. 16, T. 12 N., R. 10 E., 1st 2nd P.M., a certain corner monument known as Section 5 and 1/2, 1/2, of the County of ...

**CONDITIONS**

1. Said property shall be subject to all easements, covenants and restrictions of record or now in force and effect...
2. The lots shall be created in the distance of twenty five (25) feet from the front lot line, the (10) feet from side or rear lot line...
3. No building erected on the above described premises shall be so used as a restaurant, hotel, club or other business...
4. All buildings shall be finished in brick or better.
5. Each lot shall be subject to the right of the City of ... to lay out a public street or to acquire the same by eminent domain...
6. Each lot shall be subject to the right of the City of ... to lay out a public street or to acquire the same by eminent domain...
7. The City of ... shall be allowed to lay out a public street or to acquire the same by eminent domain...
8. The City of ... shall be allowed to lay out a public street or to acquire the same by eminent domain...
9. The City of ... shall be allowed to lay out a public street or to acquire the same by eminent domain...
10. The City of ... shall be allowed to lay out a public street or to acquire the same by eminent domain...

**LEGEND AND NOTES**

- Found USGCS monument
- Found "I" iron pipe with wood cap and top
- ⊙ Set "I" iron pipe with top changed "Property Corner"

All bearings refer to the G.C.S. datum of 1907 or to the section line corners in Sections 22 and 26.

All lot corners are marked with a 1/2" x 1/2" iron pipe cap, except as shown.



**REVISIONS**

1. The addition of a 50 ft strip in front of lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and of increasing the 20 ft strip to the east of these lots.
2. The addition of a 20 ft strip in front of lots 1, 2, 3, 4, 5, 6, 7, and of increasing the 20 ft strip to the east of these lots.
3. The footage on lots 1, 2, 3, 4, 5, 6, 7, and lot 1, 2, 3, 4, 5, 6, 7, has been revised.
4. These revisions were necessary to fill payment to R. as shown on the original plat and have been computed the date that the plat was filed by the County Clerk, P. L. S.

**BLACK GOLD ESTATES SUBDIVISION, AMENDED**

CARL F AHLSTROM and MARY C AHLSTROM  
OWNERS  
RICHARD and JOAN WILLIAMS  
DEVELOPERS

A PORTION OF THE CARL F AHLSTROM HOMESTEAD LOCATED WITHIN THE 24 OF SECTION 26 T. 12 N. OF THE 20 RANGE 10 E. 1st 2nd P.M., CONTAINING 47.50 ACRES OF LAND

SUBMITTED BY  
THOMAS J. WILSON, C.L.S.  
DATE  
APR 10, 1968  
BY  
APR 10, 1968



**CONVEYANCE OF INTEREST AND EASEMENTS**

I hereby certify that on the course of this and that the ...

Date April 10, 1968 Richard Williams Joan Williams

**CONVEYANCE OF INTEREST AND EASEMENTS**

I hereby certify that I am a registered land surveyor, and that this plat is a true and correct copy of the original survey, and that all monuments and other things shown on the plat are in their proper places.

Date April 10, 1968 Thomas J. Wilson

**CITY PLANNING COMMISSION**

City Planning Commission of ...

City Clerk John C. ...

**NOTICE**

This is to certify that the within plat was duly submitted to and approved by the Council of the City of ...

Date April 10, 1968







**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. 2021-30**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THAT BLACK GOLD ESTATES 2021 REPLAT ATTACHED HERETO BE APPROVED

WHEREAS, the City of Kenai received the plat from McLane Consulting, Inc. and,

WHEREAS, the plat meets Municipal Code requirements of the General Commercial zone; and,

WHEREAS, street names are referenced correctly; and,

WHEREAS, access to the proposed lot is via the Kenai Spur Highway which is a paved State maintained highway; and Wildwood Drive which is a paved City maintained street; and

WHEREAS, Water and sewer lines are located within the right-of-way of Wildwood Drive. An installation agreement is not required; and,

WHEREAS, the Planning and Zoning Commission finds:

1. Pursuant to Kenai Municipal Code 14.10.070 Subdivision design standards, the plat conforms to the minimum street widths, easements are sufficiently provided for utilities, the proposed lot would be arranged to provide satisfactory and desirable building sites, and the preliminary plat meets standards for water and wastewater.
2. Pursuant to Kenai Municipal Code 14.24.010 Minimum lot area requirements, the proposed lots meets City standards for minimum lot sizes.
3. Pursuant to Kenai Municipal Code 14.24.020 General Requirements, the proposed lots meet City standards for minimum lot width, maximum lot coverage, maximum height, and setbacks.

NOW, THEREFORE, BE IT RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the preliminary plat of Black Gold Estates 2021 Replat be approved subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.


Resolution No. PZ2021-30  
Page 2 of 2

2. The Kenai City Council must declare the sixty-foot right-of-way not needed for a public purpose and approve the vacation of the right-of-way as shown on the preliminary plat.
3. A note should be added to the plat stating that 'no private access to State maintained right-of-ways permitted unless approved by the State of Alaska, Department of Transportation'.
4. Connection to City Water and Sewer pursuant to the provisions in KMC 17.010.010(a) and KMC 17.020.010(a).
5. Verification by the surveyor of the width of Wildwood Drive.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,  
this 28th day of July, 2021.

  
\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
JAMIE HEINZ, MMC, CITY CLERK



**KENAI PLANNING & ZONING COMMISSION  
REGULAR MEETING  
JULY 28, 2021 – 7:00 P.M.  
KENAI CITY COUNCIL CHAMBERS  
210 FIDALGO AVENUE, KENAI, ALASKA  
CHAIR JEFF TWAIT, PRESIDING**

**MINUTES**

**A. CALL TO ORDER**

Chair Twait called the meeting to order at 7:00 p.m.

**1. Pledge of Allegiance**

Chair Twait led those assembled in the Pledge of the Allegiance.

**2. Roll Call**

Commissioners present: J. Twait, R. Springer, J. Halstead, A. Douthit, D. Fikes, G. Woodard, G. Greenberg

Commissioners absent:

Staff/Council Liaison present: Planning Director R. Foster, Planning Assistant W. Anderson, Deputy City Clerk M. Thibodeau, Council Liaison J. Glendening

A quorum was present.

**3. Agenda Approval**

**MOTION:**

Commissioner Halstead **MOVED** to approve the agenda and Vice Chair Fikes **SECONDED** the motion. There were no objections; **SO ORDERED.**

**4. Consent Agenda**

**MOTION:**

Commissioner Douthit **MOVED** to approve the consent agenda and Vice Chair Fikes **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 – None.

**B. APPROVAL OF MINUTES**

- 1. \*Regular Meeting of July 14, 2021

The minutes were approved by the Consent Agenda.

**C. SCHEDULED PUBLIC COMMENT – None.**

**D. UNSCHEDULED PUBLIC COMMENT – None.**

**E. CONSIDERATION OF PLATS**

- 1. **Resolution PZ2021-30** - Preliminary Subdivision Plat of Black Gold Estates 2021 Replat, submitted by McLane Consulting, Inc., P. O. Box 468, Soldotna, AK 99669, on behalf of Alex Douthit, 1104 Leeward Drive, Kenai, AK 99611

**MOTION:**

Vice Chair Fikes **MOVED** to approve Resolution No. PZ2021-30 and Commissioner Woodard **SECONDED** the motion.

Commissioner Douthit declared a conflict of interest, stating that he is the owner of the plat under consideration. Chair Twait ruled that Commissioner Douthit had a conflict and excused him from voting.

Planning Director Foster presented his staff report with information provided in packet explaining that the applicant wants to vacate the sixty foot right-of-way along the Southerly boundary, and the size of the lot will be increased from approximately 3.1 acres to approximately 3.4 acres.

Approval of the plat was recommended, subject to the following conditions:

- 1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
- 2. The Kenai City Council must declare the sixty-foot right-of-way not needed for a public purpose and approve the vacation of the right-of-way as shown on the preliminary plat.
- 3. A note should be added to the plat stating that ‘no private access to State maintained right of-ways permitted unless approved by the State of Alaska, Department of Transportation’.
- 4. Connection to City Water and Sewer pursuant to the provisions in KMC 17.010.010(a) and KMC 17.020.010(a).
- 5. Verification by the surveyor of the width of Wildwood Drive.

**VOTE:**

YEA: Halstead, Fikes, Greenberg, Woodard, Twait, Springer  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**F. PUBLIC HEARINGS**

- 1. **Resolution PZ2021-27** – Application for the rezoning of a tract of land described as the North 150 feet of Government Lot 34, Section 6, Township 5 North, Range 11 West, fronting the Kenai Spur Highway (KPB Parcel No. 04702011), from Suburban Residential (RS) to General Commercial (CG). The application was submitted by the majority property owner, Kenaitze Indian Tribe, 150 Willow Street, Kenai, Alaska 99611

**MOTION:**

Vice Chair Fikes **MOVED** to approve Resolution No. PZ2021-27 and Commissioner Douthit **SECONDED** the motion.

Planning Director Foster presented his staff report with information provided in packet explaining that the applicants want to rezone the property in question from suburban residential to general commercial. It was noted that the applicants own the property to the north which is already zoned as general commercial, and they have indicated plans for building two greenhouses for private use.

Chair Twait opened for public hearing.

John Williams thanked the Commission, and explained some of his past involvement with the property. He conveyed the Church’s willingness to go along with the zoning change and welcomed the Kenaitze Native Association and Orthodox Church on the adjoining properties. He stated that there is a fence running between the church property and old trailer court property fence which is in disrepair, and asked that the new owners properly maintain the fence and bring up to good condition.

There being no one else wishing to be heard, the public hearing was closed.

Clarification was provided that a landscape plan would not be a part of the rezoning process, although further development such as the proposed greenhouses could potentially trigger the need for a landscape site plan as part of a building permit. It was noted that the fence repair as requested during the public hearing could be considered a buffer within the landscape plan, which is required by code between neighboring districts. The need for a building permit and landscape plan depends on future development.

**VOTE:**

YEA: Greenberg, Woodard, Twait, Springer, Halstead, Douthit, Fikes  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**G. UNFINISHED BUSINESS – None.**

**H. NEW BUSINESS**

- 1. **Action/Approval** - Approving a Letter of Non-Objection to the Time Extension for the Finalization of the Plat of Kee's Tern Subdivision.

**MOTION:**

Vice Chair Fikes **MOVED** to approve the letter of non-objection to the time extension for the finalization of the plat of Kee's Tern Subdivision. Commissioner Woodard **SECONDED** the motion.

Planning Director Foster noted the maps in the packet and laydown which present the preliminary plat approved by the Planning & Zoning Commission in 2013 and the phase 1 finalization, and clarified that tracts B, C and D remain to be finalized with the Borough. It was explained that after the approval of the preliminary plat, the Kenai Peninsula Borough changed their code to allow for extensions of ten years. The requested extension to finalize the remaining phases of the preliminary plat would meet the ten-year maximum.

Clarification was provided that this would allow for an extension up to February 11, 2023, and the Commission discussed whether this date should be added into the letter.

Kathleen Martin, owner of Kee's Turn subdivision, stated that she had no objection to adding this date to the letter.

**MOTION TO AMEND:**

Vice Chair Fikes **MOVED** to amend the letter by adding that the date of extension goes until February 11, 2023. Commissioner Woodard **SECONDED** the motion.

**VOTE ON AMENDMENT:**

YEA: Springer, Halstead, Douthit, Fikes, Greenberg, Woodard, Twait  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**VOTE ON MAIN MOTION:**

YEA: Douthit, Fikes, Greenberg, Woodard, Twait, Springer, Halstead  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**I. PENDING ITEMS – None.**

**J. REPORTS**

1. **City Council** – Council Member Glendening reported on the actions from the July 7, 2021 City Council meeting. Reported that there is an upcoming City Council work session on Kenai Waterfront Revitalization and Economic Development Incentives, and encouraged the Commission to attend.

2. **Borough Planning** – No report.

3. **City Administration** – Planning Director Foster reported on the following:

- The City received a noise complaint for a Conditional Use Permit on Angler Drive;
- There is an upcoming Board of Adjustment hearing on Friday, July 30, 2021 regarding a Planning & Zoning Commission decision to approve a Conditional Use Permit for the development of eight single family dwellings on 4<sup>th</sup> Avenue;
- The next City Council meeting on August 4<sup>th</sup> will include the approval of the Special Use Permit for the Moosemeat John Cabin and two airport land purchases, previously recommended for approval by the Planning & Zoning Commission;
- Upcoming Planning & Zoning Commission meeting on August 11, 2021 is anticipated to include a plat and an application for airport property development incentives.

**K. ADDITIONAL PUBLIC COMMENT –**

John Williams reminisced on his past involvement with the Commission, and expressed enthusiasm for possible development of properties along the waterfront and planned development by the Kenaitze Indian Tribe. He encouraged the commission to follow closely and work with the Kenaitze in order to create economic growth in the City.

**L. INFORMATIONAL ITEMS**

**M. NEXT MEETING ATTENDANCE NOTIFICATION**

1. August 11, 2021

Commissioner Woodard noted that she may not be able to attend.

**N. COMMISSION COMMENTS & QUESTIONS**

Commissioner Halstead appreciated the input from everyone, especially that from former Mayor John Williams.

**O. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 7:59 p.m.

Minutes prepared and submitted by:

---

Meghan Thibodeau  
Deputy City Clerk



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2021 - 58**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AUTHORIZING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES TO PROVIDE CONSTRUCTION DOCUMENTS FOR SEWER LIFT STATION UPGRADES.

WHEREAS, the City of Kenai entered into a term service agreement with HDL Engineering Consultants LLC in May 2020 after the successful completion of the Request for Proposals process to provide professional engineering services on water, sewer, and waste water capital improvement projects; and,

WHEREAS, Task 6 under this agreement is intended to provide bid ready construction documents for upgrades to three of the City's main lift stations; and,

WHEREAS, this project has been funded through passage of the current Capital Improvement Plan and is a priority project for the City; and,

WHEREAS, the project consists of replacement of existing pumps, new pump rails, floats, level transducers, pump controllers and associated components; and,

WHEREAS, much of the equipment being replaced has well surpassed intended useful life and completion of the project will allow the City to continue to provide essential services.

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

**Section 1.** That the Kenai City Council authorizes the Award of a Professional Services Agreement and corresponding purchase order to HDL Engineering Consultants LLC in the amount of \$59,560 to provide construction documents for sewer lift station upgrades.

**Section 2.** That this Resolution takes effect immediately upon adoption.

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of September, 2021.

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Approved by Finance: *SB for TEubank*





## MEMORANDUM

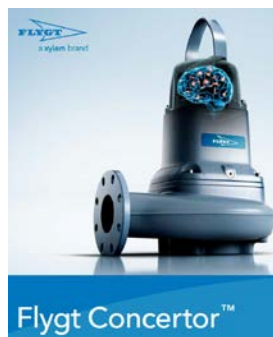
**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Scott Curtin  
**DATE:** September 8, 2021  
**SUBJECT:** Resolution No. 2021-58

---

The purpose of this memo is to request Council’s approval to award Task 6 to HDL Engineering Consultants LLC under the term agreement from May 2020. Task 6 will begin to address renovations to three primary sewer lift stations. This work will upgrade 40 year old pump controllers, provide new pumps, new pump rails, floats and level transducers at three primary locations identified during the facility and infrastructure assessments completed earlier this year.

This project is included within the current Capital Improvement Plan and is currently funded for \$400,000. The department has standardized on Flygt pumps, and pending the successful completion of this project intends to continue with similar upgrades for the next two fiscal years as detailed within the Capital Improvement Plan.

It should be noted the upgrades at this time are only to pumps, controllers and other components. Renovations to the actual wet wells, influent and effluent piping, will be needed at a future date, however that will require a much larger investment. Work at this time is intended to safe guard current operations and allow staff the equipment to more effectively manage their responsibilities. In the event funding for a larger renovation project becomes available, the controllers and equipment being provided now will be included within that future project.



Council’s support is respectfully requested.

**PAYMENTS OVER \$15,000.00 WHICH NEED COUNCIL RATIFICATION  
COUNCIL MEETING OF: SEPTEMBER 15, 2021**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>DEPARTMENT</b>	<b>ACCOUNT</b>	<b>AMOUNT</b>
PERS	PERS	VARIOUS	LIABILITY	93,589.20
REBORN AGAIN JANITORIAL	AUGUST SERVICES	AIRPORT	REPAIR & MAINTENANCE	4,231.25
HOMER ELECTRIC	ELECTRIC USAGE	VARIOUS	UTILITIES	108,272.01

**INVESTMENTS**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>MATURITY DATE</b>	<b>AMOUNT</b>	<b>Effect. Int.</b>
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# KENAI

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

## MEMORANDUM

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

**FROM:** Jamie Heinz, City Clerk

**DATE:** September 9, 2021

**SUBJECT:** **Marijuana License Renewal**



The Alcoholic & Marijuana Control Office has sent notification that the following applicant has requested license renewals:

Applicant: Grateful Bud, LLC  
 Owners: Jennifer Huffman  
 D/B/A: Grateful Bud, LLC  
 License: Limited Marijuana Cultivation Facility

Pursuant to KMC 2.40.010, *It is determined to be in the public interest that holders of or applicants for licenses issued by the Alcoholic Beverage Control Board or the Marijuana Control Board of the State of Alaska shall have all obligations to the City of Kenai on a satisfactory basis prior to the City Council approval of any activity of said license holder or applicant.*

A review of City accounts has been completed and the applicant has satisfied all obligations to the City. With the approval of Council, a letter of non-objection to the request for the renewal of the Limited Marijuana Cultivation Facility will be forwarded to the Alcoholic & Marijuana Control Office and the applicant.

Your consideration is appreciated.

- Submit** by Jamie Heinz 8/25/2021 10:18:36 AM (Form Submission)
- Approve** by Jeremy Hamilton 8/25/2021 11:43:14 AM (Fire Marshall Review)
- The task was assigned to Jeremy Hamilton. The due date is: September 3, 2021 5:00 PM 8/25/2021 10:18 AM
- Approve** by Scott Curtin 8/30/2021 4:01:44 PM (Building Official Review)
- The task was assigned to Scott Curtin. The due date is: September 3, 2021 5:00 PM 8/25/2021 10:18 AM
- Approve** by Dave Ross 8/25/2021 1:46:11 PM (Police Department Review)
- The task was assigned to Dave Ross. The due date is: September 3, 2021 5:00 PM 8/25/2021 10:18 AM
- Approve** by Tina Williamson 8/31/2021 8:22:33 AM (Finance Asst Review)
- The task was assigned to Tina Williamson. The due date is: September 3, 2021 5:00 PM 8/25/2021 10:18 AM
- Approve** by Cindy Herr 8/25/2021 10:30:50 AM (Legal Asst Review)
-  *No monies owed in restitution or traffic fines.*
  - The task was assigned to Cindy Herr. The due date is: September 3, 2021 5:00 PM 8/25/2021 10:18 AM
- Approve** by Wilma Anderson 8/25/2021 10:45:22 AM (Lands Review)
-  *There are no outstanding issues for lands review.*
  - The task was assigned to Wilma Anderson. The due date is: September 3, 2021 5:00 PM 8/25/2021 10:18 AM
- Approve** by Sue Best 8/31/2021 9:18:38 AM (Finance Review)
- The task was assigned to Sue Best. The due date is: September 9, 2021 5:00 PM 8/31/2021 8:22 AM
- Approve** by Scott Bloom 8/31/2021 8:56:38 AM (Legal Review)
- The task was assigned to Scott Bloom. The due date is: September 9, 2021 5:00 PM 8/31/2021 8:22 AM
- Approve** by Ryan Foster 8/31/2021 9:00:08 AM (P&Z Department Review)
- The task was assigned to Ryan Foster. The due date is: September 9, 2021 5:00 PM 8/31/2021 8:22 AM

**Date**

8/25/2021

**Establishment Information**

---

**License Type**

Limited Marijuana Cultivation Facility

**Licensee**

Grateful Bud, LLC

**Doing Business As**

Grateful Bud, LLC

**Premises Address**

1817 Sunset Blvd

**City, State**

Kenai, AK

**Contact Information**

---

**Contact Licensee**

Jennifer Huffman

**Contact Phone No.**

907-283-2837

**Contact Email**

gratefulbudllc@gmail.com

**Additional Contact Information**

---

**Name**

**Phone No.**

**Email**

**Documents**

---

**File Upload**

16474 Entity Docs.pdf	6.47MB
16474 Kenai City-Peninsula Borough combined Renewal Local Government Notice.pdf	577.34KB
16474 MJ-20.pdf	1.4MB
16474 NOV combined with response.pdf	2.55MB
16474 online application original_Redacted.pdf	148.81KB
16474 POPPP (3).pdf	1.59MB



THE STATE of ALASKA GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE 550 West 7th Avenue, Suite 1600 Anchorage, AK 99501 Main: 907.269.0350

August 24, 2021

City of Kenai

Attn: Jamie Heinz VIA Email: jheinz@kenai.city

Kenai Peninsula Borough

Attn: Borough Clerk Via Email: jblankenship@kpb.us CC: micheleturner@kpb.us tshassetz@kpb.us sness@kpb.us mjenkins@kpb.us btaylor@kpb.us MAldridge@kpb.us slopez@kpb.us ncarver@kpb.us MBerg@kpb.us

Table with 2 columns: Field Name and Value. Fields include License Number (16474), License Type (Limited Marijuana Cultivation Facility), Licensee (GRATEFUL BUD LLC), Doing Business As (GRATEFUL BUD LLC), Physical Address (1817 Sunset Blvd, Kenai, AK 99611), Designated Licensee (Jennifer Huffman), Phone Number (907-283-2837), and Email Address (gratefulbudllc@gmail.com).

[X] License Renewal Application [ ] Endorsement Renewal Application

AMCO has received a complete renewal application and/or endorsement renewal application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.035(c)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director and the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant.

3 AAC 306.060 states that the board will uphold a local government protest and deny an application for a marijuana establishment license unless the board finds that a protest by a local government is

arbitrary, capricious, and unreasonable. If the protest is a “conditional protest” as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license renewal, but require the applicant to show to the board’s satisfaction that the requirements of the local government have been met before the director issues the license.

At the May 15, 2017, Marijuana Control Board meeting, the board delegated to me the authority to approve renewal applications with no protests, objections, or notices of violation. However, if a timely protest or objection is filed for this application, or if any notices of violation have been issued for this license, the board will consider the application. In those situations, a temporary license will be issued pending board consideration.

If you have any questions, please email [amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Klinkhart". The signature is written in a cursive style with a large initial "G" and a long horizontal stroke at the end.

Glen Klinkhart, Director



Alaska Marijuana Control Board

# Form MJ-20: Renewal Application Certifications

### What is this form?

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Grateful Bud LLC	License Number:	16474		
License Type:	Limited Marijuana Cultivation Facility				
Doing Business As:	Grateful Bud LLC				
Premises Address:	1817 Sunset Blvd				
City:	Kenai	State:	AK	ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Jennifer Huffman				
Title:	Entity Official				

## Section 3 – Violations & Charges

Read each line below, and then sign your initials in the box to the right of any applicable statements:

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

JH

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

JH

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

Sign your initials to the following statement only if you are unable to certify one or more of the above statements:

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).

JH





# Form MJ-20: Renewal Application Certifications

## Section 4 - Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

JH

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

JH

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

JH

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

JH

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

JH

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

JH

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

JH

I, Jennifer Huffman, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

JH

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

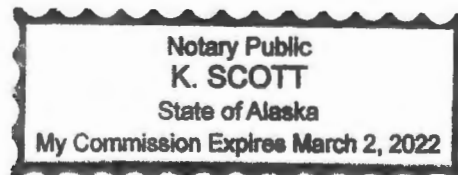
Jennifer Huffman  
Signature of licensee

K. Scott  
Notary Public in and for the State of Alaska

Jennifer Huffman  
Printed name of licensee

My commission expires: 3/2/22

Subscribed and sworn to before me this 4 day of June, 2021.



AMCO  
JUN 11 2021

Regarding the Notice of Violations received by Grateful Bud LLC on 9/30/2020

We received 3 NOVs in one email on Wed. Sept. 30, 2020, regarding tax delinquency. At that time, we were already in conversation with the Department of Revenue regarding an informal Payment Plan for July 2020, August 2020, and it would include October 2020 taxes as well. Those months were very high tax months for us, in addition to some other bill necessary to keep the business running. For example, in July of 2020, we owed over \$17,000 in taxes to the state, despite being a small cultivation, with a flowering area of only 16 feet by 24 feet.

We believe the NOVs were for the tax periods of April 2020 (paid August 18<sup>th</sup>, 2020), May 2020 (paid September 23<sup>rd</sup>, 2020), June 2020 (paid September 23<sup>rd</sup>, 2020), and July 2020 (which we put on a payment plan on November 2nd 2020 and completed payment on April 1<sup>st</sup> 2021).

Since the payment plan was established on November 2, 2020, we have faithfully and fully paid our Payment Plan payments and our state tax payments, records of which have also been included to prove that, although we have a remaining balance on Revenue Online, it is for tax payments last year prior to the payment plan agreement made with the Department of Revenue.

We at Grateful Bud LLC recognize that we were in the wrong for delaying tax payments, and have been striving ever since to ensure that the state gets their money in a timely fashion.

Thank you,

Grateful Bud LLC

AMCO

JUN 11 2021



THE STATE of ALASKA

GOVERNOR MIKE DUNLEAVY

Department of Revenue

TAX DIVISION

State Office Building
PO Box 110420
Juneau, Alaska 99811-0420
Main: 907.465.2320
Fax: 907.465.2375

www.tax.alaska.gov

November 02, 2020

Letter ID: L1617088512

JENNIFER N. HUFFMAN
1817 SUNSET BLVD
KENAI AK 99611-7048

Informal Payment Agreement

EIN/SSN: XXX-XX-8413
Tax Type(s): Marijuana Tax

Dear JENNIFER N. HUFFMAN

As you requested, an informal payment agreement has been established for repayment of taxes, interest and penalties due for tax period(s) 7/31/2020, 8/31/2020, and 10/31/2020. A minimum payment of \$3,860.63 must be received in our office no later than November 30, 2020. Compounded interest is currently accruing at 5.5% quarterly.

Table with 2 columns: Description and Amount. Rows include Installment Amount (\$3,860.63), Account balance as of November 02, 2020, Tax (\$36,198.11), Penalty (\$3,535.14), Interest (\$210.15), and Balance Due (\$39,943.40).

Payment of this installment must be received by the Department of Revenue on or before November 30, 2020. Please send your payment with a copy of this letter or pay online by going to online-tax.alaska.gov. Please be advised that if timely payment is not received by the department, this agreement will be terminated and collection proceedings as stated below will commence.

Failure to make payments per this agreement will result in the department taking enforcement actions such as the filing of state tax liens, the levy of accounts and receivables, as well as the seizure of both real and personal property in amount sufficient to satisfy your liabilities to the Department of Revenue. If you are authorized to conduct business under a license issued by the State of Alaska, that license will be suspended per AS 43.10.045. until the account has been paid in full or other arrangements are agreed to by the state.

If you have any questions or concerns, please contact the Accounting and Collections Group at 907.465.2385 or dor.tax.collections@alaska.gov.

AMCO
JUN 11 2021

**REMITTANCE COPY**  
*Return this copy with installment payment*

November 02, 2020

JENNIFER N. HUFFMAN  
1817 SUNSET BLVD  
KENAI AK 99611-7048

**EIN/SSN:** XXX-XX-8413  
**Tax Type:** Marijuana Tax

**Informal Payment Agreement**

Installment due date: **November 30, 2020**

Minimum Installment Amount: \$3,860.63

Installment Amount remitted: \$ \_\_\_\_\_

**Mail installment payment to:**

Department of  
Revenue  
TAX DIVISION  
Accounting and Collections  
PO Box 110420  
Juneau, Alaska 99811-0420

Or make a payment online by going to: [online-tax.alaska.gov](http://online-tax.alaska.gov)

AMCO  
JUN 11 2021

<sup>TAX</sup> Record of Payments to Dept. of Rev. via their online site

1 of 2

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Filter

Period	Payment Received	Type	Amount
31-Jul-2020	01-Apr-2021	Payment Plan Payment	1,000.00
31-Jul-2020	25-Jan-2021	Payment Plan Payment	1,000.00
31-Jul-2020	29-Apr-2021	Payment Plan Payment	1,000.00
31-Jul-2020	01-Apr-2021	Payment Plan Payment	1,000.00
31-Jul-2020	28-Dec-2020	Payment Plan Payment	1,000.00
31-Jul-2020	16-Nov-2020	Payment Plan Payment	1,000.00
31-Jul-2020	26-Feb-2021	Payment Plan Payment	1,000.00
31-Jul-2020	16-Nov-2020	Payment Plan Payment	860.63
31-Jul-2020	25-Jan-2021	Payment Plan Payment	860.63
31-Jul-2020	25-Jan-2021	Payment Plan Payment	1,000.00
31-Jul-2020	26-Feb-2021	Payment Plan Payment	1,000.00
31-Jul-2020	28-Dec-2020	Payment Plan Payment	860.63
31-Jul-2020	25-Jan-2021	Payment Plan Payment	1,000.00
31-Jul-2020	01-Apr-2021	Payment Plan Payment	1,000.00
31-Jul-2020	29-Apr-2021	Payment Plan Payment	708.12
30-Jun-2020	23-Sep-2020	Estimated Payment	1,000.00
30-Jun-2020	23-Sep-2020	Estimated Payment	1,000.00
30-Jun-2020	23-Sep-2020	Estimated Payment	226.51
30-Jun-2020	23-Sep-2020	Estimated Payment	1,000.00
30-Jun-2020	23-Sep-2020	Estimated Payment	1,000.00
30-Jun-2020	23-Sep-2020	Estimated Payment	1,000.00
30-Jun-2020	23-Sep-2020	Estimated Payment	1,000.00
31-May-2020	23-Sep-2020	Estimated Payment	1,000.00
31-May-2020	23-Sep-2020	Estimated Payment	1,000.00
31-May-2020	23-Sep-2020	Estimated Payment	1,000.00
31-May-2020	23-Sep-2020	Estimated Payment	1,000.00
31-May-2020	23-Sep-2020	Estimated Payment	1,000.00
31-May-2020	23-Sep-2020	Estimated Payment	1,000.00
31-May-2020	23-Sep-2020	Estimated Payment	875.35
30-Apr-2020	21-Jul-2020	Return Payment	1,000.00
30-Apr-2020	18-Aug-2020	Return Payment	1,000.00
30-Apr-2020	18-Aug-2020	Return Payment	89.41
30-Apr-2020	21-Jul-2020	Return Payment	635.01
30-Apr-2020	21-Jul-2020	Return Payment	1,000.00
30-Apr-2020	18-Aug-2020	Return Payment	1,000.00
30-Apr-2020	18-Aug-2020	Return Payment	1,000.00
30-Apr-2020	18-Aug-2020	Return Payment	1,000.00
31-Mar-2020	21-Jul-2020	Return Payment	1,000.00
31-Mar-2020	05-Aug-2020	Bill Payment	183.00
31-Mar-2020	21-Jul-2020	Return Payment	1,000.00
31-Mar-2020	21-Jul-2020	Return Payment	1,000.00
31-Mar-2020	21-Jul-2020	Return Payment	595.30
29-Feb-2020	21-Jul-2020	Return Payment	1,000.00
29-Feb-2020	21-Jul-2020	Return Payment	1,000.00
29-Feb-2020	21-Jul-2020	Return Payment	1,000.00
29-Feb-2020	21-Jul-2020	Return Payment	1,000.00
29-Feb-2020	21-Jul-2020	Return Payment	1,000.00
29-Feb-2020	21-Jul-2020	Return Payment	1,000.00
29-Feb-2020	21-Jul-2020	Return Payment	541.55

NOV?

NOV?

- We believe the 3 NOVs received on 9/30/2020 were for the tax periods of April 2020, May 2020, June 2020, and July 2020. - These records show those NOVs have been paid.

AMCO

JUN 11 2021

PAYMENTS

Filter

1 of 2

1 - 100 of 183

Period	Payment Received	Type	Amount
30-Apr-2021	01-Jun-2021	Return Payment	1,000.00
30-Apr-2021	01-Jun-2021	Return Payment	608.52
30-Apr-2021	01-Jun-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	21.69
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
31-Mar-2021	29-Apr-2021	Return Payment	1,000.00
28-Feb-2021	01-Apr-2021	Return Payment	1,000.00
28-Feb-2021	01-Apr-2021	Return Payment	1,000.00
28-Feb-2021	01-Apr-2021	Return Payment	814.50
28-Feb-2021	01-Apr-2021	Return Payment	1,000.00
28-Feb-2021	01-Apr-2021	Return Payment	1,000.00
31-Jan-2021	26-Feb-2021	Return Payment	736.67
31-Jan-2021	26-Feb-2021	Return Payment	1,000.00
31-Jan-2021	26-Feb-2021	Return Payment	1,000.00
31-Jan-2021	26-Feb-2021	Return Payment	1,000.00
31-Jan-2021	26-Feb-2021	Return Payment	1,000.00
31-Jan-2021	26-Feb-2021	Return Payment	1,000.00
31-Dec-2020	25-Jan-2021	Return Payment	1,000.00
31-Dec-2020	25-Jan-2021	Return Payment	1,000.00
31-Dec-2020	25-Jan-2021	Return Payment	1,000.00
31-Dec-2020	25-Jan-2021	Return Payment	1,000.00
31-Dec-2020	25-Jan-2021	Return Payment	1,000.00
31-Dec-2020	25-Jan-2021	Return Payment	498.64
30-Nov-2020	28-Dec-2020	Return Payment	1,000.00
30-Nov-2020	28-Dec-2020	Return Payment	433.90
30-Nov-2020	28-Dec-2020	Return Payment	1,000.00
30-Sep-2020	22-Oct-2020	Return Payment	320.12
31-Aug-2020	01-Jun-2021	Payment Plan Payment	1,000.00
31-Aug-2020	29-Apr-2021	Payment Plan Payment	1,000.00
31-Aug-2020	01-Jun-2021	Payment Plan Payment	1,000.00
31-Aug-2020	29-Apr-2021	Payment Plan Payment	860.63
31-Aug-2020	29-Apr-2021	Payment Plan Payment	291.88
31-Aug-2020	01-Jun-2021	Payment Plan Payment	860.63
31-Aug-2020	01-Jun-2021	Payment Plan Payment	1,000.00
31-Jul-2020	01-Apr-2021	Payment Plan Payment	860.63
31-Jul-2020	16-Nov-2020	Payment Plan Payment	1,000.00
31-Jul-2020	26-Feb-2021	Payment Plan Payment	860.63
31-Jul-2020	16-Nov-2020	Payment Plan Payment	1,000.00
31-Jul-2020	28-Dec-2020	Payment Plan Payment	1,000.00
31-Jul-2020	26-Feb-2021	Payment Plan Payment	1,000.00
31-Jul-2020	28-Dec-2020	Payment Plan Payment	1,000.00

Nov?

AMCO

JUN 11 2021



# 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, City Clerk  
**DATE:** September 8, 2021  
**SUBJECT:** **October 5, 2021 Regular City Election – Precinct Election Boards**

Pursuant to KMC 6.05.040, which requires that City Council appoint the members of the precinct boards, I am respectfully requesting the following be appointed to work on the Precinct Boards for Kenai Precincts as listed:

Kenai No. 1, 30-210	Kenai No. 2, 30-230	Kenai No. 3, 30-240
Carol Freas	Barbara Norbeck	Sharon Efta
Virginia Walters	Martha "Marti" Pepper	Mike Efta
Barbara Jedlicki	Jane Russell	Jenny Hammond
Kit Hill	Arlene "Susan" Smalley	Rebecca Lunford
Joan Seamam	Agnes "Marie" Weller	Christine Forbes
Janell Weller		

Thank you for your consideration.



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Eland Conway, Airport Manager

**DATE:** September 1, 2021

**SUBJECT:** **Action-Approval - Special Use Permit to Ravn Alaska**

---

Ravn Alaska is requesting a Special Use Permit effective October 1, 2021 through April 30, 2022.

The Permit is for heated overnight storage for a deicing vehicle. The storage area is approximately 1,200 square feet in Warm Storage 1 for \$1,200 a month plus applicable sales tax.

Ravn Alaska is current on all fees owed and we have current Certificates of Insurance. The Special Use Application has been received and the \$100 application fee is paid.



### SPECIAL USE PERMIT

The **CITY OF KENAI** (City), for the consideration, and pursuant to the conditions set out below, hereby grants to **CORVUS AIRLINES, INC, d/b/a RAVN ALASKA, LLC** (PERMITTEE) the non-exclusive right to use 1,200 square feet of area as described below:

Tract A FBO Subdivision consisting of approximately 1,200 square feet in an area described as Warm Storage 1.

and as further shown in the attached Exhibit A.

1. **TERM.** This special use permit shall be for approximately seven (7) months from October 1, 2021 to April 30, 2022.
2. **PERMIT FEES.** The Permittee shall be charged a monthly permit fee of \$1,200 plus applicable sales tax.

The Permittee shall pay the City the permit fee by the 10<sup>th</sup> day of the preceding month.

Checks, bank drafts, or postal money orders shall be made payable to the City of Kenai and delivered to the City Hall, 210 Fidalgo Avenue, Kenai, Alaska 99611.

In addition to the permit fee specified above, the Permittee agrees to pay to the appropriate parties all levies, assessments, and charges as hereinafter provided:

- A. Sales tax not enforced, or levied in the future, computed upon the permit fee payable in monthly installments whether said fee is paid on a monthly or yearly basis;
- B. All necessary licenses and permits; all lawful taxes and assessments which, during the term hereof may become a lien upon or which may be levied by the State, Borough, City, or by any other tax levying body, upon any taxable possessory right which Permittee may have in or to the Premises by reason of its use or occupancy or by reason of the terms of this Permit, provided however, that nothing herein contained shall prevent Permittee from contesting any increase in such tax or assessment through procedures provided by law.
- C. Interest at the rate of eight percent (8%) per annum and penalties of ten percent (10%) of any amount of money owed under this Special Use Permit which are not paid on or before the due date.
- D. Costs and expenses incident to this Special Use Permit, including but not limited to recording costs.
- E. Annual Special Use Permit Application fee of \$100.00.

3. **USE.** The use by the Permittee of the Premises is limited to the purpose of Storage for De-ice Vehicle. This use is subject to City, Borough, and State laws and regulations and the

reasonable administrative actions of the City for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities. Use of the Premises is subject to the following conditions:

- A. Permittee shall use the Premises only for storage of one de-ice vehicle.
  - B. The premises shall be returned to its current condition prior to the end of the term of this Special Use Permit.
4. **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, the City is entitled to coverage to the extent of the higher limits.
- A. Garage Liability or 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 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 for snow moving and storage activities to, from, or on the Premises. 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 October 1, 2021. The effective date of the insurance shall be no later than October 1, 2021.
  - vi. This insurance shall be primary and exclusive of any other insurance carried by the City of Kenai. This insurance shall be without limitation on the time within which the resulting loss, damage, or injury is actually sustained.
5. **INDEMNITY, DEFEND, AND HOLD HARMLESS AGREEMENT.** The Permittee shall fully indemnify, hold harmless, and defend the City of Kenai, its officers, agents, employees, and volunteers at its own expense from and against any and all actions, damages, costs, liability, claims, losses, judgments, penalties, including reasonable Attorney's fees of or for liability for any wrongful or negligent acts, errors, or omissions of the Permittee, its officers, agents or employees, or any subcontractor under this Permit. The Permittee shall not be required to defend or indemnify the City for any claims of or liability for any wrongful or negligent act, error, or omission solely due to the independent negligence of the City. If there is a claim of or liability for the joint negligence of the Permittee and the independent negligence of the City, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. Apportionment shall be established upon final determination of the percentage of fault. If any such determination is by settlement, the percentage of fault attributed to each party for purposes of this indemnification provision shall only be binding upon the parties included in the settlement agreement. "Permittee" and "City" as used in this article include the employees, agents, officers, directors, and other contractors who are directly responsible, respectively, for each party. The term "independent negligence of the City" is negligence other than in the City's selection, administration, monitoring, or controlling of the Permittee.
6. **PERMITTEE'S OBLIGATION TO PREVENT AND REMOVE LIENS.** Permittee will not permit any liens, including mechanic's, laborer's, construction, supplier's, mining, or any other liens obtainable or available under existing law, to stand against the Premises or improvements on the Premises for any labor or material furnished to Permittee or to any related entity or claimed entity. The Permittee shall have the right to provide a bond as contemplated by State of Alaska law and contest the validity or amount of any such lien or claimed lien. Upon the final determination of the lien or claim for lien, the Permittee will immediately pay any judgment rendered with all proper costs and charges and shall have such lien released or judgment satisfied at Permittee's own expense.
7. **PERSONALTY.** Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit. Personal property placed or used upon the Premises and not removed upon termination of this Permit will be removed and/or impounded by the City. Property removed or impounded by the City may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus a storage fee of \$25 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or its customers.
8. **FORBEARANCE.** Failure to insist upon a strict compliance with the terms, conditions, and/or any requirement 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.

9. **TERMINATION, DEFAULT.** This Permit may be terminated by either party hereto by giving 30 days advance written notice to the other party. The City may terminate the Permit immediately, or upon notice shorter than 30 days, to protect public health and safety. The City may also terminate this Permit immediately, or upon notice shorter than 30 days, due to a failure of Permittee to comply with conditions and terms of this Permit, which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period to correct the violation or breach.
10. **NO DISCRIMINATION.** Permittee will 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 State law. Permittee recognizes the right of the City to take any action necessary to enforce this requirement.
11. **ASSIGNMENT.** Permittee may not assign, by grant or implication, the whole any part of this Permit, the Premises, or any improvement on the Premises without the written consent of the City. Unless the City specifically releases the Permittee in writing, the City may hold the Permittee responsible for performing any obligation under this permit which an assignee fails to perform.
12. **ASSUMPTION OF RISK.** Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on the Premises and its exercise of the privileges granted in this Permit.
13. **NO JOINT VENTURE.** The 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.
14. **SURVIVAL.** The obligations and duties of Permittee under paragraphs 5 and 6 of this Permit shall survive the cancellation, termination, or expiration of this Permit.
15. **AUTHORITY.** By signing this Permit, Permittee represents that is has read this agreement and consents to be bound by the terms and conditions herein and that the person signing this Permit is duly authorized by the business to bind the business hereunder.

CITY OF KENAI

Corvus Airlines, Inc. dba Ravn Alaska, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Paul Ostrander  
City Manager

Date:

Dallas Anthony  
Director of Airports

Date:

**ACKNOWLEDGMENTS**

STATE OF ALASKA                    )  
  ) ss  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this \_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_, the foregoing instrument was acknowledged before me by Paul Ostrander, City Manager of the City of Kenai, Alaska, an Alaska home rule municipality, 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 \_\_\_\_\_, 20\_\_\_\_, the foregoing instrument was acknowledged before me by Dallas Anthony, Director of Airports of Corvus Airlines, Inc. dba Ravn Alaska, LLC, an Alaska limited liability company, on behalf of the company.

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

ATTEST:

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

SEAL:

APPROVED AS TO FORM:

\_\_\_\_\_  
Scott Bloom, City Attorney

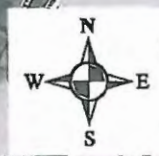


**Exhibit A:**  
**Ravn Alaska Special Use Permit Area**  
**City of Kenai Shop Yard**

**Parcel No:**  
**04336001**

**Tract A, FBO Subdivision**

125'  
 1 inch equals 145 feet



The information depicted hereon is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

Date: 1/30/2020



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3246-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING AN AIRPORT IMPROVEMENT PROGRAM GRANT FROM THE FEDERAL AVIATION ADMINISTRATION IN THE AIRPORT EQUIPMENT CAPITAL PROJECT FUND FOR THE PURCHASE OF SNOW REMOVAL EQUIPMENT – MULTI-PURPOSE BROOM/BLOWER.

WHEREAS, the City received a grant from the Federal Aviation Administration for the replacement of a runway snow blower and broom; and,

WHEREAS, acceptance and appropriation of this grant totaling \$715,586 was enacted by Ordinance 3229-2021; and,

WHEREAS, additional grant funds were received totaling \$47,706; and,

WHEREAS, with the above grant amounts, 100% of the cost of the multi-purpose broom/blower shall be covered by grant funds, no additional City share will be required; and

WHEREAS, this appropriation is 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 City Manager is authorized to accept additional grant funding for \$47,706 from the Federal Aviation Administration.

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

Airport Snow Removal Equipment Capital Project Fund:	
Increase Estimated Revenues -	
FAA Grant 3-02-0142-068-2021	<u>\$47,706</u>
Increase Appropriations –	
Equipment	<u>\$47,706</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.



Ordinance No. 3246-2021  
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 immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 6th day of October, 2021

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

ATTEST:

\_\_\_\_\_  
Jamie Heinz, MMC, City Clerk

Approved by Finance: SB for TEubank

Introduced: September 15, 2021  
Enacted: October 6, 2021  
Effective: October 6, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Eland Conway, Airport Manager

**DATE:** September 3, 2021

**SUBJECT:** **Ordinance 3246 - 2021 – Accepting Additional Grant Funds For Purchase of Multi-Purpose Broom/Blower**

---

The purpose of this memo is to request Council's approval to accept additional grant funding from the Federal Aviation Administration (FAA) for the replacement purchase of a new airfield snow blower and broom. As council may recall, Ordinance 3229-2021 was enacted August 18, 2021 accepting \$715,586 in grant funds. Additional grant funds from the FAA "CRSSA" totaling \$47,706 have been received.

This piece of equipment is integral to the safe and efficient operation of the airport. Council's approval to accept these additional funds would mean 100% of the cost of this new multi-purpose blower/broom would be covered by FAA grant funds.

Council's support is respectfully requested.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3247-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE WATER AND SEWER SPECIAL REVENUE AND WATER AND SEWER IMPROVEMENTS CAPITAL PROJECT FUNDS, AWARDED A PROFESSIONAL SERVICES AGREEMENT AND CORRESPONDING PURCHASE ORDER FOR MISSION AVENUE WATER MAIN REPAIRS.

WHEREAS, the City of Kenai entered into a term service agreement with HDL Engineering Consultants LLC in May 2020 after the successful completion of the Request for Proposals process to provide professional engineering services on water, sewer, and waste water capital improvement projects; and,

WHEREAS, Task 7 under this agreement is intended to provide bid ready construction documents to address an aging water main in close proximity to the bluffs edge along Mission Avenue; and,

WHEREAS, this project will provide installation of several new water main valves to isolate approximately 400' of piping and installation of new replacement service lines from the main to the curb stop valve in an effort to prevent erosion from creating an eventual interruption to services to properties in the area; and,

WHEREAS, the properties primarily being affected by this work are 902 and 906 Mission Ave, 603 and 604 Main St; and,

WHEREAS, addressing this work now in a controlled manner will be far less expensive and impactful than attempting to after failure; and,

WHEREAS, completion of this work at this time is 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 Administration is authorized to award a professional services agreement and issue a purchase order in the same amount of \$33,141 to HDL Engineering Consultants LLC for Work identified as Task 7, services include design and bid phase services as well as construction administration services.

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

Water and Sewer Special Revenue Fund:	
Increase Estimated Revenues –	
Appropriation of Fund Balance	<u>\$150,000</u>

Increase Appropriations –	
Water & Sewer Improvements Capital Project Fund	
Design	\$20,000
Construction	<u>\$130,000</u>
 Total	 <u>\$150,000</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 pursuant to KMC 1.15.070(f), this ordinance shall take effect upon adoption.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 6<sup>th</sup> day of October, 2021.

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

ATTEST:

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

Approved by Finance: SB for TEubank

Introduced: September 15, 2021  
Enacted: October 6, 2021  
Effective: October 6, 2021



# MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Scott Curtin

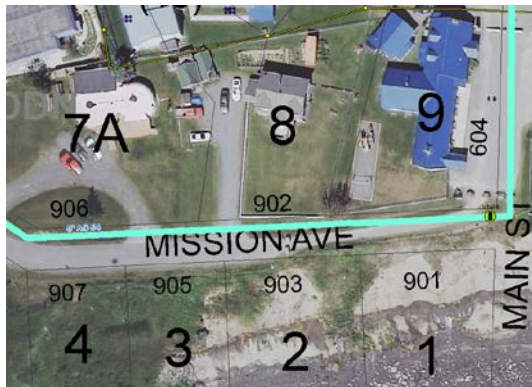
**DATE:** September 8, 2021

**SUBJECT:** Ordinance No. 3247-2021

The purpose of this memo is to request Council's approval to appropriate funds from the Water Sewer Special Revenue Fund and awarding Task 7s work to HDL Engineering Consultants LLC to address an emerging issue with a water main along Mission Ave.

HDL Engineering continues to support the City under a term agreement enacted in May 2020. Task 7 will address a water main, which we believe has been in place since 1964. With the ongoing bluff erosion in the area, the main is now nearing the exposed edge of the bluff face. This project will install several new water main valves which will allow the Water Department to better control the distribution system in this area, and will reroute several properties water services back to a more secure location on the water main, abandoning the piping which is most at risk of eventually failing and falling off the bluff.

The Department is intending to address this now, to minimize future impact to residents in the area. The project is not included within the current Capital Improvement Plan, however it has been identified during the facility and infrastructure assessments that have been ongoing with staff and the engineering team. This is a priority project for the department, completion of the work is in the best interest of the City. Photo below shows the project area.



Council's support is respectfully requested.



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**FROM:** Paul Ostrander, City Manager

**DATE:** September 9, 2021

**SUBJECT:** **Discussion Item – Request to Schedule a Joint Work Session for the Draft Land Management Plan**

---

In 2018, City Council approved a City-wide approach to land management through the development of the City's first Land Management Plan. Since that time, Administration has worked diligently to draft a Land Management Plan to inventory, evaluate, and develop recommendations related to City-owned lands.

The *City of Kenai Imagine Kenai 2030 Comprehensive Plan* includes economic development and land use goals and objectives to develop a land inventory and land use strategies to implement a forward-looking approach to community growth and development. The goals of the Land Management Plan incorporate many of these objectives and include the following:

- Provide an inventory of City-owned lands with detailed information on each parcel.
- Identify properties required for a public purpose or to meet a future public need.
- Establish recommendations for individual parcels that are surplus to the needs of the City to assist in responsible development.
- Create a comprehensive reference document that establishes a format for developing land management policies and procedures.

One of the City's greatest assets is its land inventory. The City owns 369 subdivided parcels, including wetlands, tidelands, lands surrounding the Kenai Airport, and lands suitable for a variety of business, commercial, industrial, residential, recreational, and cultural purposes. The Land Management Plan is an important tool to spur economic growth and improve the quality of life for Kenai residents and is key to the long-term viability of the City.

Administration is looking to schedule a Joint Work Session with the City Council, Planning and Zoning Commission, Airport Commission, Parks and Rec Commission, and Harbor Commission to provide a presentation on the Draft Land Management Plan. It is our intent to provide copies of the Draft Plan in advance of the scheduled work session. Due to the 2021 City of Kenai Election Calendar, scheduling the Joint Work Session for the second week of October would allow Administration to invite the two Council Member-elects to attend.

Your consideration is appreciated.

**KENAI AIRPORT COMMISSION  
SPECIAL MEETING  
AUGUST 26, 2021 – 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, K. Dodge, D. Leichliter, J. Zirul

Commissioners Absent: J. Bielefeld, D. Pitts, P. Minelga

Staff/Council Liaison Present: Airport Manager E. Conway, City Manager P. Ostrander, Council Liaison H. Knackstedt

A quorum was present.

**c. Agenda Approval**

**MOTION:**

Commissioner Zirul **MOVED** to approve the agenda as written and Vice Chair Dodge **SECONDED** the motion. There were no objections; **SO ORDERED**.

**2. UNSCHEDULED PUBLIC COMMENT – None.**

**3. NEW BUSINESS**

**a. Discussion/Recommendation – Kenai Waterfront Revitalization Feasibility Study**

Airport Manager Conway explained that Ordinance No. 3237-2021 was introduced on August 4, 2021 and prior to the meeting the City Council had held a work session to discuss the opportunity for Kenai waterfront revitalization with the community and waterfront property owners. He noted that the area in consideration spans from Millennium Square to the City Dock, over 160 acres of property.

The waterfront revitalization initiative was further explained by City Manager Ostrander, and he led a discussion on the feasibility study which would look at the Kenai waterfront for development. This report would accomplish looking at ways to incentivize development to create economic opportunities. It was estimated that it would take six months to complete, and discussion in

involved what the City can do to encourage development in this area. Clarification was provided that this would be a mix of private and public land.

**MOTION:**

Commissioner Leichliter **MOVED** to recommend approval of Ordinance No. 3237-2021 for increasing estimated revenues and appropriations in the General Fund – Land Administration Department to provide funding for a Kenai waterfront revitalization feasibility study. Commissioner Zirul **SECONDED** the motion.

**VOTE:** There were no objections; **SO ORDERED.**

**MOTION PASSED UNANIMOUSLY.**

**4. NEXT MEETING ATTENDANCE NOTIFICATION** – September 9, 2021

**5. COMMISSIONER COMMENTS AND QUESTIONS**

Commissioner Leichliter noted that he is excited to see a project like this moving forward.

Commissioner Zirul agreed that this would be a great project.

**6. ADDITIONAL PUBLIC COMMENT** – None.

**7. ADJOURNMENT**

**MOTION:**

There being no further business before the Commission, the meeting was adjourned at 6:27 p.m.

Meeting summary prepared and submitted by:

\_\_\_\_\_  
Meghan Thibodeau  
Deputy City Clerk



**KENAI PLANNING & ZONING COMMISSION**  
**REGULAR MEETING**  
**AUGUST 25, 2021 – 7:00 P.M.**  
**KENAI CITY COUNCIL CHAMBERS**  
**210 FIDALGO AVENUE, KENAI, ALASKA**  
**CHAIR JEFF TWAIT, PRESIDING**

**MINUTES**

**A. CALL TO ORDER**

Chair Twait called the meeting to order at 7:00 p.m.

**1. Pledge of Allegiance**

Chair Twait led those assembled in the Pledge of the Allegiance.

**2. Roll Call**

Commissioners present: J. Twait, J. Halstead, A. Douthit, D. Fikes, G. Woodard, G. Greenberg, R. Springer

Commissioners absent:

Staff/Council Liaison present: Planning Director R. Foster, Planning Assistant W. Anderson, Deputy City Clerk M. Thibodeau, Council Liaison J. Glendenning

A quorum was present.

**3. Agenda Approval**

**MOTION:**

Vice Chair Fikes **MOVED** to approve the agenda as written and Commissioner Woodard **SECONDED** the motion. There were no objections; **SO ORDERED**.

**4. Consent Agenda**

**MOTION:**

Vice Chair Fikes **MOVED** to approve the consent agenda and Commissioner Douthit **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 – None.

**B. APPROVAL OF MINUTES**

1. \*Regular Meeting of August 11, 2021

The minutes were approved by the Consent Agenda.

**C. SCHEDULED PUBLIC COMMENT** – None.

**D. UNSCHEDULED PUBLIC COMMENT** – None.

**E. CONSIDERATION OF PLATS** – None.

**F. PUBLIC HEARINGS** – None.

**G. UNFINISHED BUSINESS** – None.

**H. NEW BUSINESS**

1. **Action/Approval** - Recommendation for Ordinance No. 3237-2021 - Increasing Estimated Revenues and Appropriations in the General Fund – Land Administration Department to Provide Funding for a Kenai Waterfront Revitalization Feasibility Study.

**MOTION:**

Vice Chair Fikes **MOVED** to recommend approval of Ordinance No. 3237-2021 for increasing estimated revenues and appropriations in the General Fund – Land Administration Department to provide funding for a Kenai waterfront revitalization feasibility study. Commissioner Douthit **SECONDED** the motion.

Planning Director Foster explained that on August 4, 2021 the City Council had held a work session to discuss the opportunity for Kenai waterfront revitalization with the community and waterfront property owners. The first step in the process would be to conduct a feasibility study with the help of a consulting firm, with the intention of taking a fresh look at the waterfront and reconsidering what this area could be. Foster shared his perspective as a city planner, noting that many communities both big and small utilize their waterfronts and this could be a great catalyst for the community. He explained that the study would take a multidisciplinary approach and would look at land use and economic development incentives, and if it moves forward to getting an RFP and a consultant on board, the Planning and Zoning Commission will continue to be involved.

Discussion involved the boundaries of the waterfront area and whether the areas planned to be stabilized through the Bluff Erosion Project would be part of this area, the involvement of the Army Corps of Engineers, whether the project can benefit from studies that were conducted for Cannery Road development; how waterfront landowners will be approached about the project, how the project can tie in with a Harbor Master Plan, bike path construction and harbor dredging. It was noted that the feasibility study would potentially look into many of these issues to determine how they would tie into waterfront revitalization.

Concerns were expressed about potential pushback from waterfront property owners, economic instability, and whether this would have the support of the fishing industry who may oppose having their commercial areas developed in a different direction. Clarification was provided that these concerns could be explored by a consultant during the feasibility study.

**VOTE:**

YEA: Halstead, Woodard, Greenberg, Douthit, Springer, Fikes, Twait  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**I. PENDING ITEMS** – None.

**J. REPORTS**

1. **City Council** – Council Member Glendening reported on the actions from the August 18, 2021 City Council meeting.
2. **Borough Planning** – Vice Chair Fikes reported on the actions from the August 23, 2021 Borough Planning Commission Meeting.
3. **City Administration** – Planning Director Foster reported on the following:
  - No applications have been submitted for the September 8<sup>th</sup> meeting, and there is one on the schedule for the meeting of September 22<sup>nd</sup>;
  - Administrative Assistant Willie Anderson is retiring, and her last meeting will be on September 22<sup>nd</sup>;
  - Two Board of Adjustment decisions will be provided as informational items for next packet;
  - Received notification from Kenai Peninsula Borough regarding the Black Gold Subdivision right of way vacation the Commission approved, which will be sent to Council for their September 15<sup>th</sup> meeting.

**K. ADDITIONAL PUBLIC COMMENT** – None.

Vice Mayor Bob Molloy noted that he had two purposes for coming to this meeting, first was to hear their discussion on the feasibility study, and the second is to inform them of Ordinance No. 3243-2021 which will be introduced during the City Council Meeting on September 1<sup>st</sup> and will come to the Planning & Zoning Commission for approval at their September 8<sup>th</sup> meeting. He noted that he has been working with the Planning Director and City Clerk to develop the ordinance, which will clarify the roles and responsibilities of applicants, the Planning Director, and the Planning Commission in the conditional use permitting process and also make housekeeping changes.

**L. INFORMATIONAL ITEMS** – None.

**M. NEXT MEETING ATTENDANCE NOTIFICATION**

1. September 8, 2021

**N. COMMISSION COMMENTS & QUESTIONS**

Commissioner Douthit noted he will be out of town on the September 22, 2021 meeting.

Commissioner Halstead said he appreciates the opportunity to work on the waterfront revitalization project and looks forward to it, and expressed confidence in the Planning Director's ability to get the project underway.

Commissioner Greenberg noted that he thinks this looks like a good project.

Council Member Glendening stated he was in support of the Commissions discussion, and expressed that he had heard broad but good ideas and questions during the meeting tonight. He also stated that the Harbor Master Plan fits in with the project as well, and encouraged the Planning & Zoning Commission and Harbor Commission to stay closely involved in the process.

**O. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 8:33 p.m.

Minutes prepared and submitted by:

  
\_\_\_\_\_  
Meghan Thibodeau  
Deputy City Clerk





# 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:** Eland Conway, Airport Manager

**DATE:** September 2021

**SUBJECT:** Kenai Municipal Airport (ENA) Mid-Month Report

### SOAR AeroCenter Groundbreaking

On Wednesday, September 1, SOAR International Ministries broke ground on the future site of the \$3.5M SOAR AeroCenter. The Fixed Based Operator (FBO) will provide much needed services and amenities to general aviation aircraft and business jets. ENA's newest and only FBO will strengthen the airport's marketability.



### Runway Closure

Big Mike's General Contracting is expected to begin airfield drainage improvements Monday, September 27. The drainage improvements are in the runway safety area requiring nightly runway closures to minimize impacts to air carriers during the day. Runway closures will begin at 23:00 or after the last air carrier operation and reopen prior to the first air carrier operation or 05:00.

The project replaces approximately 488 linear feet of existing storm drain that is failing or in mostly poor condition and historically causing sink holes in the runway safety area. Work is anticipated seven days per week through October 18 or until the project is complete.

The total project cost estimate is \$530,945 with 100% likely being funded by the FAA.

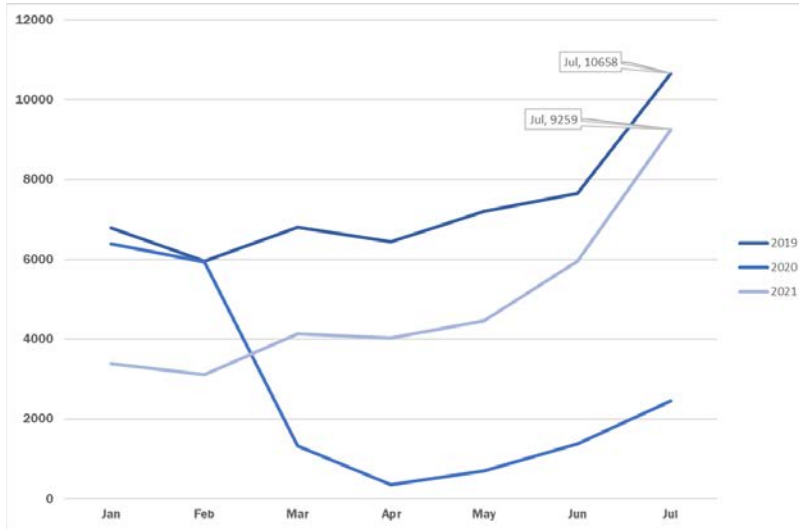
### Federal Mask Mandate

TSA has extended the mask mandate for persons in airports, on airplanes and on public transit through **Jan. 18, 2022**.

Although the mandate was set to expire Sept. 13, the agency noted that the surge in coronavirus cases, due to the highly transmissible delta variant, required the mask mandate to be extended.



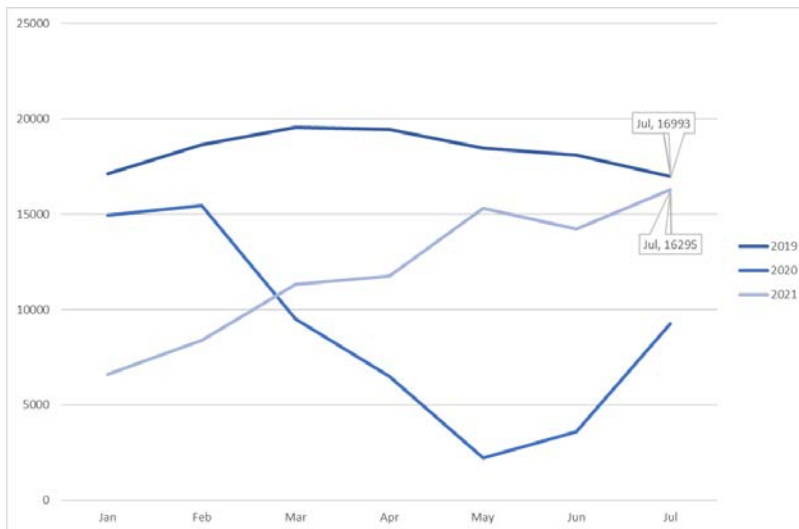
### Enplanements



July enplanements were down just 13% compared to July of 2019. YTD enplanements are down 33% compared to 2019.

Enplanements		
	2019	2021
Jan	6785	3389
Feb	5957	3112
Mar	6808	4127
Apr	6441	4035
May	7198	4464
Jun	7656	5953
Jul	10658	9259
<b>Grand Total</b>	<b>51503</b>	<b>34339</b>

### Parking Revenue



Parking revenue for July was down just 4% compared to July of 2019. YTD parking revenue is down 35% compared to 2019.

Parking Revenue		
	2019	2021
Jan	17143	6626
Feb	18660	8373
Mar	19540	11315
Apr	19444	11757
May	18460	15309
Jun	18112	14236
Jul	16993	16295
<b>Grand Total</b>	<b>128,352</b>	<b>83,910</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  
**THROUGH:** Dave Ross, Police Chief  
**FROM:** Jessica “JJ” Hendrickson, Animal Control Chief  
**DATE:** September 1, 2021  
**SUBJECT:** August 2021 Monthly Report

This month the Kenai Animal Shelter took in **53** animals. Animal intake and disposition:

DOGS:				
	INTAKE	28	DISPOSITION	18
	Waiver	0	Adopted	6
	Stray	5	Euthanized	2
	Impound	0	Claimed	7
	Protective Custody	2	Field Release	0
	Quarantine	4	Transferred	3
	Microchips	17	Other Dispositions	0
	Other Intakes			
CATS:				
	INTAKE	25	DISPOSITION	16
	Waiver	10	Adopted	6
	Stray	15	Euthanized	0
	Impound	0	Claimed	3
	Protective Custody	0	Field Release	0
	Quarantine	0	Transferred	7

Microchips	0	Other Dispositions	0
Other Intakes	0		0
OTHER ANIMALS:			
INTAKE	0	DISPOSITION	0
Chicken	0	Chicken	0
Rabbit	0	Rabbit	0
Other	0	Guinea Pig	0
DOA:	3	OTHER STATISTICS:	
Dog	1	Licenses (City of Kenai Dog Licenses)	5
Cat	2		

- 14 Animal dropped with After Hours (days we are closed but cleaning and with KPD)
- 26 Animals are *known* borough animals
- 14 Animals are *known* City of Kenai
- 6 Animals are *known* City of Soldotna
- 7 Animals from unknown location
- 34 Field Investigations & patrols
- 5.05 Volunteer Hours Logged
- 0 Citations
- 0 Educational Outreach

Statistical Data:

- 623 2019 YTD Intakes
- 502 2020 YTD Intakes
- 421 2021 YTD Intakes







## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Sue Best, Acting Finance Director

**DATE:** September 9, 2021

**SUBJECT:** Finance Department, September 2021 Mid-month Report

---

With the end of FY2021, the department's focus is on closing the financial records and submission of various records to the Auditors. The annual audit is scheduled for the week of October 4<sup>th</sup>.

The expansion of the IT Department has already created benefits for the City of Kenai and its employees. Response times have been reported becoming shorter causing less downtime for employees waiting for assistance. The implementation of the online Help Desk Portal has streamlined services.



# KENAI

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

## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Tony Prior, Fire Chief

**DATE:** September 7<sup>th</sup>, 2021

**SUBJECT:** Fire Department Mid-Month Report – August

Calls for service in August were again up from last year. This is our highest calls for service in the month of August to date. Here is the breakdown for calls for service.

Year	2020	2021	% change
August total	96	134	39.6%
EMS	75	104	38.7%
All Other	21	30	42.9%
Year total	852	947	11.2%

We have completed our last Wednesday Market event and are continuing to do home visits for additional vaccine administration. To date; we have administered 1012 vaccines and will continue as more appointments are made and vaccine availability continues.

Engineer Scott Summers and Firefighter Ben Nabinger attended an Airpak Technician class at CES to be able to service our new model of Airpaks. This class updated all 3 agencies that were included in our FEMA Grant that purchased new Airpaks.

Continued work on the Community Wildfire Protection Project included submitting a needs assessment for the City of Kenai to KPB OEM. We compiled a list of projects that would benefit the residents and City with funding available in the future.

We have completed an initial draft of the Emergency Operations Plan and we are reviewing it for additional changes needed. Mary Toll has been exceptional in research and updating critical information needed in the plan so far.



## MEMORANDUM

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





**THROUGH:** Paul Ostrander, City Manager

**FROM:** Katja Wolfe, Library Director

**DATE:** September 2, 2021

**SUBJECT:** Library Mid-Month Report for August 2021

### August 2021 at a Glance

Items Borrowed		Aug-20	Aug-21	2021 YTD
Physical		4,975	5,982	42,010
Digital		1,575	1,542	13,123
<b>Services</b>				
New Memberships		31	54	288
Room Reservations		n/a	100	296
<b>Programs</b>				
Number of Programs		14	20	139
People Reached (e.g., DIY Kits)		n/a	367	1,408
People Reached Virtually		n/a	813	6,243
<b>Technology Sessions</b>				
Computer sessions		374	472	2,596
WiFi Sessions		2,799	5,978	34,395
Early Literacy Station Sessions		n/a	129	500

### August 2021 programming highlights

- 20 programs
  - 12 virtual programs
    - Story times for ages 0-5 (371 total views within 7 days of program)
    - Let's Draw (34 total views within 7 days of program)
    - Lego® Club (79 total views within 7 days of program)
    - Maker Monday (53 total views within 7 days of program)
    - Jr. Art Club (57 total views within 7 days of program)
    - Grass basket weaving (102 total views within 7 days of program)
  - 3 DIY kits (a total of 160 kits handed out)
  - 5 in-person programs
    - Outdoor Story Time (36 attendees)
    - Summer Reading Grand Finale (100 attendees)

### August 2021 library services highlights

- We received a grant from the Alaska State Library to install a StoryWalk®.
- Summer Reading final numbers are in:
  - We provided a total of 1223 meals to children 18 or under between June 1 and August 15, 2021. The Summer Food Program was made possible by the Food Bank of Alaska.
  - 114 adults, 51 teens, and 427 kids participated in SRP 2021.
  - Children logged over 4,000 reading hours! That is an average of 9 hours read per child.





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Robert J. Frates, Parks & Recreation Director  
**DATE:** September 9, 2021  
**SUBJECT:** **Mid-Month Activity Report**

---

The cooler temperatures are upon us leading to an eventual end to the growing season. Turf mowing has been scaled back for some areas and all but the hardy flowers are entering their final stages of growth. As time allows, Operator Dodge has been circling back around to all the flower beds performing some final weed removal and general cleanup. Some of the planning and design work for next season's beds will occur over the next couple months.

As the local club soccer and adult softball programs come to a close, Kenai Little League continues to offer a fall program which will conclude mid-September. Cook Inlet Academy will host their final soccer games at the sports complex September 24 and 25.

The department welcomed three new employees, including Pamela Williams (Recreation Assistant), Tyler Best (Administrative Assistant) and Jaryn Zoda (Laborer). I am excited to have these individuals join our team and look forward to being a part of their professional growth and development.

Staff removed a total of 15 beetle-kill trees surrounding the dog park at Daubenseck Family Park. Additionally, volunteers provided equipment and labor to complete some final dirt work and grading and the area was recently hydro-seeded by a local contractor. Plans are in motion for a local contractor to install a perimeter chain-link fence.

The department coordinated with staff at the Wildwood Correctional Facility for some volunteer work at Leif Hansen Memorial Park to have sod removed along the sidewalks. Plans are in place to also have a local church group assist with some tree planting at City Hall.

Operator Dodge and Operator Brusven seeded the new cemetery expansion. Thanks to the Public Works Department for all the dirt work and preparation leading up to the seeding.

Staff installed a total of 6 memorial plaques at Leif Hansen Memorial Park.



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** September 7, 2021

**SUBJECT:** **Planning and Zoning August 2021 Report**

### Planning and Zoning Commission Agenda Items and Resolutions

- On August 11, 2021 the Planning and Zoning Commission recommended approval of the following plat and development incentives application:
  - **Resolution PZ2021-31** - Preliminary Subdivision Plat of Townsite of Kenai Kenaitze Courthouse Replat, submitted by Edge Survey and Design, LLC, P. O. Box 208, Kasilof, AK 99610, on behalf of Kenaitze Indian Tribe, 150 N. Willow St. Suite 33, Kenai, AK 99611
  - **Action/Approval** – A Resolution of the Council of the City of Kenai, Alaska Approving the Development Incentives Per Kenai Municipal Code 21.10.100. For A Lease Of Airport Reserve Lands Between The City Of Kenai And Schilling Rentals, LLC On General Aviation Apron Sub No. 1 Amended Lot 2 Block 3
- On August 25, 2021 the Planning and Zoning Commission recommended approval of the following request for funding for a Kenai Waterfront Revitalization Feasibility Study:
  - **Action/Approval** – Recommendation for Ordinance No. 3237-2021 - Increasing Estimated Revenues and Appropriations in the General Fund – Land Administration Department to Provide Funding for a Kenai Waterfront Revitalization Feasibility Study.

### Building Permit and Site Plan Reviews

Planning and Zoning staff reviews all Building Permits for compliance with the zoning code. The Department conducted six Building Permit reviews in August, 2021.

### Code Enforcement

There were three new code enforcement cases opened in August, 2021.

## Lands

- On August 4, 2021, Kenai City Council approved the following land sale authorizations, special use permit, and lease assignment:
  - **Ordinance No. 3221-2021** - Determining that Real Property Described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, According to Plan No. 2014-21, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals, an Alaska Partnership. (Administration)
  - **Ordinance No. 3222-2021** - Determining that Real Property Described as Lot 1A, Block 1, Doshka Subdivision, According to Plat No. K-1577, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals (2016), LLC. (Administration)
  - **Action/Approval** - Special Use Permit to Kenai Chamber of Commerce & Visitor Center for Moosemeat John Cabin. (Administration)
  - **Action/Approval** - Assignment and Assumption of Lease Agreement from Hilcorp Alaska, LLC to Kenai Beluga Pipeline, LLC. (Administration)
  
- On August 18, 2021, Kenai City Council approved the following development incentives application:
  - **Resolution No. 2021-55** - Approving the Development Incentives per Kenai Municipal Code 21.10.100 for a Lease of Airport Reserve Lands Between the City of Kenai and Schilling Rentals, LLC on General Aviation Apron Sub No. 1 Amended Lot 2 Blk 3. (Administration)

The City did not receive an application for a new lease in August 2021.





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Ben Langham, Acting Police Chief  
**DATE:** September 7, 2021  
**SUBJECT:** Police & Communications Department Activity – August 2021

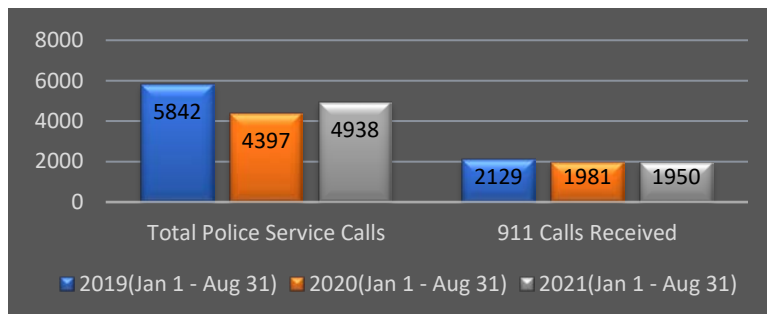
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Police handled 674 calls for service in August. Dispatch received an estimated 300 9-1-1 calls; however, we are still awaiting the exact final number for August due to the incorporation of 911 system updates this summer. Officers made 52 arrests. Traffic enforcement resulted in 248 traffic contacts and 76 traffic citations. There were 6 DUI arrests. Officers investigated 5 motor vehicle collisions in August. There were no collisions involving moose. There was one collision involving drugs or alcohol.

The department is working to fill one officer vacancy that occurred in August and preparing for a second that will occur in September. A current officer, Ryan Coleman, has been promoted to a Sergeant position that is being vacated.

A KPD officer attended a Drug Recognition Expert national conference while another officer attended a PepperBall Instructor Course. A Dispatcher attended the APCO national conference.

On August 17, the SRO began working in the schools again.







## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Scott Curtin, Public Works Director  
**DATE:** September 2021  
**SUBJECT:** **Mid-Month Report; Public Works / Capital Projects**

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- Kenai Municipal Airport Sand Storage Facility – The City executed a design agreement to HDL Engineering on April 17, 2020 for a new Sand Storage Facility. On August 7, 2020 Final Design Documents were received and a Formal Invitation to Bid was released on August 10<sup>th</sup>, 2020 with Bids due on August 31<sup>st</sup>, 2020. Orion Construction was the successful bidder with a low bid of \$2,289,000. The City successfully executed a grant with the FAA on September 25, 2020 in the amount of \$1,954,101, a second grant is anticipated for next Spring, May 2021, to cover the remaining costs on a total project cost of \$2,835,263. A Notice to Proceed for Construction was issued for October 14, 2020. Update August 2021: This project is now planned to be on hold until next spring. The metal building package is not going to be available until mid-winter and the department does not want to leave an unprotected and unconditioned building slab exposed for the winter months. This project will restart in May 2022 and be ready for use during the next winter season starting November 2022.
- Kenai Municipal Airport Airfield Drainage – Ordinance 3234-2021 was introduced at the August 18, 2021 council meeting. The project was released for formal construction bids on July 28, 2021 with bids due on August 19, 2021. Ordinance 3234-2021 was amended at the September 1, 2021 meeting to reflect actual bids received. Work is expected to take place in September and October and be completed prior to winter shutdown. Project consists of the replacement of approximately 500 lf of failing storm water pipelines located in the safety area off the northern end of the runway. *Update: 9/8/21 Contract Documents are being processed with BMGC LLC in the amount of \$360,225. Work anticipated to start in late September. Pre-Construction meeting scheduled for 9/9/21.*
- Kenai Municipal Airport (KMA) Tractor & Mower – The John Deere Tractor and Mower purchased from Craig Taylor Equipment in the amount of \$151,736 was delivered to the City and placed into service on August 24, 2021.



- Kenai Municipal Airport Snow Removal Equipment (SRE) – Update: This equipment is on order and dependent upon supply chain logistics will likely arrive in spring 2022.



- Kenai Municipal Airport Runway Rehabilitation Project – This project known as Task 4 within HDL Engineering Consultants LLC term service agreement with the City shall provide an initial assessment of the current condition of the airport runway. This will include geotech work, coring numerous locations of the runway. This work will provide the necessary information to coordinate with the FAA to seek grant funding for an overall runway rehabilitation project which will ultimately include the runway, taxiways, drainage, lighting, markings, etc. Once the conditions report is received, which fiscal year the project will likely need to take place will be determinable. This initial assessment and corresponding design work to an anticipated 35% level of completion has been contracted at a total cost of \$250,000 and is expected to be completed by the end of the calendar year. Update: On August 4<sup>th</sup> HDL Engineering and staff successfully completed geotech borings of the runway after hours. The project development continues to move forward. *35% Design Documents are anticipated by end of calendar year.*
- Waste Water Treatment Plant Master Plan – Resolution 2020-48 was approved at the June 17, 2020 Council meeting allowing this work to proceed. On July 2, 2020 HDL staff and consultants spent the day on the property going through all systems of the plant. On August 31, 2020 the first draft assessment was received. Staff continues to work with HDL to develop plans for the facility in preparation of updates to the Capital Plan. *Update: With the assessments now complete a Rate Study will begin this fall to evaluate and determine best practices for long term maintenance of the facility.*
- Water & Sewer Master Plan – Resolution 2021-19 is set for Council approval March 17, 2021 awarding \$82,175 to HDL Engineering Consultants to begin assessments of Water & Sewer facilities. A formal report is anticipated within ninety days of their Notice to Proceed. HDL was on site April 13-15 conducting site inspections, photo documenting facility conditions. Work remains on schedule. *Update: With the assessments now complete a Rate Study will begin this fall to evaluate and determine best practices for long term maintenance of the facility.*
- Waste Water Treatment Plant Replacement Sludge Press – Resolution 2020-95 approved at the December 16, 2020 Council meeting authorized HDL Engineering to begin the Design Phase of the WWTP Replacement Sludge Press. Contract Documents were executed on January 6, 2021 with a Notice to Proceed issued on January 11, 2021. First step will be to request proposals from various press manufacturers and make a selection to move through design phases with. Presses of this type typically take six months to manufacturer, goal will be to have an operational new press around late November 2021. On February 3, 2021 HDL staff was on site taking measurements and further detailing the new press location and



associated appurtenances. A Request for Proposals from press manufactures was released on April 27, 2021 with proposals due on May 25<sup>th</sup>, 2021. Resolution 2021-42 to award an equipment purchase agreement to Andritz Corp in the amount of \$285,000 was approved by Council at the June 16, 2021 meeting. *Update: Equipment is now on order. Final plans will be drafted and an Invitation to Bid for Construction will be released this fall with equipment arrival anticipated for February/March 2022.*

- Kenai Well house Relocation – Project was released for Invitations to Bid on March 8, 2021 with bids due on April 1, 2021. Project consists of relocating a small prefabricated steel structure, approximately 20'x28' that suffered foundation damages during the November 2018 earthquake. This project was approved under Ordinance 3194-2021 at the March 3<sup>rd</sup>, 2021 council meeting. Ordinance 3215-2021 was approved June 2, 2021 to award the project to Polar North Construction and to accept insurance proceeds for project to move forward. *Update: Project is underway, site work clearing and foundation prep has been completed as of 9/9/21 awaiting manpower to pour new foundation for storage building.*
- SCADA Integration – Resolution 2021-10 approved at the March 3, 2021 Council meeting has authorized a \$125,000 purchase order to HDL Engineering for assessments and repairs to both the Water & Sewer and Wastewater facilities relating to SCADA. Borealis Controls as sub-consultant to HDL Engineering has provided a revised SCADA network diagram, and is working on replacing primary equipment at the public safety building. Late June 2021 all primary equipment at the Public Safety Building was replaced with new, contractor has been working on programming remotely with the next site visit anticipated for early August. *Nothing new to report at this time.*
- USACE Bluff Erosion – See City Manager's report. Director's Report from the Army Corp of Engineers was signed April 10, 2019. On June 17, 2020 Council authorized the City Manager to sign the MOU received from the Corp. PED Agreement arrived on September 2, 2020. The City mailed a check in the amount of \$350,000 on September 18, 2020 to cover the City's initial share of PED costs. Meetings have begun with the City Manager and Public Works Director with the ACOE. Draft RFP Docs were sent to ACOE Staff for comment on December 8, 2020 during phone conference with ACOE, City Manager and PWD. Comments were received back on December 9<sup>th</sup>. Formal Request for Proposals was released on January 28, 2021, Pre-proposal zoom meeting was conducted on February 9, 2021 with approximately twenty people attending. Proposals were received on March 4, 2021 from five firms. Evaluations of the proposals were completed by committee and HDR Engineering, Inc was the highest scoring successful proposer. An intent to award was sent out on March 18, 2021. Council approved Resolution 2021-35 at the June 2, 2021 meeting awarding an agreement to HDR along with issuance of a purchase order in the amount of \$791,832.68. Design services are expected to run approximately twelve months to provide bid ready plans and specifications. July 6, 2021 the formal agreement between the City of Kenai and HDR was executed. Subcontracts are being secured with data collection and first meetings to begin in August 2021 after the dipnet fishery has concluded. On August 11, 2021 the City Manager and Public Works Director met and walked the project site with representatives from the Army Corp of Engineers including the Regional Commander in charge of the project. Project kickoff meeting with Engineers is scheduled for August 19<sup>th</sup> at 3:00pm. *Update: Detailed work plan has been received by HDR, Data Collection of existing site condition is now underway.*



- Multi-purpose Facility – The Building Maintenance Department went through the Ice Rink and pressure washed all of the algae that has been growing on the steel beams. Nelson Engineering was also able to come out and assess the structure and condition of the rusting. Formal report was received on October 6, 2020. *Nothing new to report.*
- Cemetery Expansion – This project is located at the corner of First Ave and Float Plane Rd and will provide for additional burial space as the existing adjacent cemetery has reached capacity. The Public Works Department using in house personnel has already cleared, leveled and graded the site, and placed and compacted a gravel sub-base for the parking area. *Update: the Cemetery site has been fine graded and grass seed and fertilizer placed. Staff is working on getting a section of plots available for release by the end of September, this will involve a surveyor staking out and numbering individual plots.*
- Bryson Ave. Bluff Erosion Repair – Project was released for Construction Bids on July 29, 2021 with bids due on August 19, 2021. *Fosters Construction was the winning bidder at a cost of \$309,775. Contract documents are in process with work anticipated to begin approximately 9/21/21.*
- DOT Kenai Spur Highway to Sports Lake Rd – In speaking with representatives from DOT on June 10, 2021, it is my understanding this project will likely be released for construction bids in late fall 2021 for an anticipated construction start of Spring/Summer 2022. This project is intended to continue the widening of the roadway similar to the previous project that extended to approximately Swires Rd. *Nothing new to report at this time.*





## MEMORANDUM

**TO:** Mayor Gabriel and Council Members  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** September 9, 2021  
**SUBJECT:** Report to Council – Destruction of Records

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In accordance with the City of Kenai Public Records Management Schedule and Record Retention Policy, approved and adopted under Resolution No. 2017-22, the City Clerk's Office disposed of certain City Records on September 9, 2021, which were subject to disposal under the Schedule.

Animal Shelter	2 boxes
Airport	3 boxes
Clerk's Office	3 boxes
Finance Department	42 boxes
Human Resources	3 boxes
Legal Department	3 boxes
Public Works	4 boxes

The records were authorized for destruction by the respective department managers and the city attorney, as per KMC10.30. A complete list of the above referenced obsolete records is available for review in the Clerk's Office.

**PURCHASE ORDERS BETWEEN \$2,500.00 AND \$15,000.00 FOR COUNCIL REVIEW**  
**COUNCIL MEETING OF: SEPTEMBER 15, 2021**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>DEPT.</b>	<b>ACCOUNT</b>	<b>AMOUNT</b>
KENAI HISTORICAL SOCIETY	CABIN DOCENT SALARY	LEGISLATIVE	GRANTS TO AGENCIES	4,000.00
UNITED ROTARY BRUSH	REPLACEMENT RUNWAY BROOMS	AIRPORT	OPERATING SUPPLIES	14,500.00
NORTHERN SECURITY SUPPLY	AMMUNITION	POLICE	OPERATING SUPPLIES	6,473.00
RED MOUNTAIN ARSENAL	AMMUNITION	POLICE	OPERATING SUPPLIES	6,345.00
IMAGE TREND	ANNUAL RESCUE BRIDGE FEE	FIRE	PROFESSIONAL SERVICES	3,000.00
ZONES	CISCO NETWORK EQUIPMENT	NON-DEPT, FINANCE	SMALL TOOLS	13,399.68
DEMCO EDUCATIONAL SERVICES	FURNITURE FOR CHILDRENS AREA	LIBRARY	IMPS O/T BUILDINGS	5,740.00