



Kenai City Council - Regular Meeting

July 01, 2020 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

Telephonic/Virtual Information on Page 5

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. **Dan Sterchi** - Evergreen Street Hotel Remodel.

C. UNSCHEDULED PUBLIC COMMENTS

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

D. PUBLIC HEARINGS

- 1. Ordinance No. 3127-2020** - Repealing and Replacing Kenai Municipal Code Title 6 - Elections to Provide Clarity, Process Improvements, and Increase Voter Accessibility through Vote By Mail Elections. (Council Member Peterkin) [**Clerk's Note:** *At the June 3 Meeting, this item was Postponed to this Council Meeting. A Motion to Adopt is On the Floor.*]
- 2. Ordinance No. 3136-2020** - Increasing Estimated Revenues and Appropriations in the General and the Public Safety Capital Project Funds and Authorizing the Sole Source Purchase and Installation of Updated Radio Consoles for the City of Kenai Dispatch Center. (Administration)
- 3. Ordinance No. 3137-2020** - Increasing Estimated Revenues and Appropriations in the General and Municipal Roadway Improvements Capital Project Funds to Provide Matching Funds to the State of Alaska Department of Transportation and Public Facilities to Construct

a Pedestrian Path From the Kenai Spur Highway to Beaver Loop Along Bridge Access Road Utilizing Restricted General Fund, Fund Balance. (Administration)

- 4. Ordinance No. 3138-2020** - Increasing Fiscal Year 2020's Estimated Revenues and Appropriations in the Airport Land Sale Permanent Fund to Transfer Earnings in Excess of Budgeted Amounts to the City's Airport Fund. (Administration)
- 5. Ordinance No. 3139-2020** - Increasing Estimated Revenues and Appropriations in the COVID-19 CARES Act Recovery Fund for a Federal CARES Act Grant Passed through the State of Alaska Department of Public Safety for Overtime and Direct Expenditures of the Police, Fire, and Communications Departments of the City from March 16, 2020 through May 17, 2020. (Administration)
- 6. Ordinance No. 3140-2020** - Increasing Estimated Revenues and Appropriations in the Personal Use Fishery Special Revenue Fund to Provide Supplemental Funding for Additional Portable Restrooms and to Award a Contract to Provide Dumpsters, Portable Restrooms and Portable Hand Wash Stations for the 2020 Kenai River Personal Use Fishery. (Administration)

 - **Substitute Ordinance No. 3140-2020**
- 7. Ordinance No. 3141-2020** - Increasing Estimated Revenues and Appropriations in the General Fund, Visitor Center Department and Authorizing Amendment to the Facility Management Agreement with the Kenai Chamber of Commerce and Visitor Center, Inc., for the Operation and Management of the Kenai Visitor and Cultural Center. (Administration)
- 8. Ordinance No. 3143-2020** - Increasing General Fund Estimated Revenues and Appropriations by \$34,216 in the General Fund, Parks, Recreation and Beautification Department for an Increase of a Grant from the United States Environmental Protection Agency Passed through the State of Alaska Department of Environmental Conservation for Bacteria Level Monitoring on the City's Beaches from July 1, 2020 through March 1, 2021. (Administration)
- 9. Resolution No. 2020-51** - Approving a Lease Renewal of Airport Reserve Lands Between the City of Kenai and CPD Alaska, LLC, for Lot 4, Block 1, FBO Subdivision. (Administration)
- 10. Resolution No. 2020-52** - Approving the Use of the Fleet Replacement Fund for the Purchase of Two Fire Department Utility Trucks Utilizing the State of Alaska Equipment Fleet Contract. (Administration)
- 11. Resolution No. 2020-53** - Renaming Pelchy Drive to Pelch Drive. (Administration)
- 12. Resolution No. 2020-54** - Amending the City's Grant Disbursement Program for Small Businesses and Non-Profit Organizations Utilizing Funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. (Administration)
- 13. Resolution No. 2020-55** - Approving Rent Relief Measures for Kenai Municipal Airport Concessionaires During Mandatory Closures Caused by the COVID-19 Public Health Emergency. (Administration)

- 14. Resolution No. 2020-56** - Approving a Grant Disbursement Program for Individual Assistance Utilizing Funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. (Administration)
- 15. Resolution No. 2020-57** - Authorizing the Award of a Construction Agreement for the Peninsula Avenue Bluff Erosion Repair Project. (Administration)
- 16. Resolution No. 2020-58**- Authorizing the Award of a Construction Agreement for the Kenai Beach Vault Restrooms Project. (Administration)
- 17. Resolution No. 2020-59** - Requesting the State of Alaska Department of Transportation and Public Facilities Warranty and Maintain Responsibility for Beaver Loop Road Improvements for a Reasonable time After the City Begins Maintenance Activities. (Council Member Knackstedt)

E. MINUTES

- 1.** *Regular Meeting of June 3, 2020. (City Clerk)
- 2.** *Regular Meeting of June 17, 2020. (City Clerk)
- 3.** *Work Session of June 18, 2020. (City Clerk)

F. UNFINISHED BUSINESS

- 1. Ordinance No. 3128-2020** - Amending Kenai Municipal Code Section 1.85.040 – Records Public, To Provide For A Record Retention Length. (City Clerk) [**Clerk's Note:** *At the June 3 Meeting, this item was Postponed to this Council Meeting. A Motion to Adopt is On the Floor.*]

G. NEW BUSINESS

- 1. *Action/Approval** - Bills to be Ratified. (Administration)
- 2. *Action/Approval** - Purchase Orders Over \$15,000. (Administration)
- 3. *Ordinance No. 3144-2020** - Amending the Official Kenai Zoning Map by Rezoning Tracts 1 and 2, Holland Spur Highway Subdivision from Rural Residential (RR) to General Commercial (GC). (Elizabeth Appleby)
- 4. *Ordinance No. 3145-2020** - Waiving a Provision of Kenai Municipal Code 23.40.030 – Annual Leave, to Remove the Requirement that Employees Use a Minimum Amount of Leave for Calendar Year 2020. (Legal)
- 5. *Action/Approval** - Special Use Permit to Alaska Air Fuel for Aircraft Loading and Parking. (Administration)
- 6. Action/Agenda** - Approving Official's Bond Amounts for City Manager, City Clerk, and Finance Director. (Administration)
- 7. Discussion** - City Response to COVID-19. (Administration)

H. COMMISSION / COMMITTEE REPORTS

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

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

- [1.](#) City Manager
2. City Attorney
3. City Clerk

K. ADDITIONAL PUBLIC COMMENT

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

L. EXECUTIVE SESSION

1. Plan for Utilizing Resiliency Funding, Pursuant to AS 44.32.310(c)(1)(3) a Matter of Which the Immediate Knowledge May have an Adverse Effect Upon the Finances of the City, and a Matter by Which Law, Municipal Charter, or Ordinance are Required to be Confidential. (Administration)

M. PENDING ITEMS

1. **Ordinance No. 3133-2020 (Substitute)** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue Fund, Authorizing a Budget Transfer in the Airport Terminal Improvement Capital Project Fund and Appropriating FY2020 Budgeted Funds in the Airport Master Plan Capital Project, Airport Snow Removal Equipment and Airport Operations Facility Improvement Capital Project Funds for Heating, Ventilation and Air Conditioning (HVAC) Improvement to the Airport Operations Facility and Replacement of the Airport's Wide Area Mower. (Administration) [**Clerk's Note:** *At the June 17 meeting this item was postponed to the July 15 meeting.*]

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000.
2. Mayoral Letter of Support for CIRCAC's Recertification

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

Join Zoom Meeting

<https://us02web.zoom.us/j/85741561637>

Meeting ID: 857 4156 1637 **Password:** 320827

OR

Dial in: (253) 215-8782 or (301) 715-8592

Meeting ID: 857 4156 1637 **Password:** 320827



Sponsored by: Council Member Peterkin

CITY OF KENAI

ORDINANCE NO. 3127-2020

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[CHAPTER 6.05
VOTING QUALIFICATIONS AND PROCEDURES

SECTIONS:

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

- 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

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

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

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

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

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

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

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

6.05.050 COMPENSATION OF ELECTION PERSONNEL.

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

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

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

6.05.060 WATCHERS.

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

6.05.070 CITY CLERK TO SUPERVISE CITY ELECTIONS.

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

6.05.080 CITY CLERK TO PREPARE AND FURNISH BALLOTS.

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

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

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

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

6.05.090 BALLOT BOXES, VOTING BOOTHS.

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

6.05.100 NOTICE OF ELECTIONS—REGULAR AND SPECIAL.

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

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

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

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

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

(KC 6-19)

6.05.110 CONDUCTING AN ELECTION—CANVASSING RETURNS.

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

6.05.120 ESTABLISHMENT OF CANVASSING BOARD AND PROCEDURES.

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

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

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

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

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

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

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

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

6.05.130 TIE VOTES.

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

6.05.140 ABSENTEE VOTING.

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

6.05.145 ABSENTEE VOTING IN PERSON.

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

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

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

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

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

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

(ORD. 1799-98)

6.05.150 ABSENTEE VOTING—APPLICATION.

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

6.05.160 ABSENTEE VOTING—BALLOTS.

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

6.05.170 ABSENTEE VOTING—BY MAIL.

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

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

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

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

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

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

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

(ORDS. 2488-2010, 2556-2011)

6.05.180 VOTING—AUTHORIZED.

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

6.05.190 VOTING—BOARDS.

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

6.05.200 VOTING DEVICES AND MACHINES.

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

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

(ORDS. 881, 941, 1788-98)

6.05.210 VOTING—TESTS AND SECURITY.

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

6.05.220 RECOUNT OF VOTES—APPLICATION.

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

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

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

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

6.05.230 APPEAL TO THE COURTS AFTER RECOUNT.

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

6.05.240 ELECTION CONTESTS.

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

6.05.250 RULES AND REGULATIONS.

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

6.05.260 CITY ELECTION TIME.

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

6.05.270 OFFENSES AND PENALTIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.05.280 RECORD RETENTION.

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

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

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

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

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

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

6.05.310 CASTING BALLOTS.

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

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

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

(ORD. 1800-98)

6.05.320 NOTICE OF ELECTION, ELECTION DATE, PUBLIC NOTICE.

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

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

(ORD. 1800-98)

6.05.330 ABSENTEE VOTING OFFICIAL AND DUTIES.

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

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

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

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

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

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

(5) DATE-STAMP ALL BALLOTS RECEIVED;

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

(ORD. 1800-98)

6.05.335 ABSENTEE VOTING—BY ELECTRONIC TRANSMISSION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ORDS. 2108-2005, 2556-2011)

6.05.340 STORING BALLOTS.

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

CHAPTER 6.10
FILING FOR OFFICE

SECTIONS:

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

6.10.010 NOMINATING PETITIONS.

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

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

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

NOMINATING PETITION

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

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

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

ACCEPTANCE OF NOMINATION

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

DATE FILED: _____ BY: _____

RECEIVED: _____

CITY CLERK SIGNATURE OF CANDIDATE

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

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

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

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

CHAPTER 6.20
INITIATIVE AND REFERENDUM

SECTIONS:

6.20.010 PROVISIONS OF CHARTER TO GOVERN.

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

CHAPTER 6.30
RECALL

SECTIONS:

6.30.010 PROCEDURES AND GROUNDS.

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

Chapter 6.05
General Provisions

6.05.010 – Scope of Title

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

6.05.020 – Powers and Duties of the Clerk

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

6.05.030 – Definitions

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

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

"City election" means any election:

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

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

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

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

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

"Election" includes a regular or special city election.

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

"Election supervisor" means the clerk.

"Oath" includes affirmation on penalty of perjury.

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

"Proposition" includes question.

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

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

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

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

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

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

"Swear" includes "Affirm".

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

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

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

6.05.040 – Severability

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

6.05.050 – Election Times.

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

6.05.060 – Votes Required for Election to Office.

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

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

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

6.05.080 – Election Expenses.

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

6.05.090 – Initiative, Referendum, and Recall.

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

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

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

6.05.100 – Offenses and Penalties

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

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

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

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

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

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

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

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

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

Chapter 6.10 Voter Qualifications

6.10.010 – Voter Qualifications

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

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

6.10.020 – Rules for Determining Residence of Voters.

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

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

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

6.10.030 - Notice of voter registration.

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

Chapter 6.15 Filing for Office

6.15.010 – Candidate Qualifications

A candidate for elective city office:

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

6.15.020 – Nomination and Declaration of Candidacy.

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

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

6.15.030 – Review of Candidate Qualifications.

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

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

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

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

6.15.050 – Campaign Reporting.

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

6.15.060 – Prohibitions.

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

6.15.070 – Notice of Vacancy.

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

6.15.080 – Watchers.

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

Chapter 6.20
Administration of Elections

6.20.010 – Election Notices.

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

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

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

6.20.020 – Election Officials.

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

6.20.030 – Ballot Form.

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

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

6.20.040 – Ballot Preparation and Distribution.

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

Chapter 6.25 Elections by Mail

6.25.010 – By-Mail Precincts.

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

6.25.020 – Procedures for Conducting Elections by Mail.

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

Chapter 6.30

Absentee and Vote Center Voting.

6.30.010 – Administration of Absentee Voting.

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

6.30.020 – Designation of Absentee Voting Officials.

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

6.30.030 – Eligibility.

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

6.30.040 – Fee Prohibited.

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

6.30.050 – Materials for Absentee Voting.

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

6.30.060 – Vote Center Voting – In Person.

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

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

6.30.070 – Absentee Voting – By Mail.

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

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

6.30.080 – Absentee Voting – By Electronic Transmission.

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

6.30.090 – Special Needs Voting.

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

6.30.100 – Prohibitions.

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

6.30.110 – Assisting Voter.

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

6.30.120 – Spoiled Ballots.

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

6.30.130 – Placing Ballot in Ballot Box.

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

Chapter 6.35 Ballot Counting Procedures.

6.35.010 – Commencement of Ballot Count.

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

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

6.35.020 – General Procedure for Ballot Count.

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

6.35.030 – Rules for Counting Hand-Marked Ballots.

(a) The election officials shall count hand marked ballots according to the following rules:

1. A voter may mark his or her ballot with a cross mark, "X" mark, diagonal, horizontal or vertical mark, solid mark, star, circle, asterisk, check or plus sign using the parking device provided at the vote center or with any black-inked marker. The marks will be counted only if they are clearly spaced in the square opposite the name of the candidate the voter desires to designate.
2. A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
3. If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
4. If a voter more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.
5. The mark specified in subsection 1 of this section shall be counted only if it is substantially inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square marked.
6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly marked.
7. An erasure or correction invalidates only that section of the ballot in which it appears.

(b) The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.

6.35.040 – Write-in Votes.

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

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

6.35.050 – Disqualified Candidate.

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

6.35.060 – Tally of Votes.

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

6.35.070 – Completion of Ballot Count.

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

Chapter 6.40

Canvassing and Certification of Election Results.

6.40.010 – Canvass Board.

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

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

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

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

6.40.020 – Preparation for Counting Ballots Delivered by Mail.

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

6.40.030 – Canvass of Returns.

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

6.40.040 – Voters Not on Official Registration List.

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

6.40.050 – Certification of the Election Results.

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

Chapter 6.45

Election Recount.

6.45.010 – Recount Application.

(a) Any defeated candidate or any ten (10) qualified voters, who believe that a mistake has been made by an election official or by the canvass board in counting the votes in any election, may make an application in writing to the clerk for a recount of the votes for any particular office or on any particular question. The application must be filed in the office of the City Clerk within twenty-four (24) hours, excluding any Saturday, Sunday, or holiday after the Council certifies the results of the vote being questioned. In case of a tie vote between two (2) or more candidates, to which only one candidate is to be elected, the clerk shall initiate a recount.

(b) The application shall include a deposit in cash or by certified check for the amount listed in the most current City of Kenai Schedule of Rates, Charges and Fees. The deposit shall be applied against any costs incurred or refunded if there is no liability for recount costs.

(c) A recount application shall state in substance the basis of the belief that a mistake has been made and shall identify the particular precinct, office, proposition or question for which the recount is to be held and shall state that the person making the application is a candidate or that the ten persons making the application are qualified voters. The candidate or person making the application shall designate by full name and mailing address two persons who shall represent the applicant during the recount. Any person may be named representative, including the candidate or any person signing the application. Applications by ten qualified voters shall also include the designation of one of the number as chairman. The candidate or persons making the application shall sign the application and shall print or type their full name and mailing address.

6.45.020 – Date of Recount – Notice.

(a) If the clerk determines that the application is substantially in the required form, the clerk shall fix the date of the recount to be held within forty-eight (48) hours, excluding any Saturday, Sunday, or holiday, after the receipt of an application requesting a recount of the votes in a city election after it has been initiated under KMC 6.45.010.

(b) The clerk shall give the recount applicant and other directly interested parties notice of the time and place of the recount by telephone or electronic transmission.

6.45.030 – Procedure for Recount.

(a) If a recount of ballots is demanded, the clerk shall appoint a recount board of four or more qualified voters to conduct the recount of ballots or those precincts cited in the application for recount.

(b) In conducting the recount, the recount board shall review all ballots to determine which ballots or parts of ballots, were properly marked and which ballots are to be counted in the recount, and shall check the accuracy of the original count, the precinct certificate, and the review. For administrative convenience, the clerk may join and include two or more applications in a single review and count of votes. The rules governing the counting of marked ballots shall be followed in the recount.

(c) The ballots and other election materials shall remain in the custody of the clerk during the recount and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within ten days.

6.45.040 – Certification of Recount Result.

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

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

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

6.45.060 – Appeal to the Courts After Recount.

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

Chapter 6.50
Contest of Election.

6.50.010 – Grounds for Election Contest.

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

6.50.020 – Contest Procedure.

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

NOTICE OF ELECTION CONTEST

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

Signature and date

(Notarization)

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

6.50.030 – Appeal or Judicial Review.

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

Chapter 6.55
Special Elections.

6.55.010 – Procedure.

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

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

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

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

BRIAN GABRIEL SR., MAYOR

ATTEST:

Ordinance No. 3127-2020
Page 39 of 39

Jamie Heinz, CMC, City Clerk

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



MEMORANDUM

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

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

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

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

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

Your consideration is appreciated.



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz
DATE: May 12, 2020
SUBJECT: Ordinance No. 3127-2020

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

6.05.010 is new and provides a scope for the title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.20.030 is new and specifies ballot form.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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





MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, CMC, City Clerk
DATE: June 24, 2020
SUBJECT: **Ordinance No. 3127-2020 Amendments**

At the June 18 work session I was asked to review a few sections of Ordinance 3127-2020. This is a summary of findings and my recommendations.

1. It was suggested that Section 6.15.060 in Ordinance 3127-2020, relating to prohibiting a Council Member filling other elective offices, conflicts with Charter Section 2-3, which allows for a Council Member to be paid for a Borough Assembly position.

Recommended amendment:

Amend Ordinance 3127-2020 by deleting Section 6.15.060 in its entirety and renumbering all subsequent sections in chapter 6.15 appropriately.

2. It was asked if the ballot placement procedure would change given the statement in Section 6.20.030 of Ordinance 3127-2020 that name placement would be randomly determined by the clerk. The name placement procedure that is used at present is not currently addressed in code and I have no intent to change present practice; the random determination by the clerk would be determination by drawing names.
3. It was noted that Section 6.30.030 in Ordinance 3127-2020, which speaks to eligibility for voting by mail with a caveat that the voter needs to be unable to vote by mail, conflicted with Section 6.30.010 (b) which provides that voters wishing to vote in person may do so at designated vote centers.

Recommended amendment:

Amend Ordinance 3127-2020 by deleting the words, "if the voter was unable to vote by mail," so Section 6.30.030 reads, "Any qualified voter may vote at a vote center for the precinct in which the voter resides and is registered whether inside the city or not."

Additionally, some other suggestions were brought to my attention and I would like to thank Carol Freas for doing so. From her suggestions I recommend the following amendments:

1. Definition of “Qualified Voter.” Qualified voter is defined in charter and in section 6.10.010 of Ordinance 3127-2020. In section 6.10.010, charter is cited.

Recommended amendment:

Delete the definition of Qualified Voter in section 6.05.030.

2. In section 6.15.040(b) of Ordinance 3127-2020 reference is made to filing for a different seat. The city doesn’t have council seats and this is an error from copying and pasting.

Recommended amendment:

Amend Ordinance 3127-2020 by replacing the word, “seat,” with the word, “office” in Section 6.15.040(b).

Several scrivener’s errors were pointed out and if there is no objection, I will correct them for the official enacted version or a substitute version should it be decided a substitute is needed. Examples of the errors include:

In the definition of ballot in 6.05.030, the word case should be cast and the word is should be it. In 6.05.090(b) All should be all. In 6.10.020(f) in another appears twice in a row. In 6.15.030 there are several references to numbers that, for consistency, should be spelled out with the number following.

Finally, on Monday, June 22, the Borough Clerk sent an email advising that Mayor Pierce intended to veto Kenai Peninsula Borough (KPB) Ordinance 2020-24, which is the KPB’s ordinance for a by-mail hybrid election style, and it is anticipated the veto would be addressed at the July 7th assembly meeting. She also indicated that on Friday, June 19, she received a referendum petition for the same ordinance noting that the sponsors had until July 27 to obtain the required 1300+ signatures in order to place question to refer the ordinance on the October 6 ballot; she then has ten days to certify there are a sufficient number of petitions. Given this information, **I recommend postponing Ordinance 3127-2020 to the August 19 meeting.** At that meeting we would know if the outcome of the above and we could identify our next steps forward.

The amendments proposed herein may be reserved to a future meeting; I felt it best to get them documented sooner than later.

Your consideration is appreciated.





Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3136-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL AND THE PUBLIC SAFETY CAPITAL PROJECT FUNDS AND AUTHORIZING THE SOLE SOURCE PURCHASE AND INSTALLATION OF UPDATED RADIO CONSOLES FOR THE CITY OF KENAI DISPATCH CENTER.

WHEREAS, City of Kenai applied for a grant under the Department of Homeland Security SHSP grant program in January of 2019 for the Kenai Dispatch Base Radio System Replacement and was awarded partial funding for the project in the amount of \$393,000; and,

WHEREAS, due to the partial funding of the project through the grant, work has been done to divide the project into two phases with the first phase closely approximating the current grant funding available; and,

WHEREAS, the City has received quotes for the project from Motorola Solutions and Procomm Alaska in the amount of \$380,000 and \$22,269 respectively, which requires a City match of \$9,269 in order to complete the funding of phase one of the project; and,

WHEREAS, as provided below there are a number of reasons to accept this project as a 'Sole Source' through Motorola Solutions and Procomm Alaska; and,

WHEREAS, the Kenai Dispatch Center is equipped with Motorola radio equipment and this project which is divided into phases only replaces the radio consoles that will still integrate with the Motorola radios and consolettes, which won't be replaced until phase two; and,

WHEREAS, the grant application and funding was predicated on Kenai being a more fully functioning backup-up dispatch center for the Soldotna Public Safety Communications Center that is fully utilizing the Motorola 7500 radios and in order to fully meet the stated intent of the project and provide for continuity of operations the Kenai Dispatch Center will be best served by operating the same equipment; and,

WHEREAS, the equipment portion of the project cost is determined by the Cooperative Purchasing Program of the Houston-Galveston Area Council of Governments (HGAC) contract RA-05-15; and,

WHEREAS, Motorola Solutions is the only source of Motorola dispatch console radios, and they are working with Procomm Alaska, which is the only source in Alaska for government installation of those radios for Motorola; and,

WHEREAS, the Kenai dispatch center has long utilized Motorola radios with very few problems that have always been able to be addressed in a timely manner by an in-State vendor, Procomm Alaska; and,

WHEREAS, a “Sole Source Procurement Method” for this project has been approved by the granting authority for both the Motorola Solutions’ and Procomm Alaska portions of the project; and,

WHEREAS, KMC 7.15.070(b)(1) allows the City of Kenai to purchase equipment without giving an opportunity for competitive bidding if the equipment can only be furnished by a single dealer or which has a uniform price wherever bought.

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

Section 1. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues –
Appropriation of Fund Balance \$9,269

Increase Appropriations –
Transfer to Public Safety Capital Project Fund \$9,269

Public Safety Capital Project Fund:

Increase Estimated Revenues –
Transfer from General Fund \$9,269

Increase Appropriations –
Machinery & Equipment \$9,269

Section 2. That pursuant to KMC 7.15.070 (b) (1) the City Manager is authorized to execute sole-source purchase agreements with Motorola Solutions and Procomm Alaska for the purchase and installation of updated radio consoles in the City of Kenai Dispatch Center in the amounts of \$380,000 and \$22,269 respectively.

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 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 17, 2020
Enacted: July 1, 2020
Effective: July 1, 2020



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: David Ross, Police Chief

DATE: June 5, 2020

SUBJECT: Ordinance No. 3136-2020 Dispatch Radio Project

The police department applied for a grant under the Department of Homeland Security SHSP grant program in January of 2019 for the Kenai Dispatch Base Radio System Replacement and was awarded partial funding for the project in the amount of \$393,000. Those grant funds were accepted and appropriated by the City Council in ordinance 3093-2019.

Since those grant funds were only about two thirds of what was needed to complete the project, we have worked with Motorola Solutions and Procomm Alaska to divide the project into two phases, with the first phase closely approximating the available grant funding. At the same time we are seeking additional grant funding for phase two. The total cost of phase one is \$402,269, which will require a \$9,269 match by the City that is requested with this ordinance.

Further, this ordinance requests approval to conduct the project as a sole source without competitive bidding. The reasons for that are laid out in the ordinance as follows: 1) The Kenai Dispatch Center is fully equipped with Motorola radio equipment and this project which is divided into phases only replaces the radio consoles that will still integrate with the Motorola radios and consolettes, which won't be replaced until phase two. 2) The grant application and funding was predicated on Kenai being a more fully functioning backup-up dispatch center for the Soldotna Public Safety Communications Center that is fully utilizing the Motorola 7500 radios and in order to fully meet the stated intent of the project and provide for continuity of operations the Kenai Dispatch Center will be best served by operating the same equipment. 3).The equipment portion of the project cost is determined by the Cooperative Purchasing Program of the Houston-Galveston Area Council of Governments (HGAC) contract RA-05-15. 4) Motorola Solutions is the only source of Motorola dispatch console radios, and they are working with Procomm Alaska, which is the only source in Alaska for government installation of those radios for Motorola. 5) The Kenai dispatch center has long utilized Motorola radios with very few problems that have always been able to be addressed in a timely manner by an in-State vendor, Procomm Alaska.

I am respectfully requesting consideration of the ordinance appropriating the additional funds required for the project and approval of the 'Sole Source' procurement.



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CITY OF KENAI

ORDINANCE NO. 3137-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL AND MUNICIPAL ROADWAY IMPROVEMENTS CAPITAL PROJECT FUNDS TO PROVIDE MATCHING FUNDS TO THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES TO CONSTRUCT A PEDESTRIAN PATH FROM THE KENAI SPUR HIGHWAY TO BEAVER LOOP ALONG BRIDGE ACCESS ROAD UTILIZING RESTRICTED GENERAL FUND, FUND BALANCE.

WHEREAS, an Alaska Transportation Alternatives Program grant in the amount of \$2,181,669 has been allocated for the construction of 1.2 miles of pedestrian path beginning at the intersection of the Kenai Spur Highway and Bridge Access Road and terminating at the intersection of Beaver Loop and Bridge Access Road; and,

WHEREAS, the grant requires a local match which at this time is estimated to be \$216,560, but may increase or decrease as the project is developed and bid; and,

WHEREAS, restricted General Fund, Fund Balance proceeds, received from land and subsurface mineral rights donated to the City by the Daubenspeck family and accepted by the City via Resolution 80-178, is available to meet the City's estimated match; and,

WHEREAS, the use of proceeds derived from the Daubenspeck family donation for construction of a bike path is consistent with the donation's conditions of use and prior City uses of the funds; and,

WHEREAS, providing a link from the newly constructed Beaver Loop bike path into the heart of Kenai will enhance the network of trails and bike paths in the City, provide greater recreational opportunities for residents of and visitors to the City, and 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 execute an agreement with the Alaska Department of Transportation and Public Facilities in the amount of \$2,398,229 for the construction of 1.2 miles of pedestrian path beginning at the intersection of the Kenai Spur Highway and Bridge Access Road and terminating at the intersection of Beaver Loop and Bridge Access Road.

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

General Fund:
Increase Estimated Revenues –

Appropriation of Restricted Fund Balance –
Proceeds from Daubenspeck Family Donation \$216,560

Increase Appropriations –
Transfer to Municipal Roadway Capital Project Fund \$216,560

Section 3. That the estimated revenues and appropriations be increased as follows:

Municipal Roadway Capital Project Fund:
Increase Estimated Revenues –
Transfer from General Fund \$216,560

Increase Appropriations –
Construction \$216,560

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


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

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 17, 2020
Enacted: July 1, 2020
Effective: July 1, 2020



MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Paul Ostrander, City Manager
FROM: Terry Eubank, Finance Director
DATE: June 5, 2020
SUBJECT: Ordinance 3137-2020

The purpose of this memo is to provide supplemental information for Ordinance 3137-2020. Ordinance 3137-2020 will appropriate the match needed for an Alaska Transportation Alternatives Program (ATAP) grant in the amount of \$2,181,669 that has been allocated for the construction of 1.2 miles of pedestrian path beginning at the intersection of the Kenai Spur Highway and Bridge Access Road and terminating at the intersection of Beaver Loop and Bridge Access Road. The pedestrian pathway will be constructed by the Alaska Department of Transportation and Public Facilities (DOT) and once complete the City will be responsible for its maintenance.

The proposed source of City funding for the \$216,560 in match will be proceeds the City has received from land and subsurface mineral rights donated to the City by the Daubenspeck family. These funds are currently classified as restricted fund balance in the City's General Fund because of the restriction placed on the funds by the Daubenspeck's at the time of donation. The Daubenspeck donation, estimated to be \$3,000,000 at the time of donation, was accepted by the City via Resolution 80-178 which contained the following language:

"BE IT FURTHER RESOLVED that the City honor the request of Mr. & Mrs. Daubenspeck that the oil, gas, and mineral rights, including sales proceeds, royalties, revenue, or rental income therefrom, from Tracts C, D, and E of the Daubenspeck Property Subdivision as well as from Alaska Tidelands Survey No. 98, are to be dedicated to athletic programs sponsored by the City of Kenai. The distribution of such funds will be at the full and sole discretion of the City Council of the City of Kenai, Alaska, to the Parks & Recreation Commission or such other City agency or city official as the City Council may from time to time authorize to use such distributions."

Prior uses of these funds by the City have been to fund the purchase of mowing equipment for the Parks and Recreation Department, the purchase of playground equipment, construction of the Kenai Multipurpose Facility, construction of the Kenai Soccer Complex, refinishing the gym floor at the Kenai Recreation Center, and other recreation related expenditures. To date the City has expended \$2,009,530.58 in Daubenspeck proceeds and the balance of the funds through May 31, 2020 was \$780,333.63.

Construction of a pedestrian pathway will provide enhanced recreational opportunities for the citizens and visitors of Kenai and the use of Daubenspeck proceeds for this construction is consistent with past use of the funds and consistent with the request of the Daubenspeck's. Council may consider dedicating the newly constructed pedestrian pathway in the name of the Daubenspeck's as it will not only be funded with proceeds from the family's donation but will also run adjacent to the donated property.

The match amount of \$216,560 is DOT's best estimate at this time. This amount could increase or decrease as the project is designed or constructed. Any increase in the required local match will require a supplemental appropriation by Council through an Ordinance. The use of Daubenspeck proceeds will decrease the City's General Fund Fund Balance but will have no negative impact on the City's Fund Balance Policy.





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CITY OF KENAI

ORDINANCE NO. 3138-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING FISCAL YEAR 2020'S ESTIMATED REVENUES AND APPROPRIATIONS IN THE AIRPORT LAND SALE PERMANENT FUND TO TRANSFER EARNINGS IN EXCESS OF BUDGETED AMOUNTS TO THE CITY'S AIRPORT FUND.

WHEREAS, the allowable transfer amount of the Airport Land Sale Permanent Fund with a 2019-year ending value of \$26,117,403 is \$928,251 based on a 3.8% draw on the funds five-year average year-ending balance; and,

WHEREAS, the FY2020 budget transfer amount was \$908,811 necessitating a supplemental appropriation in the amount of \$19,440 to facilitate the transfer of all allowable earnings in FY2020; and,

WHEREAS, transferring the maximum amount per Kenai Municipal Code is in the best interest of the Airport.

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

Section 1. That the estimated revenues and appropriations be increased as follows:

Airport Land Sale Permanent Fund:	
Increase Estimated Revenues –	
Investment Earnings	<u>\$19,440</u>
Increase Appropriations –	
Transfer to Airport Special Revenue Fund	<u>\$19,440</u>

Section 3. That this appropriating ordinance shall apply to the FY2020 City of Kenai Budget.

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

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


Ordinance No. 3138-2020
Page 2 of 2

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1 day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 17, 2020
Enacted: July 1, 2020
Effective: July 1, 2020



MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Paul Ostrander, City Manager
FROM: Terry Eubank, Finance Director
DATE: June 8, 2020
SUBJECT: **Ordinance 3138-2020**

The purpose of this memo is to recommend adoption of Ordinance 3138-2020. Ordinance 3138-2020 will appropriate an additional \$19,440 in the Airport Land Sale Permanent Fund to transfer to the Airport Special Revenue Fund for operations. The allowable FY2020 transfer is \$19,440 more than was estimated at the time of budget adoption. Approval of this supplemental appropriation will allow the policy maximum to be transferred for future use by the Airport.

Your support is respectfully requested.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3139-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE COVID-19 CARES ACT RECOVERY FUND FOR A FEDERAL CARES ACT GRANT PASSED THROUGH THE STATE OF ALASKA DEPARTMENT OF PUBLIC SAFETY FOR OVERTIME AND DIRECT EXPENDITURES OF THE POLICE, FIRE, AND COMMUNICATIONS DEPARTMENTS OF THE CITY FROM MARCH 16, 2020 THROUGH MAY 17, 2020.

WHEREAS, the State of Alaska Department of Public Safety (DPS) was awarded a federal grant to assist with the enormous strain that the COVID-19 public health emergency is having on Alaskan communities and under that grant DPS has made Coronavirus Emergency Supplemental Funds (CESF) grants available to local public safety agencies; and,

WHEREAS, the City of Kenai applied for grant funds under the CESF program to cover Police, Fire, and Dispatcher overtime related to COVID-19, in addition to other expenses by those emergency services departments of the City that were directly related to COVID-19; and,

WHEREAS, the City's emergency services departments expended overtime primarily related to shift adjustments to minimize staff exposure to each other, but also due to some staff either being quarantined or unable to return to work for shift due to COVID-19; and,

WHEREAS, the City's emergency services departments also incurred some expenses directly related to COVID-19 for supplies, online meeting software, and public relations signs.

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 \$50,262.04

Section 2. That the estimated revenues and appropriations in FY2020 be increased as follows:

COVID-19 Cares Act Recovery Fund:	
Increase Estimated Revenues –	
Federal Grants	<u>\$50,262.04</u>
Increase Appropriations –	
First Responder & Incident Management Team Payroll –	
Overtime	\$39,589.48
PERS	8,709.68
Medicare	574.04
Workers' Compensation	568.94

Computer Software	148.67
Operating & Repair Supplies	361.23
Printing and Binding	<u>310.00</u>
	<u>\$50,262.04</u>

Section 3. That the City Manager is authorized to execute a grant agreement with the State of Alaska Department of Public Safety FY2020 Coronavirus Emergency Supplemental Funding Program and to expend the funds for its intended purpose.

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


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

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 17, 2020
Enacted: July 1, 2020
Effective: July 1, 2020



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: David Ross, Police Chief

DATE: June 8, 2020

SUBJECT: **Ordinance No. 3139-2020 CARES ACT Grant for Emergency Services**

The State of Alaska Department of Public Safety (DPS) was awarded a federal grant to assist with the enormous strain that the COVID-19 public health emergency is having on Alaskan communities. Under that grant, DPS has made Coronavirus Emergency Supplemental Funds (CESF) grants available to local public safety agencies.

The City of Kenai applied for those grant funds to cover the cost of COVID-19 related overtime and other expenses. The primary driver of the overtime expenses was shift adjustments that minimized staff exposure to each other, but also due to some staff being quarantined or unable to return to work for shift due to COVID-19.

The City requested and was granted \$49,442.14 in overtime cost reimbursement and \$819.90 in other miscellaneous expense reimbursement, all related to the Police, Fire, and Dispatch Departments. This covers those costs for the time period of March 16 – May 17.

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



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3140-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE PERSONAL USE FISHERY SPECIAL REVENUE FUND TO PROVIDE SUPPLEMENTAL FUNDING FOR ADDITIONAL PORTABLE RESTROOMS AND TO AWARD A CONTRACT TO PROVIDE DUMPSTERS, PORTABLE RESTROOMS AND PORTABLE HAND WASH STATIONS FOR THE 2020 KENAI RIVER PERSONAL USE FISHERY.

WHEREAS, the 2021 Budget was created with the hope of having new vault restrooms constructed prior to the start of the personal use fishery; and,

WHEREAS, delays due to staffing and COVID-19 caused the design documents for bidding purposes to not become available until June 10, 2020; and,

WHEREAS, it is now anticipated that the restrooms will not be completed until later in the season and as such additional dumpsters and port-a-lets will need to be provided consistent with previous years; and,

WHEREAS, in response to concerns with COVID-19 and to provide further protections to staff and members of the community, the City will also be providing new hand wash stations at various locations throughout the fishery the cost of which will come out of the COVID-19 recovery fund; and

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

Section 1. That the estimated revenues and appropriations be increased as follows:

Personal Use Fishery Fund:

Increase Estimated Revenues –	
Appropriation of Fund Balance	<u>\$XX,XXX</u>

Increase Appropriations –	
Parks, Recreation & Beautification - Rentals	<u>\$XX,XXX</u>

Section 2. That the City Manager is authorized to execute a contract with XXXXXXXX, the lowest responsive bidder, to provide dumpsters, portable restrooms and portable hand wash stations for the 2020 Kenai River Personal Use Fishery in the amount of \$XX,XXX.

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

Ordinance No. 3140-2020
Page 2 of 2

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 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: _____

Introduced: June 17, 2020
Enacted: July 1, 2020
Effective: July 1, 2020



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Scott Curtin, Public Works Director

DATE: June 12, 2020

SUBJECT: **Recommended enactment of Ordinance 3140-2020.**

This memo recommends enactment of Ordinance 3140-2020 increasing estimated revenues and appropriations in the personal use fishery special revenue fund. As Council is aware the City received a State Grant for improvements that would benefit the personal use fishery. Vault Restrooms is a project that is pending release, however it is anticipated now that they will not be operational in time for the fishery. As a result, and to maintain service levels of years past, additional funding is necessary in FY2021 Budget to accommodate these services.

Project Bid documents for the vault restrooms were received on June 10, 2020 and the project is expected to be advertised the week of June 15th. Installation of the restrooms should take place in August / September. Council's support is respectfully requested.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3141-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND, VISITOR CENTER DEPARTMENT AND AUTHORIZING AMENDMENT TO THE FACILITY MANAGEMENT AGREEMENT WITH THE KENAI CHAMBER OF COMMERCE AND VISITOR CENTER, INC., FOR THE OPERATION AND MANAGEMENT OF THE KENAI VISITOR AND CULTURAL CENTER.

WHEREAS, the current contract for Facility Management Services at the Kenai Visitor and Cultural Center with the Kenai Chamber of Commerce and Visitor Center, Inc. (KCCVC) is due to expire June 30, 2020; and,

WHEREAS, the City of Kenai solicited competitive proposals from contractors to provide quality management services and maintenance of the City's permanent collection at the Kenai Visitor and Cultural Center in 2019; and,

WHEREAS, the KCCVC was the successful proposer for management services for a three-year term of July 1, 2019 through June 30, 2022 that may be extended for two successive one-year terms by mutual consent of the parties; and,

WHEREAS, Resolution 2019-45 authorized a Facility Management Agreement with the KCCVC for a one-year term beginning July 1, 2019 and ending on June 30, 2020; and,

WHEREAS, the KCCVC has managed the Kenai Visitor and Cultural Center since 2012 and desires to continue providing management services to the community; and,

WHEREAS, the adopted FY2021 Budget included \$95,000 for the facility management agreement requiring supplemental funding of \$10,000 for this agreement; and,

WHEREAS, inclusion of an additional \$10,000 in the FY2021 Budget does not change compliance with the General Fund, Fund Balance Policy; and,

WHEREAS, it is in the best interests of the City to enter into an amendment to extend the agreement with the KCCVC for the operation and management of the Kenai Visitor and Cultural Center to for a two-year term from July 1, 2020 through June 30, 2022 that may be extended for two successive one-year terms by mutual consent of the parties for the annual fee of \$105,000 adjusted annually based on the Anchorage Consumer Price Index (CPI).

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

Section 1. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues – Appropriation of Fund Balance	<u>\$10,000</u>
Increase Appropriations – Visitor Center Professional Services	<u>\$10,000</u>

Section 2. That the City Manager is authorized to execute an amendment to the Facility Management Agreement with the Kenai Chamber of Commerce and Visitor Center, Inc., similar to the attached amendment.

Section 3. That compensation for the Facility Management Services shall not exceed \$105,000 per year after adjustment based on the Anchorage Consumer Price Index (CPI).

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


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

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 17, 2020
Enacted: July 1, 2020
Effective: July 1, 2020



MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Paul Ostrander, City Manager

DATE: June 10, 2020

SUBJECT: **Ordinance 3141-2020 Visitor Center Facility Management Amendment**

In 2019, the City solicited competitive proposals from contractors to provide management services at the Kenai Visitor and Cultural Center and maintenance of the City's permanent collection at the Facility. The Kenai Chamber of Commerce and Visitor Center, Inc. (KCCVC) was the successful proposer for a three-year term of July 1, 2019 through June 30, 2022 that may be extended for two successive one-year terms by mutual consent. Resolution 2019-45 authorized a Facility Management Agreement with the KCCVC for a one year term beginning July 1, 2019 and ending June 30, 2019.

The Administration and the KCCVC worked together in early 2020 to propose an agreement that would extend the contract for the remaining allowable term pursuant to the proposal terms at an annual rate of \$95,000. The FY 2021 budget adopted by the Council included \$95,000 for management services at the Kenai Visitor and Cultural Center. Due to anticipated increased personnel costs on the part of the KCCVC, the KCCVC worked with Administration to propose an annual fee of \$105,000, which is in the best interests of the City and the KCCVC.

This ordinance appropriates an additional \$10,000 for FY 2021 for management services at the Kenai Visitor and Cultural Center and authorizes the City Manager to execute an amendment to the Agreement for two years, beginning July 1, 2020 through June 30, 2022 that may be extended for two successive one-year terms by mutual consent of the parties for the annual fee of \$105,000 adjusted annually based on the Anchorage Consumer Price Index (CPI).

Your consideration is appreciated.

**AGREEMENT FOR FACILITY MANAGEMENT SERVICES
AT THE KENAI VISITOR AND CULTURAL CENTER FACILITY**

THIS AGREEMENT is made this ____ day of _____ 2020, by and between the CITY OF KENAI (Owner), whose address is 210 Fidalgo Avenue, Kenai, AK 99611-7794, and Kenai Chamber of Commerce and Visitor Center, Inc. (Contractor), whose address is 11471 Kenai Spur Highway, Kenai AK, 99611.

RECITALS:

Owner desires to retain the professional services of Contractor to manage the Kenai Visitor and Cultural Center located at 11471 Kenai Spur Highway in the City of Kenai.

Contractor is a professional in this area and specifically in the provision of visitor services to the public and has the experience, skill, knowledge, and competence to perform these services.

Owner wants to contract for the provision of these services by Contractor in order to obtain best financial arrangements for the City and provide affordable and quality experiences for its residents and Facility users. Contractor agrees to perform its services under this Agreement with due diligence and due care and in a good and professional manner.

Owner and Contractor therefore agree as follows:

1. Definitions. For this Agreement, the following definitions apply:

A. "Manager" means the Kenai City Manager or their designee as agent for and on behalf of Kenai.

B. "Concession" means all sales or rentals of goods or services in the Facility, including retail sales, the parts of the Facility where those sales or rentals are made, and equipment or facilities in the Facility used for those sales or rentals.

C. "Contractor" shall mean Kenai Chamber of Commerce and Visitor Center, Inc.

D. "Council" means the Kenai City Council.

E. "Facility" means the Kenai Visitor and Cultural Center located at 11471 Kenai Spur Highway in Kenai, Alaska.

F. "Management" or "management services" means performing all work to operate and provide the services and reports required by this Agreement and all work

necessary to support the Facility's provision of service to the public, including but not limited to, supervision of staff, supervision and control of participants using the Facility and accessing any programs at the Facility, keeping the Facility in a clean and sanitary condition, managing and maintaining displays of the permanent collection at the Facility, scheduling use of the Facility, encouraging activities and programs at the Facility, and charging City-approved fees and rent for portions of the Facility, as well as selling merchandise at the Facility.

G. "Owner" or "City" means the City of Kenai.

2. Term. The term of this Agreement as amended shall begin on _____ (date), and end on June 30, 2022, with an option to extend for two successive one-year terms by mutual consent of the parties. Neither party has any obligation to agree to extend the initial term of this Agreement.

3. Compensation.

A. Owner shall pay Contractor a fee of \$8750 per month for management of the Facility for the term of this Agreement with an annual adjustment based on the Anchorage Consumer Price Index (CPI) unless the CPI becomes negative, in which case the fee would not be adjusted. Owner will pay the fee in equal monthly installments, payable within fourteen (14) days after billing by Contractor. Any compensation due for portions of a month for which services are provided by Contractor will be pro-rated to a daily rate.

B. Except as may otherwise be stated in this Agreement, Owner will not provide any additional compensation, payment, service, or other thing of value to Contractor in connection with performance of its obligations under this Agreement. Contractor's overhead and other indirect or direct costs Contractor may incur in performing its obligations under this Agreement have already been included in computation of Contractor's fee and may not be separately charged to the Owner.

C. Subject to Appropriation. Contractor recognizes that compensation for its management services require the Council to annually appropriate funds for payment of the management services. The obligation of Owner to provide funding under this Agreement is subject to the availability of funds lawfully appropriated for that purpose by the Council. The termination of this Agreement due to fiscal necessity and/or non-appropriation of funds by Owner shall not constitute a breach or default of Owner. In the event of a non-appropriation of funds, Owner may terminate this Agreement under Section 16(B), below, however termination shall not be subject to sixty (60) days' notice. Instead, Owner shall give reasonable advance notice of non-appropriation as soon as practicable but in no case shall notice be less than ten days in advance of the effective termination date.

4. Independent Contractor; No Agency. Contractor's relationship with

Owner shall be that of an independent contractor with the authority to control and direct the performance of the details of the management services that are the subject of this Agreement. Nothing contained in this Agreement shall be construed to create an agency, partnership, joint venture, or employee-employer relationship between Owner and Contractor. Contractor is not the agent of Owner and Contractor is not authorized to make any representation, contract, or commitment on behalf of Owner.

5. Scope of Services—General Obligations of Contractor.

A. Operations. Contractor shall perform the management work and all services on an as needed/scheduled basis as determined by Contractor (except where specifically identified below).

B. Services. Contractor agrees to make the Facility available to community user groups and/or organizations in order to serve the varied interests and needs of the community.

C. Concessions. Contractor may provide, at its own expense, business, educational, cultural, or other services to the general public that are not inconsistent with this Agreement. Contractor shall have the exclusive right to operate concessions, including retail sales, in the Facility. Contractor is responsible for defining said services and coordinating all aspects of service offerings, whether required under this Agreement or offered as an additional concession of Contractor.

D. Fees. Contractor may charge a fee approved by the City for use of the Facility and/or for participation in any programs and/or services it provides unless otherwise specified in this Agreement. Any fees charged by Contractor for any purpose must not discourage public use of the Facility and should be consistent with fees charged for similar services at other facilities.

E. Public Facility. The programs provided in the Facility must be generally available to the public. Contractor may not restrict appropriate public participation at the Facility and may not restrict public access for appropriate use of the Facility.

F. Employees. It is Contractor's duty to train Contractor's employees in order to provide the management services. The management services shall be performed by qualified, careful, and efficient employees in strict conformity with the best practices and highest applicable standards. The manner in which these services are performed shall be determined by Contractor. Contractor shall pay all salaries and expenses of, and pay all federal social security taxes, federal and state unemployment taxes, and any similar payroll taxes relating to, Contractor's employees.

G. Permits, Licenses, and Certificates. Contractor shall obtain and maintain all necessary licenses and permits (including but not limited to permits/ licenses required for possession and display of artifacts and taxidermy specimens); comply with the

requirements of all permits; pay all taxes lawfully imposed on Contractor's business; and pay any other fee or charge assessed under any applicable public statute, regulation, or ordinance. Said licensing includes, but is not limited to, obtaining state and borough business licenses and tax certificates, and, where applicable to Contractor, paying all taxes and filing all documents necessary to maintain Contractor's status as a corporate entity in good standing in the State of Alaska.

H. Taxes and Assessments. Contractor shall pay all taxes lawfully imposed on its business, and pay any other fee or charge assessed under any applicable public statute, regulation, or ordinance. Contractor shall collect and pay any and all gross receipts, compensation, transaction, sales, use, payroll, or other taxes and assessments of whatever nature and kind levied or assessed as a consequence of the work performed or on the compensation paid to Contractor or to Contractor's employees or contractors under or arising out of this Agreement.

6. Scope of Services—Specific Performance Requirements.

A. Specific Activities Required. Unless Owner (as approved by the Council) requests termination of a service, Contractor shall provide the following services at the Facility on a regularly-scheduled basis:

Visitor Center Management:

- a. The City provides non-exclusive access to the City-owned Kenai Visitor and Cultural Center. Located at 11471 Kenai Spur Highway, the Facility was constructed in 1992 and is approximately 9,340 square feet, including a 1,980-square-foot Cultural Exhibition Area, which houses the City's permanent collection of natural history objects, archeological material, native artifacts and contemporary art. The Facility also includes a conference room, reception, boardroom, two offices, loading area, copy room, kitchen, storage, bathrooms and basement. The Contractor may charge City-approved fees and rent for portions of the center, as well as sell merchandise at the Facility to defray costs associated with Facility management. All fees and rents must be the same for all users unless differentiated in the approved fee schedule or approved by the Owner. The Owner shall not negotiate rental agreements directly with tenants.
- b. The City provides maintenance, groundskeeping, snow removal, security monitoring, and utilities (water, sewer, electrical, natural gas, and local telephone services excluding long distance telephone charges, and internet services) at no cost to the Contractor. The Contractor must keep the Facility in a clean and sanitary condition and is responsible for janitorial services and operating supplies.
- c. The Contractor maintains adequate staffing during operating hours to provide service to the public. As the first stop made by visitors to find information about the Kenai area, the Contractor must provide information on Kenai community and visitor programs, events, and exhibits in a friendly

and enthusiastic manner. The Contractor will refer visitors to all businesses and service providers in the City of Kenai.

- d. The Contractor provides an agreed upon plan of operations for management of the Kenai Visitor and Cultural Center Facility to include but not be limited to hours of operations, scheduling and managing use of the Facility with high standards commensurate to a high-visibility structure and to ensure operations run efficiently and maintain the safety, appearance, and the efficient/effective use of the Facility to host community and visitor programs, events, and exhibits without favoritism or discrimination.
- e. The Contractor maintains staffing levels as near as reasonably possible as listed below.

<u>Position</u>	<u>Quantity</u>	<u>Hours</u>	<u>YR / Seasonal</u>
KVCC Manager	1	Salary	Year Round
Programs / Facility Rentals	1	FT/40 per wk	Year Round
Front Desk	1	FT/40 per wk	Year Round
Front Desk	1	PT/20 per wk	Year Round
Front Desk	1	FT/40 per wk	Seasonal / 16 wks

The City recognizes that occasional vacancies will occur, however, contractor commits to filling those vacancies as expeditiously as possible.

- f. The Contractor manages, creates, and maintains displays of the City of Kenai’s permanent collection of natural history objects, archeological material, native artifacts and contemporary art and encourages use of the Facility for events and exhibits that promote Kenai’s abundant natural resources and diverse community and provides an inventory of all items in the City’s collection.
- g. The Contractor tracks and provides a monthly report on the number and estimated nature of visitors to the Center, Facility rentals, staffing levels, and participants at events and exhibits.

B. Operating Hours; Calendar. Contractor will maintain daily and monthly schedules of services and activities held at the Facility and shall provide public access to this schedule. Contractor shall operate the Facility according to this published schedule. Special events outside of normal operating hours need not be published.

C. Fee Schedule. Contractor shall develop and publish fee schedules for all services, events, and activities conducted at the Facility and for all charges made to the public for use of the Facility and its equipment. The fee schedule must be approved in advance by the City Manager and may be subject to change by the Council.

D. Revenues. Contractor shall collect all revenues generated at the Facility and shall use generally-accepted accounting principles and appropriate internal controls for its accounting activities. Contractor agrees that Owner shall not be liable or responsible for funding any deficits or delinquencies owed to Contractor other than the payments required under Section 3 of this Agreement.

E. Repairs. Contractor bears the responsibility for the cost of repairs of the structure or its internal components and equipment due to any damage or breakage caused by the negligence or intentional act of the Contractor or of a client during operating hours of the Facility due to or allowed through negligence by the Contractor.

F. Janitorial; Appearance. Contractor shall keep the Facility in a clean and sanitary condition. Contractor shall pay for and provide all janitorial services and supplies required to keep the Facility clean and presentable. Contractor shall not permit any garbage or other refuse to accumulate in the Facility or on the grounds surrounding the Facility.

G. Security. Contractor will take all reasonable precautions to prevent unauthorized entry into the Facility, including the placing of signs or other devices intended to deter or restrict such entry. Contractor shall develop and follow policies and procedures relating to issuing keys, handling cash and deposits, opening and closing, and dealing with difficult patrons.

H. City Use. The City may use the Facility for City sponsored events at no cost to the City. All City events shall be coordinated with Contractor so as not interfere with prior scheduled services.

7. Contractor's Reporting and Planning Requirements.

A. Facility Operating Budget. The Contractor will submit to Owner its Operating Budget on a timely basis. The budget should include all projected and the prior year's actual operating and capital costs for the Facility, including a projected income and expense statement and a projected end balance sheet. The budget must also include detailed projections of revenues by category and source; operating expenses by category; numbers served by category; and administrative and general expenses to Contractor in managing the Facility.

B. Report. Contractor will submit to Owner a report identifying usage of the Facility by program annually. The report must include but not be limited to actual staffing, hours of operations, scheduling and use of the Facility, rental fees, number of visitors, an updated inventory of Owner's equipment and furnishings purchased, and a detailed description, including costs, for equipment needing to be replaced. Contractor must submit the report on or before the end of each year during the term of this Agreement.

8. Owner's Obligations. Owner shall perform the following functions or

provide the following materials related to the Facility:

A. Operations and Maintenance Costs. Owner is responsible for maintenance and repair of the Facility required by normal wear and tear. Owner will perform routine maintenance on all incorporated systems in the Facility including fire suppression and alarm systems, electrical systems, mechanical systems, plumbing systems, and HVAC. Contractor must notify the City Manager, or designee about any Facility maintenance or repair requirements in a manner as requested by Owner. This duty of Owner does not extend to maintenance on a system required due to Contractor's failure to properly supervise and manage the Facility during business hours (for example, vandalism in the Facility during schedule working hours).

B. Utilities. Owner shall pay the following utility costs for the Facility: water, sewer, electrical, natural gas, telephone and internet service (excluding long-distance, conference call, and other extraordinary phone charges).

C. Snow Removal. Owner is responsible for snow removal from the parking lot of the Facility as well as snow removal from all sidewalks around the building and leading up to the building.

D. Groundskeeping. Owner shall maintain the grounds on the exterior of the Facility, subject to Contractor's obligation to keep the grounds of the Facility free of garbage and refuse.

E. Equipment Replacement. Owner is responsible for the replacement of Owner-owned equipment as necessary due to normal wear and tear of the equipment.

F. Insurance. Owner shall provide Broad-Form Property Damage Insurance for the Facility.

9. Ownership of Equipment and Furnishings.

A. Owner recognizes that Contractor will from time-to-time purchase equipment and furnishings to accomplish the work and provide the management services required and the concessions allowed under this Agreement. Equipment and furnishings purchased with Contractor funds shall be the sole property of Contractor. Equipment and furnishings donated to Contractor shall be the sole property of Contractor. Contractor shall provide Owner an updated list of Contractor property at the inception and conclusion of this Agreement.

B. Equipment and furnishings purchased with Owner funds or with any funds provided by grants from Owner shall be the sole property of Owner. Contractor will mark and inventory this Owner property and provide Owner with a copy of the inventory with reports required by this Agreement.

C. Prior to occupying the Facility, Contractor and Owner will conduct a walkthrough to investigate conditions of the Facility and equipment inside the Facility.

10. Alterations and Renovations. Contractor may not make any alterations or renovations to the Facility without the prior written consent of Owner. Contractor shall provide Owner with an actual cost report within ten days of completion of any alteration or renovation project.

11. Signs. Contractor may not place or erect poles, lights or devices on the exterior of the Facility or the curtilage or on adjacent property without the prior written consent of Owner.

12. Fundraising. Fundraising using the name of, or on behalf of, the City of Kenai or the Kenai Visitor and Cultural Center must be approved in advance in writing by the City Manager.

13. Insurance.

A. Contractor shall, at Contractor's own expense, secure and maintain the following insurance:

- i. Comprehensive general liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual coverage with a per occurrence limit of not less than \$1,000,000 combined single limit;
- ii. Worker's compensation insurance with coverage for all employees engaged in work under this Agreement as required by AS 23.30.045 (Contractor is responsible for worker's compensation insurance for any subcontractor who directly or indirectly provides services under the Agreement); and,
- iii. Comprehensive automobile liability insurance covering all owned, hired, and non-owned vehicles with coverage limits not less than \$1,000,000 combined single limit per occurrence.

Where specific limits are stated, the limits are the minimum acceptable limits. If Contractor's insurance policy contains higher limits, Owner is entitled to coverage to the extent of the higher limits.

B. All insurance required by this Section 13 shall meet the following additional requirements:

- i. For comprehensive general liability and automobile liability insurance, name the City of Kenai as an additional insured;

- ii. For worker's compensation insurance, general liability, and automobile liability insurance, where possible, include a waiver of subrogation so that the insurer waives all rights of subrogation against the City of Kenai for payments made under the policy;
- iii. Provide Owner with at least thirty (30) days' written notice before any termination, cancellation, or material change in insurance coverage is effective; and,
- iv. Be issued by a company/corporation currently rated "A-" or better by A.M. Best.

C. Contractor shall submit to Owner proof of 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. The effective date of the insurance will be no later than the first day of the term of this Agreement.

D. The indemnification and insurance coverage requirements stated in this Section 13 and in Section 14 below do not relieve Contractor of any other obligation under this Agreement.

E. Owner may increase the amount or revise the type of required insurance upon written demand without requiring amendments to this Agreement. Owner will base any increase or revision upon reasonable and justifiable grounds. Within two weeks of the written demand, Contractor shall submit to Owner evidence of insurance coverage that meets the requirements of Owner.

14. Indemnity, Defend, and Hold Harmless Agreement. Contractor shall indemnify, defend, and hold harmless Owner and its agents, employees, and/or insurers from claim, loss, damage, liability, including injury and death or expense in any way related to any act or omission of Contractor or Contractor's employees, agents, or invitees arising out of Contractor's performance of services under this Agreement, except to the extent any negligence of Owner or its employees or agents is a proximate cause of any injury or damage. If a third party asserts a claim against Contractor and Owner, Contractor and Owner shall seek in good faith to achieve Agreement to an apportionment of fault as between them without an independent of litigation. This provision shall survive expiration or termination of this Agreement.

15. Notice of Accident, Injury, or Claims.

A. Each party shall give to the other prompt and timely written notice of any claim made or suit instituted within its knowledge that in any way, directly or indirectly, contingently or otherwise, affects or might affect the other party.

B. Contractor shall report all incidents of accident or injury promptly in writing to the City Manager of Kenai.

16. Termination.

A. For Cause. If either party fails to perform any of the terms, conditions, covenants, or obligations under this Agreement, the other party may terminate this Agreement. As a condition of the exercise of the right of termination, the terminating party must notify the other party in writing of its intent to terminate, stating with reasonable specificity the reasons for termination for cause. Upon receiving this written notice, the other party will have 30 calendar days to cure the default(s). If the other party fails to cure all defaults to the satisfaction of the other party within thirty (30) days, the party may declare the Agreement terminated.

B. Termination for Convenience of the City. Owner may terminate this Agreement at any time by giving written notice to Contractor of its intent to terminate. Owner shall provide contractor with at least sixty (60) days' advance notice of its election to terminate for its convenience. All finished or unfinished documents, surveys, reports, and/or other material prepared by Contractor under this Agreement are the property of Owner and Contractor hereby agrees to peaceably return all such items to Owner by or upon the effective date of termination and as may be further instructed by Owner. Contractor shall be entitled to receive compensation for services rendered up to and through the date of termination.

17. Duties Upon Termination.

A. Upon termination of this Agreement under Section 16(A), Owner may take immediate possession of the Facility.

B. Upon termination of this Agreement under Section 16(B), including termination due to non-appropriation of funds by the Council, there shall be a transition period of not greater than sixty (60) days with regard to the removal of Contractor's property from the Facility. If Contractor fails to vacate upon expiration of the transition period, the City may remove and store the property at Contractor's expense or store the equipment at the Facility and charge Contractor a reasonable storage fee.

C. Contractor shall deliver to the Manager all documents, records, work products, materials and equipment of Owner requested by the Manager.

D. If Contractor's services are terminated for any reason, Contractor's claim for compensation shall be limited to payments due based on a proportional number of days it operated the Facility without prior compensation. Contributions in kind are not eligible for reimbursement unless this contribution is directed toward approved, appraisable improvement to the Facility. Upon termination, any alteration or renovation

to the Facility approved by Owner in writing, will be reimbursed at fair market value or actual cost as reported to Owner (whichever is less) unless the parties have previously otherwise agreed. If necessary, fair market value of such improvements will be determined by a professional appraiser. The appraiser will be selected jointly by the parties and the appraisal fee will be split equally.

18. Records and Right to Audit.

A. Contractor agrees to keep reliable accounting records and to prepare financial statements in accordance with generally accepted accounting principles.

B. Contractor shall make available to Owner for audit, examination, and copying, all of Contractor's records with respect to all matters covered by this Agreement continuing for a period ending six (6) years after the date of expiration or termination. These records include, but are not limited to financial statements, ledgers, invoices, inventories, reports, employment Agreements and other contracts related to Contractor's provision of services under this Agreement. Contractor shall make available for examination all such records, and in such form as the City may reasonably require, at any time during Owner's normal business hours. Contractor shall make such records available to Owner upon ten business days' notice, except in the case of emergency where Contractor shall make such records available immediately.

C. In performing audits and investigations, Owner shall not unduly interfere with the ability of Contractor to perform its duties under this Agreement.

19. Right of Entry. Owner, its officers, employees, agents, and representatives may enter the Facility during operating hours to make inspection of the Facility and/or to perform maintenance activities. Owner will make reasonable attempts to notify Contractor if it requires emergency entry after operating hours.

20. No Discrimination. Contractor shall 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. Contractor recognizes the right of Owner to take any action necessary to enforce this requirement.

21. Administration of this Agreement.

A. The Kenai City Manager is the representative of the City in administering this Agreement.

B. Contractor is responsible for the direct supervision of Contractor's personnel through Contractor's designated representative, and such representative shall in turn be available at all reasonable times to confer with the Owner's representative with respect to the services. The designated representative for Contractor is

_____. In the event that Contractor's representative is unable to continue to serve as Contractor's representative, Contractor shall appoint a successor subject to a written approval of the Owner.

22. Notices. Any notice or communication required or permitted under this Agreement shall be in writing, addressed to the appropriate party at the address given below for the type of delivery, and given personally, by certified mail (return receipt requested), or by electronic mail. Notice by facsimile will NOT be accepted. All notices shall be effective upon the date of receipt, except if the notice or communication is received after 5:00 p.m. on a business day, or on a day that is not a business day of the receiving party, and then the notice or communication is deemed received at 8:00 a.m. on the next business day.

Owner: City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611
Attn: City Manager
Email: postrander@kenai.city

Contractor: Kenai Chamber of Commerce and Visitor Center, Inc.
11471 Kenai Spur Highway
Kenai, AK 99611
ATTN: _____
Email: _____

Either party may change its address for notice by giving notice as provided herein to the other party.

23. Miscellaneous Provisions.

A. No Lease. This Agreement does not lease, rent, or otherwise convey any land or interest in real property or in the Facility or personal property of Owner's and in the Facility to Contractor.

B. Compliance with Laws. In performing its obligations, Contractor will comply with all laws, ordinances, and regulations of duly-constituted public authorities now or later enacted.

C. Assignment and Subcontract. Contractor shall not assign, subcontract, and/or transfer any right, obligation, or part of the services or work to be performed under this Agreement without prior written approval of the Owner. Any such assignment or transfer or subcontracting of services without the consent of Owner shall constitute a default of Contractor.

D. Force Majeure. Neither the City nor the Contractor is in violation of this Agreement if it is prevented from performance by reason of strike, boycott, labor dispute, embargo, shortage of energy or materials, act of God, act of public enemy, act of superior governmental authority, weather condition, riot, rebellion, sabotage, or any other circumstance for which it is not responsible and which is beyond its control.

E. National Emergency: If the federal government declares a national emergency, the Contractor may not hold the City liable for its inability to perform any part of this Agreement resulting from the national emergency.

F. Assumption of Risk. Contractor shall provide all proper safeguards and assume all risks incurred in performing the services.

G. No Waiver. If Owner does not insist in any one or more instances on the strict performance by Contractor of any requirement under this Agreement, it is not a waiver or relinquishment for the future, but the requirement will continue in full force. An Owner waiver of any provision or requirement in this Agreement cannot be enforced nor relied on unless the waiver is in writing and signed on behalf of Owner.

H. Integration and Modification. This Agreement contains the entire Agreement of the parties. All negotiations, statements, representations, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this Agreement or the performance of either party, are merged and integrated into this Agreement. This Agreement may not be modified except in writing signed by both parties.

I. Applicable Law/Venue. In any dispute between the parties, the laws of the State of Alaska shall govern. If any such dispute results in a lawsuit, the parties will bring the lawsuit before the courts of the State of Alaska in the Third Judicial District at Kenai.

J. Remedies. No right or remedy here conferred upon or reserved to either party is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given, or now or later existing at law or in equity or by statute.

K. Rules of Interpretation. Headings of Sections are solely for convenience of reference and shall not affect meaning, construction, or effect of this Agreement. Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa. Unless the context otherwise indicates, the use of the neuter, masculine, or feminine gender shall include the others as well.

L. Computation of Time. If any due date for a report or notice required under this Agreement falls on a weekend or on a City of Kenai holiday, the report or notice will be timely if filed with Owner on the next regular business day.

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, _____ (Title) of Kenai Chamber of Commerce and Visitor Center, Inc. an Alaska corporation, on behalf of the corporation.

NOTARY PUBLIC for State of Alaska
My Commission Expires: _____

ATTEST:

City Clerk

SEAL:

APPROVED AS TO FORM:

Scott Bloom, City Attorney



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3143-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING GENERAL FUND ESTIMATED REVENUES AND APPROPRIATIONS BY \$34,216 IN THE GENERAL FUND, PARKS, RECREATION AND BEAUTIFICATION DEPARTMENT FOR AN INCREASE OF A GRANT FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PASSED THROUGH THE STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR BACTERIA LEVEL MONITORING ON THE CITY'S BEACHES FROM JULY 1, 2020 THROUGH MARCH 1, 2021.

WHEREAS, the City of Kenai has a current Beach Grant Agreement in place with the Alaska Department of Environmental Conservation for 2020 bacteria level monitoring; and,

WHEREAS, the State of Alaska Department of Environmental Conservation is amending the grant amount to allow for additional sampling at the mouth of the Kenai River which is required to build an adequate database for future modeling efforts and will be provided through a cooperative agreement with the Kenai Watershed Forum; and,

WHEREAS, bacteria levels during the testing period in the past have exceeded water recreation standards as established by the State of Alaska Department of Environmental Conservation in Register 226 that could pose a health risk to fishery participants and City residents utilizing the beach; and,

WHEREAS, it is in the best interest of the City to monitor the bacteria level on its beaches.

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 from the United States Environmental Protection Agency passed through the State of Alaska Department of Environmental Conservation and to expend the funds to fulfill the purpose the grant and of this Ordinance.

Section 2. That FY2021 estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues:	
Federal Grants - Other	<u>\$34,216</u>
Increase Appropriations:	
Parks, Recreation & Beautification –	
Professional Services	<u>\$34,216</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), Section 1 of this ordinance shall take effect upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: June 17, 2020
Enacted: July 1, 2020
Effective: July 1, 2020



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Robert J. Frates, Parks & Recreation Director
DATE: June 10, 2020
SUBJECT: **Ordinance No. 3143-2020**

The purpose of this memorandum is to recommend approval of Ordinance No. 3143-2020. This action provides for an increase of a grant from the United States Environmental Protection Agency to support additional water quality sampling on the City's Beaches.

The State of Alaska Department of Environmental Conservation is amending the current Kenai Beach Monitoring Grant to allow for additional sampling to be performed in 2020 at the mouth of the Kenai River. The additional sampling will allow the contractor (Kenai Watershed Forum) to build an adequate database for future modeling efforts.

Approval of Ordinance No. 3143-2020 will add an additional \$34,216 to the existing ACWA-19-B11 grant and the new amended grant total will be \$121,535.

Council's support and approval is respectfully requested.



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020-51

A RESOLUTION OF THE CITY OF KENAI, ALASKA, APPROVING A LEASE RENEWAL OF AIRPORT RESERVE LANDS BETWEEN THE CITY OF KENAI AND CPD ALASKA, LLC, FOR LOT 4, BLOCK 1, F.B.O. SUBDIVISION.

WHEREAS, CPD Alaska, LLC, submitted a complete lease renewal application to the City and paid the required application fee; and,

WHEREAS, CPD Alaska, LLC is eligible for a lease for a term of 4 years based upon the term table in Kenai Municipal Code (KMC) 21.10.080(b) and a professional estimate of the remaining useful life of existing improvements meeting requirements of a lease renewal of an expiring lease in KMC 21.10.070(d)(2); and,

WHEREAS, CPD Alaska, LLC is current on obligations to the City of Kenai; and,

WHEREAS, the lease use will continue to be for fuel storage and aircraft service; and,

WHEREAS, the lease use is compatible with Kenai Municipal Zoning Code for allowed uses within the Airport Light Industrial (ALI) Zone; and,

WHEREAS, the lease use conforms to the 2016 Comprehensive Plan and supports Goal 5 – Transportation: provide transportation systems that are efficient and adequate to serve the regional needs of the community; and,

WHEREAS, the use proposed is compatible and conforms with the Airport Land Use Plan, Airport Layout Plan, Federal Aviation Administration regulations, Airport Master Plan, Airport Improvement Program grant assurances, and Airport operations; and,

WHEREAS, the City of Kenai did not receive any competing lease applications within 30 days of publishing a public notice of the lease application, pursuant to KMC 21.10.075 – Competing Applications; and,

WHEREAS, at a regular meeting on June 11, 2020, the Airport Commission reviewed the lease renewal application submitted by CPD Alaska, LLC, Inc. and recommended approval by the City Council; and,

WHEREAS, at a regular meeting on June 24, 2020, the Planning and Zoning Commission reviewed the lease renewal application submitted by CPD Alaska, LLC and recommended approval by the City Council.

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

Section 1. That a Lease Renewal of Airport Reserve Lands is approved and the City Manager is authorized to execute a lease using the standard lease form between the City of Kenai, Lessor, and CPD Alaska, LLC, Inc., Lessee, for a term of 4 years for Lot 4, Block 1, F.B.O. Subdivision; and,

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

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, CMC, 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: Elizabeth Appleby, City Planner

DATE: June 23, 2020

SUBJECT: Resolution No. 2020 - 51 - Execution of a 4-Year Lease Renewal

CPD Alaska, LLC (Crowley), submitted an application to the City requesting a renewal of their Lease of Airport Reserve Lands for the property described as Lot 4, Block 1, FBO Subdivision. The property is located at 411 North Willow Street, Kenai, AK 99611, and the Kenai Peninsula Borough parcel number is 04336018. Pursuant to Kenai Municipal Code 21.10.075 – Leasing and Acquisition of Airport Reserve Lands, Competing Applications, the City posted notice of the lease application on May 28, 2020 and will accept competing lease applications for the parcel for 30 days (through June 26, 2020).

Pursuant to the term table in Kenai Municipal Code (KMC) 21.10.080(b) and a professional estimate of the remaining useful life of the principal improvements on the property meeting requirements of a lease renewal of an expiring lease in KMC 21.10.070(d)(2), the applicant qualifies for a lease term of four years. The applicant had initially requested a lease term of 45 years to reflect expected investment in 2024. Municipal Code requires improvements be completed within 2 years of the signing of the lease, or up to a maximum time period of 3 years with approval for good cause. Since the expected investment is 4 years away and the remaining useful life of one of the principal improvements on the property is estimated to be 4 years, the lessee agreed to request a lease term of 4 years with plans to request a 45 year extension once timing is such that additional investment can be taken into account in the term table

This renewal will convert the lessee to the City’s new standard lease form. The uses allowed on the current lease would remain the same; the uses are the following: fuel storage and aircraft service. The applicant is current on rent payments and obligations to the City.

The parcel is within the Airport Light Industrial (ALI) Zone. The intent of the ALI Zone is to protect the viability of the Kenai Municipal Airport as a significant resource to the community by encouraging compatible land uses and reducing hazards that may endanger the lives and property of the public and aviation users. The proposed continued use by the applicant is a permitted use in the ALI Zone and is a compatible land use. The lessee provides necessary fuel supplies to the City.

The proposed use by the applicant complies with the 2016 Imagine Kenai 2030 Comprehensive Plan. It supports Goal 5-Transportation, which has a vision for Kenai Municipal Airport as a gateway to the Kenai Peninsula and West Cook Inlet. The proposed use also supports Goal 3-Economic Development to support the fiscal health of the City of Kenai.

The Airport Land Use Plan was developed to identify the highest and best uses of Kenai Municipal Airport land. The Airport Land Use Plan discusses leasing land and enhancing opportunities for local economic development. The proposed use by the applicant complies with the Airport Land Use Plan. The application is also in compliance with the Airport Layout Plan, Federal Aviation Administration regulations, Airport Master Plan, Airport Improvement Program grant assurances, and Airport operations.

The Planning and Zoning Commission recommended approval of the lease application during their June 24, 2020 meeting. The Airport Commission recommended approval of the lease application during their June 11, 2020 meeting.

Resolution No. 2020-51 would grant the approval of the Kenai City Council for the City Manager to enter into a 4-year renewal of the Lease of Airport Reserve Lands between the City of Kenai and CPD Alaska, LLC for Lot 4, Block 1, F.B.O. Subdivision. Thank you for your consideration.

MEMORANDUM ATTACHMENTS

1. Lease Renewal Application
2. Aerial Map





City of Kenai Land Lease Application

Application for:	<input type="checkbox"/> New Lease <input type="checkbox"/> Amendment <input type="checkbox"/> Assignment <input checked="" type="checkbox"/> Renewal
Application Date:	4/29/20

Applicant Information

Name of Applicant:	Crowley Fuels LLC aka CPD Alaska LLC						
Mailing Address:	201 Arctic Slope Ave	City:	Anchorage	State:	AK	Zip Code:	99518
Phone Number(s):	Home Phone:	Work/ Message Phone: 907-777-5516					
E-mail: (Optional)	jenny.silva@crowley.com						
Name to Appear on Lease:	Crowley Fuels LLC						
Mailing Address:	same	City:		State:		Zip Code:	
Phone Number(s):	Home Phone:	Work/ Message Phone:					
E-mail: (Optional)							
Type of Applicant:	<input type="checkbox"/> Individual (at least 18 years of age) <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Government <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Other _____						

Property Information and Term Requested

Legal description of property (or, if subdivision is required, a brief description of property):	
Lot 4 Block 1 FBO Subdivision, approx. 39,200 sf	
Does the property require subdivision? (if Yes, answer next questions)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Subdivision costs are the responsibility of the applicant unless the City Council determines a subdivision serves other City purposes:	
1. Do you believe the proposed subdivision would serve other City purposes?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. If determined it does not, applicant is responsible for all subdivision costs.	Initials <u>N/A</u>
If an appraisal is required to determine the minimum price on the land, applicant is responsible for the deposit to cover costs associated with appraisal. If a sale is approved, the cost of the appraisal will be either refunded or credited to the applicant.	Initials <u>N/A</u>
It is the responsibility of the applicant to cover recording costs associated with lease.	Initials <u>N/A</u>
Do you have or have you ever had a Lease with the City? (if Yes, answer next question)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
1. Legal or brief description of property leased:	
Lease 2081.01 Lot 3A1 FBO Subdivision, approx 26,375 sf	
Lease 2083.01 Special Use Permit on airport apron, approx. 35,000 sf	
Request a Lease with an Option to Purchase once development requirements are met?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Requested term for Initial Lease or Renewal (based on Term Table, not to exceed 45 years):	45 years - amended by 5.
Requested term for Lease Extension (based on Term Table, not to exceed a total of 45 Years):	N/A
Requested Starting Date:	July 1, 2020

Proposed Use and Improvements

Proposed Use (check one): Aeronautical Non-Aeronautical

Do you plan to construct new or additional improvements? (if Yes, answer next five questions) YES NO

1. Will the improvement change or alter the use under an existing lease? YES NO

2. What is the proposed use of the improvement? *Aviation Cardlock - Self Serve*

3. What is the estimated value of the improvement? *\$500K+*

4. What is the nature and type of improvement? *Full replacement of the self-service Aviation cardlock*

5. What are the dates construction is estimated to commence and be completed?
(generally, construction must be completed within two years)

Estimated Start Date: *May 2024* Estimated Completion Date: *September 2024*

Describe the proposed business or activity intended: *Land holds our fuel storage facilities that support our aviation fueling services, as well as bulk fuel distribution to the City and broader surrounding area.*

How does the proposed lease support a thriving business, residential, recreational, or cultural community? *It serves as Crowley's base fuel storage facility on the Kenai Peninsula. It facilitates commercial and recreational aviation fueling and supports commercial and residential bulk fuel deliveries.*

Lease Assignment Only: What is the name of the individual or legal entity the lease is to be assigned? *N/A*

Lease Renewal Only

Renewal of an Existing Lease (at least one year of term remaining): Requires new development.

Lease Term based on: Estimated cost of new improvements and Purchase Price (optional)

Renewal of an Expiring Lease (less than one year of term remaining): Does not require new development.

Lease Term based on: Purchase Price Professional Estimate of Remaining Useful Life

Fair Market Value appraisal and/or Estimated cost of new improvements (optional)

Requested Term for Renewal Based on Term Table, not to exceed 45 Years: *45 years - amended to 4yrs.*

Submitting an application for a lease does not give the applicant a right to lease or use the land requested in the application. The application shall expire twelve (12) months after the date the application has been made if the City and the applicant have not, by that time, entered into a lease, unless the City Council for good cause grants an extension for a period not to exceed six (6) months. The City has no obligation to amend, renew or extend a lease and may decline to do so upon making specific findings as to why a lease renewal, extension, or amendment is not in the best interest of the City

Signature:	<i>Jenny Silva</i>	Date:	<i>4/29/20</i>
Print Name:	<i>Jenny Silva</i>	Title:	<i>Manager, Contracts</i>

For City Use Only:	Date Application Fee Received:	
<input type="checkbox"/> General Fund	Date Application Determined Complete:	<i>5/28/20</i>
<input checked="" type="checkbox"/> Airport Fund	30-Day Notice Publication Date:	<i>5/31/20</i>
Account Number:	City Council Action/Resolution:	<i>7/1/20</i>



**Lease Renewal Application
Parcel 04336018
411 North Willow Street
Lot 4, Block 1, F.B.O. Subdivision**



LEGEND

Parcel 04336018

0 15 30 Feet

Date: May 2020

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





Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2021-52

A RESOLUTION OF THE CITY OF KENAI, ALASKA, APPROVING THE USE OF THE FLEET REPLACEMENT FUND FOR THE PURCHASE OF TWO FIRE DEPARTMENT UTILITY TRUCKS UTILIZING THE STATE OF ALASKA EQUIPMENT FLEET CONTRACT.

WHEREAS, the City conducted an evaluation of utility vehicles within its fleet to determine the efficiency of current vehicles and replacement needs of aged vehicles; and,

WHEREAS, it was determined that the Fire Department should purchase 2 new trucks that would meet the response needs of the Department and replace aged vehicles currently in service; and,

WHEREAS, the Fire Department requests to order/purchase two, three-quarter ton, 4x4 crew cab trucks utilizing the State of Alaska Fleet Procurement Contract for the purchase; and,

WHEREAS, KMC 7.15.070(b)(4) allows the City of Kenai to purchase equipment without giving an opportunity for competitive bidding if the equipment is purchasable under the contract of another governmental agency in which contract the City is authorized to participate; and,

WHEREAS, the current State of Alaska Fleet Procurement Contract expires on July 10, 2020; and,

WHEREAS, utilization of the State of Alaska Fleet Procurement Contract has resulted in the lowest cost which is in the best interest of the City; and,

WHEREAS, the total estimated acquisition cost of the vehicles is \$90,372 which includes the vehicle and all accessories which is within the amount projected in the FY2021 Fleet Replacement Plan.

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

Section 1. That the Fire Department is authorized to purchase two, three-quarter ton, 4x4 crew cab trucks at an estimated acquisition cost of \$90,372 utilizing the State of Alaska Fleet Procurement Contract.

Section 2. That the use of the Fleet Replacement Fund is authorized for the purchase of two, three-quarter ton, 4 x 4 crew cab trucks for the Fire Department.

Section 3. That this resolution takes effect immediately upon passing.


PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Resolution No. 2020-52
Page 2 of 2

Jamie Heinz, CMC, City Clerk

Approved by Finance: 



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Tony Prior, Fire Chief
DATE: June 18, 2020
SUBJECT: Resolution 2021-52

The purpose for this memo is to recommend approval of Resolution 2021-52. Resolution 2021-52 will authorize the purchase of 2 Ford F-250 4x4 utility trucks for the Fire Department for a total of \$90,372.00 from Kendal Ford, according to the best price on the State of Alaska, State equipment fleet contract for that particular vehicle.

During the evaluation of utility vehicles in the City, it was recommended that the Fire Department (KFD) purchase 2 new utility trucks to replace the currently aged vehicles in KFD's present fleet. Unit 11, Unit 10, and Unit 9 will be taken out of the Fire Departments fleet of vehicles and we will receive an F-250 from the Police Department and purchase 2 new F-250's from the State equipment fleet contract.

We would like to order these trucks before July 10th, as the current contract ends and pricing will increase based on the new model of vehicles coming out. Also, after July 10th, new contract pricing will not be available until the end of September with a 90 day delivery timeframe from that date.

KMC 7.15.070(b)(4) allows the City of Kenai to purchase equipment without giving an opportunity for competitive bidding if the equipment is purchasable under the contract of another government agency in which contract the City is authorized to participate.

Thank you for your consideration.



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020-53

A RESOLUTION OF THE CITY OF KENAI, ALASKA, RENAMING PELCHY DRIVE TO PELCH DRIVE.

WHEREAS, Kenai Municipal Code 14.15.140 authorizes the Council of the City of Kenai to name and rename streets within City limits upon recommendation from the Planning and Zoning Commission and after consultation with the Kenai Peninsula Borough or any other affected municipality; and,

WHEREAS, the Kenai Peninsula Borough has no objection to changing the street name to Pelch Drive; and,

WHEREAS, adjacent property owners have no objection to changing the street name to Pelch Drive and were the ones to request the change; and,

WHEREAS, the name change would not impact 911 navigation; and,

WHEREAS, at a regular meeting on June 10, 2020, the Planning and Zoning Commission recommended approval by the City Council of the renaming of Pelchy Drive to Pelch Drive.

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

Section 1. That Pelchy Drive in the City of Kenai is renamed as Pelch Drive.

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

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Elizabeth Appleby, City Planner
DATE: June 23, 2020
SUBJECT: Resolution No. 2020 - 53 – Renaming of Pelchy Drive to Pelch Drive

Michael J. Pelch owns parcels 04949051 and 04949052 described as Lots 2 and 3, Michael J. Pelch Homestead Jr. Addition No. 3 that border Pelchy Drive. Mr. Pelch has requested Pelchy Drive be renamed to Pelch Drive. Pelchy Drive is accessed from Beaver Loop Road. The plat for Michael J. Pelch Homestead Jr. Addition No. 3 was recorded on November 13, 2019 under plat no. 2019-48. This plat dedicated the right-of-way for Pelchy Drive. There is some evidence in City records that earlier versions of the plat had the street name as Pelch Drive before the final plat had the name as Pelchy Drive. Mr. Pelch noted that there is not yet a street sign up on this road.

Kenai Municipal Code 14.5.140, Renaming streets states that City Council may by resolution change or rename a street upon recommendation of the Planning and Zoning Commission and after consultation with the Kenai Peninsula Borough. In email correspondence, the Kenai Peninsula Borough stated they have no objection to changing this street name from Pelchy to Pelch as long as the street suffix of Drive was retained to be consistent with Borough Code for street names. The Borough did not identify an issue with the street name change for 911 navigation. The City of Kenai Planning and Zoning Commission recommended approval of the street name change with Resolution No. PZ2020-17.

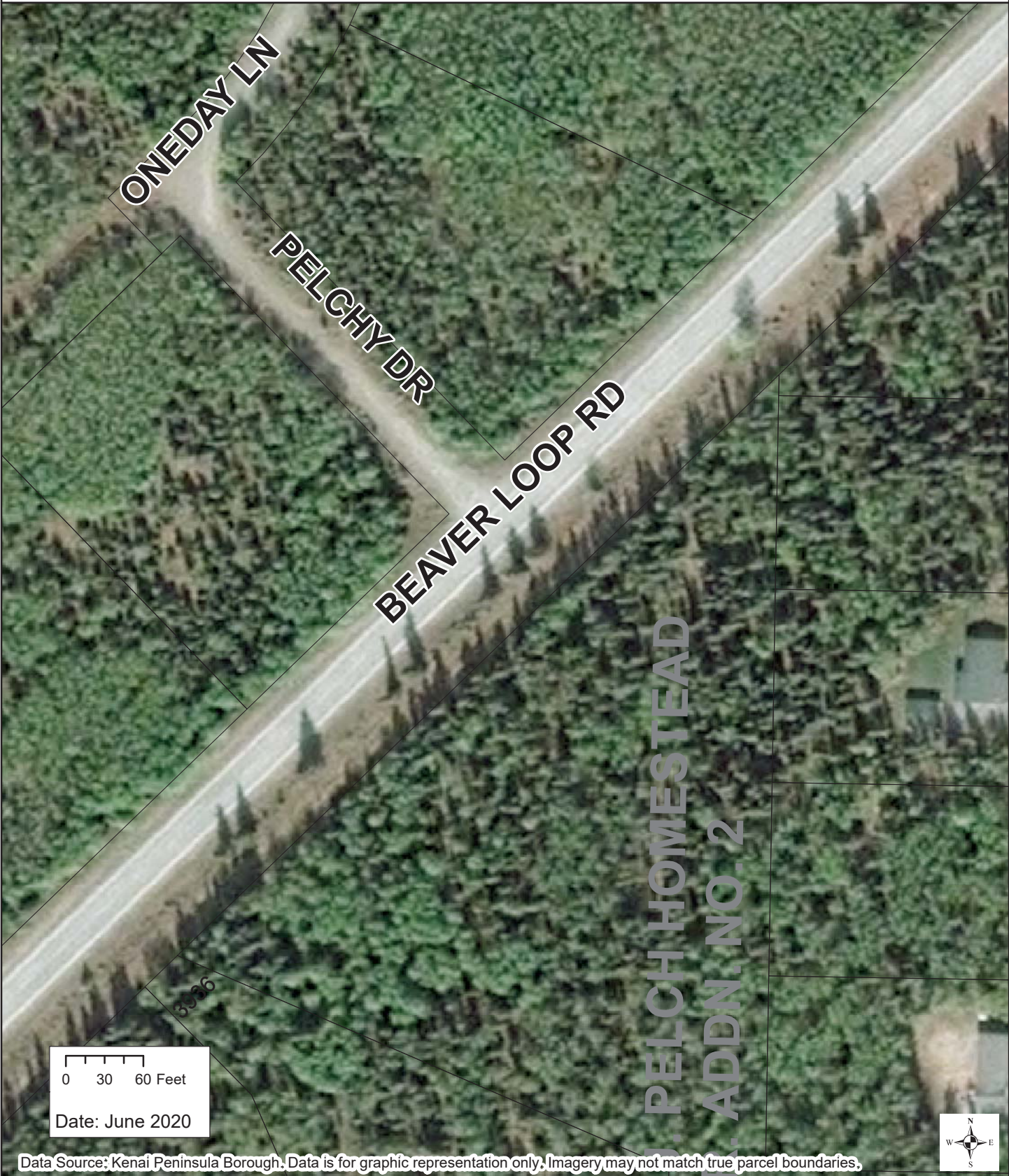
Resolution No. 2020-17 would rename Pelchy Drive to Pelch Drive. Thank you for your consideration.

MEMORANDUM ATTACHMENTS

1. Aerial Map
2. P&Z Resolution PZ2020-17



RENAME
Current: Pelchy Drive
Proposed: Pelch Drive



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



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2020-17**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THE COUNCIL OF THE CITY OF KENAI RENAME PELCHY DRIVE TO PELCH DRIVE

CURRENT OFFICIAL NAME: Pelchy Drive

RECOMMENDED OFFICIAL NAME: Pelch Drive

WHEREAS, Kenai Municipal Code 14.15.140 authorizes the Council of the City of Kenai to name and rename streets within City limits upon recommendation from the Planning and Zoning Commission and after consultation with the Kenai Peninsula Borough or any other affected municipality; and,

WHEREAS, the Kenai Peninsula Borough has no objection to changing the street name to Pelch Drive; and,

WHEREAS, adjacent property owners have no objection to changing the street name to Pelch Drive and were the ones to request the change; and,

WHEREAS, the name change would not impact 911 navigation.

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

Section 1. That the official name for Pelchy Drive be changed to Pelch Drive.

Section 2. That a copy of Resolution PZ2020-17 be forwarded to the Kenai City Council.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 10th day of June, 2020.

Diane Fikes
Diane Fikes For

JEFF TWAIT, CHAIRPERSON

ATTEST:

Jamie Heinz

JAMIE HEINZ, CMC, CITY CLERK





Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020-54

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

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

WHEREAS, on June 3, 2020, the City Council passed Resolution 2020-39, approving a \$3,000,000 Grant Disbursement Program for Small Businesses and Non-Profit Organizations Utilizing Funds from the CARES Act; and,

WHEREAS, during Council discussion of Resolution 2020-39, the Council modified the attached Grant Disbursement Program by directing administration that any funds left over after all eligible business and non-profit applicants are paid would be shared on a prorated basis among the eligible business applicants; and,

WHEREAS, the application period for the Grant Disbursement Program was open for two weeks, June 5, 2020 to June 19, 2020; and,

WHEREAS, the City received 186 applications, has approved 155 applications; 47 of which were non-profits and 108 were businesses, with 31 applications either under further review as of June 24, 2020, or that were denied; and,

WHEREAS, the total disbursement of funds to applicants is anticipated to be approximately \$1,900,000, which, under the current guidance leaves approximately \$1,100,000 in funds that would be prorated to businesses that applied during this application period; and,

WHEREAS, to assure that the distribution of these remaining funds meets the Federal Department of Treasury guidance for the permissible uses of CARES Act funds, and to provide opportunity for businesses that may have not applied for grant funds during the first application period, the administration recommends that the remaining funds of approximately \$1,100,000 be distributed through a second grant program to businesses only that may be similar in form to the first Grant Disbursement Program; and,

WHEREAS, due to the continued impacts to businesses or the possibility of future mandated closures of businesses due to the COVID-19 public health emergency, the administration also

Resolution No. 2020-54
Page 2 of 2

recommends that these remaining funds be distributed later in 2020, depending on how the COVID-19 public health emergency unfolds as we continue through the summer and into the fall.

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

Section 1. That the City’s Grant Disbursement Program is amended so that the remaining funds from the first grant program be distributed through a second grant program to businesses only that may be similar in form to the first Grant Disbursement Program and that the funds be distributed later in 2020.

Section 2. That the program timing and guidelines will be provided to Council for their consideration prior to initiation of the program.

Section 3. That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Paul Ostrander, City Manager

DATE: June 24, 2020

SUBJECT: **Resolution 2020-54 – Amending the City’s Grant Disbursement Program**

On May 20, 2020 the City Council enacted Ordinance 3130-2020 accepting Federal CARES Act funding passed through the State of Alaska for expenditures in response to the COVID-19 Public Health Emergency. On June 3, 2020 the City Council passed Resolution 2020-39, approving a \$3,000,000 Grant Disbursement Program for Small Businesses and Non-Profit Organizations Utilizing Funds from the CARES Act.

The City is nearing completion of that grant program and there is approximately \$1.1 million in remaining funds that will not go to applicants. The current program directs the administration that any funds left over after all eligible business and non-profit applicants are paid shall be shared on a prorated basis among the eligible business applicants. The amount of remaining funds is greater than what was anticipated when the Grant Disbursement Program was designed and administration is recommending an alternative approach to proration to current business applicants.

This Resolution amends the Grant Disbursement Program so that the remaining funds from the first grant program be distributed through a second grant program to businesses only that may be similar in form to the first Grant Disbursement Program and that those funds be distributed later in 2020. This assures that the distribution of these remaining funds meets the Federal Department of Treasury guidance for permissible uses of CARES Act funds and also provides an opportunity for businesses that did not apply during the first program to have another opportunity to apply. Delaying the grant opportunity to later in the year will allow the City to react appropriately as the COVID-19 Public Health Emergency unfolds over the next several months.

This Resolution also provides that the program guidelines and timeline will be provided to Council for consideration prior to initiation of the program.

Your consideration is appreciated.



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020-55

A RESOLUTION OF THE CITY OF KENAI, ALASKA, APPROVING RENT RELIEF MEASURES FOR KENAI MUNICIPAL AIRPORT CONCESSIONAIRES DURING MANDATORY CLOSURES CAUSED BY THE COVID-19 PUBLIC HEALTH EMERGENCY.

WHEREAS, Public Health Disaster Emergency Declaration signed by Governor Mike Dunleavy on March 11, 2020, provided for health mandates to be issued when deemed necessary to prevent or slow the spread of COVID-19 by the Alaska Department of Health and Social Services, the Alaska Chief Medical Office, the Alaska Division of Public Health, and the Office of the Governor; and,

WHEREAS, COVID-19 Health Mandate 3.1 issued on March 17, 2020, stated that all bars, breweries, restaurants, food and beverage kiosks or trucks, and other establishments serving food or beverages within the State of Alaska shall be closed to the public dine-in service effective March 18 at 5pm; and,

WHEREAS, on April 22, 2020, the State of Alaska issued its sixteenth health mandate to Reopen Alaska Responsibly with attachments F and Q covering requirements specific to restaurants and bars; and,

WHEREAS, Restaurant dine-in services were allowed to resume on May 8, 2020, and bars to resume on May 11, 2020, if they met all requirements; and,

WHEREAS, the Airport restaurant reopened on May 8, 2020 and the bar reopened on May 11, 2020 in accordance with the requirements; and,

WHEREAS, City Administration has determined that is reasonable to provide rent relief for the period of time the restaurant and bar were under the mandatory closures.

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

Section 1. That the City Manager is authorized to approve Rent Relief to the Airport Concessionaires due to mandatory closures caused by the COVID-19 Public Health Emergency.

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

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Mary Bondurant, Airport Manager

DATE: June 23, 2020

SUBJECT: **Resolution 2020-55 – Rent Relief Measures due to State Closures**

The purpose of this memo is to request approval to provide rent relief to the Airport bar and restaurant due to the State mandate requiring closures from March 18, 2020 to May 8, 2020.

City Administration is aware of the financial loss associated with the COVID-19 crisis and understands the closures were a direct result of State issued health mandates.

I have been in discussions with the Federal Aviation Administration and they are in support of rent relief.

Thank you for your consideration.



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020-56

A RESOLUTION OF THE CITY OF KENAI, ALASKA, APPROVING A GRANT DISBURSEMENT PROGRAM FOR INDIVIDUAL ASSISTANCE UTILIZING FUNDS FROM THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

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

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

WHEREAS, the administration developed a grant disbursement program (Attachment A), which includes several grant programs to provide individual assistance to small businesses, commercial fishing permit holders, and City of Kenai residents in need of mental health services or mortgage rent relief, and marketing services for businesses utilizing funds from the CARES Act where help is needed due to impacts associated with the COVID-19 Public Health Emergency; and,

WHEREAS, the grant disbursement program meets the intent of the CARES Act to provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 COVID-19 Public Health Emergency and were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, the grant disbursement programs follow guidance for local governments issued by the federal government; and,

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

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

Section 1. That the Grant Disbursement Program for Individual Assistance Utilizing Funds from The Coronavirus Aid, Relief, and Economic Security (Cares) Act is Approved as Attached or modified in similar form.

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

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

Resolution No. 2020-56
Page 2 of 2

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



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



CITY OF KENAI
CITY HALL
210 FIDALGO AVENUE
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CITY MANAGER
POSTRANDER@KENAI.CITY
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We're focused on getting relief funds into the community we serve



410
small businesses in Kenai*



106
nonprofits serving the community



3,117
individual households

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

Introduction

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

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

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

Paul Ostth

Overview

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

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

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

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

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

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

Small Business



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

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

If the demand for grants exceeds the City's available funds, the City reserves the right to prorate the grants equally to all recipients to stay within available funding. The City Council has directed that any funds left over after all eligible business and nonprofit applicants are paid shall be shared on a prorated basis among the eligible business applicants.

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

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

extrapolate the numbers to estimate a full year's sales for the business.

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

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

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

The program will exclude from eligibility:

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

(continued on next page)

Small Business

- Businesses currently in bankruptcy proceedings
- Businesses that lack a permanent physical presence in the City for the sale of goods or the provision of services with at least one worker assigned to that facility
- Marijuana businesses licensed under Alaska Statute 17.38.

Businesses sharing physical quarters may each apply and qualify for their own grant, so long as each business has its own state license, files a sales tax return under its own name and does not share the same ownership with the other co-located businesses.

Applicants are required to self-certify that they have been affected by the COVID-19 public health emergency and resulting economic impacts. The intent of the federally funded CARES Act program is to assist communities and businesses that suffered economic harm from the public health emergency. Impacts could include, though are not limited to, loss of sales due to mandatory shutdown, inventory loss, additional operating expenses of reopening and protecting staff and customers, including funds already spent for those purposes.

Businesses will not be required to detail specifically (in dollars) how they have been affected.

Business will be asked how they might use the money, making clear that the application question is voluntary and for informational purposes only to gauge community need and effectiveness of the program.

Applicants will be required to check a box that states they intend to remain in business into 2021. The grant funds must be fully expended by December 30, 2020.

The applicant must certify that the information provided is true and accurate and that they agree to assist in the verification of information provided in the application and to provide additional information to the City, if requested.

The application period will be open for two weeks. The City review committee will verify the information as the applications come in, but the City will hold off paying out any funds until after the deadline period has closed and the total amount of eligible requests is known.

The review committee will determine whether the application is complete and the business is eligible under the program requirements. The committee will not judge the need or use of the money.

An applicant denied by the review committee may appeal to the City Manager (in writing). Any appeal must be filed in writing by 5 p.m. the 10th calendar day after the day the applicant received notice from the City.

It is the City's intent, to the extent allowed by law, that the review committee's work and discussions, and the applications themselves, will not be available to the public. The names of businesses that receive grants and the amount each receives will be considered a public record.

The City reserves the right to amend any criteria or procedures as may be required if new state or federal guidelines are issued.

Nonprofits



The grants for nonprofits would be divided into three levels to help meet the needs of repairing the economic damage to nonprofits caused by the COVID-19 public health emergency:

- Up to \$10,000 for nonprofits of less than \$50,000 in annual revenue
- Up to \$25,000 for nonprofits of between \$50,000 and \$250,000 in annual revenue
- Up to \$50,000 for nonprofits of more than \$250,000 in annual revenue

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

Annual income will be determined by the nonprofit's most recent IRS Form 990 from 2018 or 2019. For those nonprofits that do not file with the IRS, the City will accept an audited financial statement or an unaudited statement by a third-party preparer.

The program is open to nonprofits that provide services to residents of the City, regardless of where the nonprofit has its main office — though the nonprofit must have a physical or service presence within the City of Kenai — and regardless of whether the local chapter or affiliate is part of a larger statewide or national organization.

Additional eligibility rules:

- The grants will be available only to IRS-certified 501 nonprofits (the full list of IRS 501 nonprofit categories will be on the application)
- The nonprofit must have been in operation serving City of Kenai residents since at least January 1, 2019
- A majority of the group's local board of directors or local advisory board and its officers must be Alaska residents. A local affiliate of a national organization must have a local advisory or governing board
- Faith-based nonprofits are eligible, so long as they provide services which are promoted and available to the general public without regard to religious affiliation
- Nonprofit organizations "that are principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting, or primarily engaged in political or lobbying activities" are not eligible (as per 13 CFR § 120.110(k) in the Code of Federal Regulations)

The grant funds must be fully expended by December 30, 2020.

The program is limited to nonprofits economically damaged by the COVID-19 public health emergency. The nonprofit will be required to certify and briefly describe how it and/or its work has been affected, but will not be required to provide financial statements, budgets, receipts or other records detailing the financial damages.

(continued on next page)

Nonprofits

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

Applicants will be asked to provide a brief report to the City no later than one year after receipt of the grant funds, reviewing the use of the money. This is voluntary and is requested to assist the City in evaluating the impact of the program.

A nonprofit cannot obtain a grant through the City's CARES Act-funded grant program for nonprofits while also receiving a grant as a small business, even if the nonprofit also operates a business enterprise in Kenai.

The applicant will need to certify that the information provided is true and accurate, and they agree to assist in the verification of information provided in the application and to provide additional information to the City, if requested.

The application period would be open for two weeks. The City review committee will verify the information as the applications come in, but the City will hold off paying out any funds until after the deadline period has closed and the total amount of eligible requests is known.

The review committee will determine whether the application is complete and the nonprofit is eligible under the program requirements. The committee will not judge the need or use of the money.

An applicant denied by the review committee may appeal to the City Manager (in writing). Any appeal must be filed in writing by 5 p.m. the 10th calendar day after the day the applicant received notice from the City.

It is the City's intent, to the extent allowed by law, that the review committee's work and discussions, and the applications themselves, will not be available to the public. The names of businesses that receive grants and the amount each receives will be considered a public record.

The City reserves the right to amend any criteria or procedures as may be required if new state or federal guidelines are issued.

Individual Assistance



The City of Kenai is establishing several grant programs to provide individual financial assistance to the community's smaller businesses that did not qualify for the City's Small Business Grant program, for commercial fishers, and for renters and homeowners. The City is also setting up a program to assist residents in need of mental health services in the months ahead as the emotional strains of the COVID-19 public health emergency continue to weigh on the community; and a program to assist the business community with professional marketing support in light of decreased customer demand.

The specifics of the programs are:

Individual Assistance to Small Business

The program provides grants of \$1,000 each to small businesses with 2019 reported gross revenues (as per sales tax records or other acceptable forms of proof of revenues) of between \$25,000 and \$50,000. The eligibility requirements are similar to the City Small Business grant program that provided funds for business with revenues above \$50,000 a year.

To qualify for the program, the smaller business:

- Must certify it was impacted by the COVID-19 public health emergency.
- Must be physically located in Kenai, with a valid state business license showing a Kenai address for the business (a home-based business would be eligible).
- Must not be in violation of a payment plan on a debt to the City.
- Must not be under a borough lien for unpaid sales taxes.
- Must not be in bankruptcy proceedings.

Businesses must have been in existence in Kenai as of January 1, 2020, to qualify.

Applicants will be required to briefly describe how the COVID-19 public health emergency has affected their operations but will not be required to provide detailed financial information on lost revenues due to shutdowns or additional expenses of reopening under public health guidelines.

The application period will open Friday, July 10, and close at 5 p.m. Monday, August 31. Applications may be submitted online at the City website, by mail to City Hall or dropped off at City Hall. The City intends to review the applications and distribute the funds as quickly as possible.

The City has set aside \$150,000 for this program, subject to demand.

(continued on next page)

Individual Assistance

Individual Assistance to Commercial Fishers

The program will provide grants of \$1,000 each to Alaska Commercial Fisheries Entry Commission permit holders who reside in the City of Kenai and reported landings in 2019 with revenues of at least \$25,000.

The program is open to commercial fishing permit holders but not crew members.

Applicants must certify their fishing income was affected by the COVID-19 public health emergency (such as lower prices due to reduced market demand) and will be asked to briefly describe how the public health emergency has affected their operations but will not be required to provide detailed financial information on lost revenues due to shutdowns or decreased customer demand, or additional expenses of operating under public health guidelines.

The application period will open Friday, July 10, and close at 5 p.m. Monday, August 31. Applications may be submitted online at the City website, by mail to City Hall or dropped off at City Hall. The City intends to review the applications and distribute the funds as quickly as possible.

The City of Kenai has set aside \$150,000 for this program, subject to actual demand.

Rental and Mortgage Relief

The City of Kenai will work with the Alaska Housing Finance Corp. (AHFC) to benefit any Kenai residents who qualified for the state rental assistance and mortgage relief program but whose application was not drawn in the AHFC lottery.

Applications for the AHFC Alaska Housing Relief program were due by 11:59 p.m. on June 26, 2020. AHFC will draw the "winners" by lottery if the number of applicants exceeds the available \$10 million in funding. The City program would provide the same amount of funding per qualified household as the AHFC program — maximum \$1,200 per household — for any residents in the City of Kenai whose application is not drawn should AHFC run out of available funds.

The money must go toward rent or a mortgage payment, maximum \$1,200 per household. The AHFC program has a household income cap, and the maximum household income in Kenai to qualify for the program is \$71,760 a year.

Just like the AHFC program, the City will ask applicants to verify their loss of income due to COVID-19 public health emergency and, after approval, the City will distribute the funds directly to the landlord or mortgage holder.

The City has set aside \$150,000 for this program, subject to available funding and demand.

(continued on next page)

Individual Assistance

Mental Health Services

The City will contract with mental health professionals in Kenai to provide counseling for individual residents affected by the COVID-19 public health emergency and in need of mental health services. The program will cover a resident's out-of-pocket expenses after any insurance or if they lack insurance coverage for the services. There will be no income limit for participating in the program.

The City will announce the service provider after a procurement process and will publicize the availability of the service to the public. The intent is that the City will issue a contract for an amount not to exceed \$50,000 for mental health counseling services, with individuals limited to no more than six counseling sessions to ensure that as many people as possible can participate.

The contractor would bill the City for its services at a fixed hourly rate without identifying the individuals, only the total number of hours in a billing cycle. The identity of individuals would be held confidential by the service provider, the same as any other doctor-patient relationship. Individuals would inquire about the services and make appointments directly with the mental health provider; the City would not be involved in anything more than payments to the provider.

The service would be provided prior to December 30, 2020, subject available funding and demand. The City expects to have the program available to the public by early August.

Small Business Development/ Marketing Services

The City of Kenai will contract with a marketing service provider to assist local businesses that reported gross revenues in 2019 (as per sales tax records or other acceptable forms of proof of revenues) of at least \$10,000 in their marketing, social media and online presence, as businesses focus on repairing the economic damage suffered during the COVID-19-related shutdown and restructuring their business to operate under the new rules of commerce and social activity.

The City will announce the service provider after a procurement process and will publicize the availability of the service to the public. The intent is that the City will issue a contract for an amount not to exceed \$50,000 for a City program that will provide a \$1,000 credit to each eligible small business in Kenai that can be used with the marketing service provider.

The eligibility requirements are similar to the City Small Business Grant and Individual Assistance for Small Business programs. The business must certify it was impacted by the COVID-19 public health emergency and be physically located in Kenai. Once the business has been approved for the program, the marketing service provider will provide an assessment and customize marketing services for each participating business limited to \$1,000 in services covered by the City funding.

The service would be provided prior to December 30, 2020, subject available funding and demand. The City expects to have the program available to the public by early August.

Conclusion

The City of Kenai will administer the grant programs without incurring the additional cost of an outside group or foundation to screen, process or assist in administration of the grant program, except for programs in with the City contracts with a service provider for individual assistance programs.

In order to reach the small businesses and nonprofit organizations and individuals in the City that may be eligible, a successful community outreach strategy is necessary. This strategy will include the following:

- Press Releases to local media
- Direct mail to small businesses, nonprofits, permit holders or other groups
- Coordination with the Kenai Peninsula Economic Development District (KPEDD), Kenai Chamber of Commerce and Visitor Center (KCCVC), and Small Business Development Center (SBDC)
- Social Media posts

Information about the programs as well as application forms, FAQs, a summary of the program and application process, and timetable will be provided on the City's website at www.kenai.city as well as a direct contact email and phone number for inquiries.



Individual Assistance Grant Application (Commercial Fishing)

Section 1 – Applicant Information

Permit holder's name:

Contact (if different from above):

Contact address:
(mailing)

City: State: Zip:

Contact phone number:

Contact email address:

Physical address of permit holder:
(as it appears on permit application to verify residency)

City: State: Zip:

IRS Taxpayer Identification Number (TIN)
(leave blank if using a Social Security Number and the City will contact you for information)

Section 2 – Grant Request Information

Do you hold an Alaska Commercial Fisheries Entry Commission Permit? Yes No

Did you have landings in 2019? Yes No

Was your 2020 fishing income affected by the COVID-19 public health emergency? Yes No

Briefly describe how your fishing income was affected.
(Impacts may include, but are not limited to, lower prices due to decreased customer demand related to business shutdowns and stay-at-home orders, additional operating expenses to meet public health and safety guidelines.)

I am requesting a \$1,000 grant for a commercial fisheries permit holder with 2019 revenues of at least \$25,000 in 2019.

How will the grant funds be used?

(Optional for informational purposes only to gauge community need and program effectiveness)

Please answer the following eligibility questions:

- Do you have an unpaid financial obligation to the City? Yes No
- Do you have a Borough lien for unpaid sales taxes? Yes No
- Are you currently in bankruptcy proceedings? Yes No

(If you answered yes to any of the above questions, you are not eligible for a grant)

Applications must be received or postmarked by 5 p.m. on August 31, 2020, and may be submitted by email to: grantsadmin@kenai.city or hand-delivered or mailed to City of Kenai City Hall at 210 Fidalgo Ave., Kenai, AK 99611, Attn: Grant Review Committee. Applications may be amended before the deadline. Incomplete applications will be rejected. Applicants will be notified of the status of their application via email to the contact person listed on the application. Questions about the grant program, application process, or application status must be directed to Larry Persily, City Project Lead, 283-8226, or email lpersily@kenai.city. If the demand for grants exceeds the City's available funds, the City reserves the right to prorate the grants equally to all recipients to stay within available funding. It is the sole responsibility of the applicant to determine or to seek independent advice as to the tax implications of receiving the grant funds.

As an official signer for the applicant, I certify that the information provided in this application is true and accurate and acknowledge that the funds will be spent by the required deadline of Dec. 30, 2020. I agree to assist in the verification of information provided in this application and to provide additional information to the city, if requested.

Signed: _____ Date: _____

Print Name: _____ Title: _____



Individual Assistance Grant Application (Small Business)

Section 1 – Applicant Information

Business or applicant name:

Contact (if different from above):

Contact address:
(mailing)

City: State: Zip:

Contact phone number:

Contact email address:

Physical address of business:
(business must be located within the City of Kenai)

City: State: Zip:

IRS Taxpayer Identification Number (TIN)
(leave blank if using a Social Security Number and the City will contact you for information)

Section 2 – Grant Request Information

Was your business impacted by the COVID-19 public health emergency? Yes No

Briefly describe how your business was affected by the public health emergency:
(Impacts may include, but are not limited to, loss of sales due to mandatory shutdown, inventory loss, additional operating expenses of reopening and protecting staff and customers, including funds already spent for those purposes.)

I am requesting a \$1,000 grant for a business with 2019 revenues of \$25,000 to \$50,000 (based on the business 2019 total gross sales revenue for four quarters as reported on tax returns to the borough).

How will the grant funds be used?

(Optional for informational purposes only to gauge community need and program effectiveness)

Please answer the following eligibility questions:

1. My business is a C Corporation or a corporate-equivalent entity traded on a foreign stock exchange, and owned in whole or majority-owned by such a publicly traded corporation.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. My business is a national chain that owns and operates a premise in the City of Kenai (individually owned-and-operated local franchises are eligible).	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. My business has an unpaid financial obligation to the City.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. My business has a Borough lien for unpaid sales taxes.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. My business is currently in bankruptcy proceedings.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6. My business lacks a permanent physical presence in the City of Kenai for the sale of goods or provision of services, with at least one worker assigned to that facility (a home-based business would be eligible).	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7. My business is a marijuana business licensed under Alaska Statute 17.38.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

(If you answered yes to any of the above questions, your business is not eligible for a grant)

Do you intend to remain in business into 2021? Yes No

Applications must be received or postmarked by 5 p.m. on August 31, 2020, and may be submitted by email to: grantsadmin@kenai.city or hand-delivered or mailed to City of Kenai City Hall at 210 Fidalgo Ave., Kenai, AK 99611, Attn: Grant Review Committee. Applications may be amended before the deadline. Incomplete applications will be rejected. Applicants will be notified of the status of their application via email to the contact person listed on the application. Questions about the grant program, application process, or application status must be directed to Larry Persily, City Project Lead, 283-8226, or email lpersily@kenai.city. If the demand for grants exceeds the City's available funds, the City reserves the right to prorate the grants equally to all recipients to stay within available funding. It is the sole responsibility of the applicant to determine or to seek independent advice as to the tax implications of receiving the grant funds.

As an official signer for the applicant, I certify that the information provided in this application is true and accurate and acknowledge that the funds will be spent by the required deadline of Dec. 30, 2020. I agree to assist in the verification of information provided in this application and to provide additional information to the city, if requested.

Signed: _____ Date: _____

Print Name: _____ Title: _____



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020 - 57

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AUTHORIZING THE AWARD OF A CONSTRUCTION AGREEMENT FOR THE PENINSULA AVENUE BLUFF EROSION REPAIR PROJECT.

WHEREAS, the City of Kenai released an Invitation to Bid on May 31, 2020 with Bids due on June 19, 2020; and,

WHEREAS, the City received four bids as indicated below

Company	Bid
Foster Construction	\$94,670
G&H Construction	\$97,440
Great Northern Construction	\$156,196
Knik Construction	\$162,160

; and,

WHEREAS, Foster Construction was found to be the lowest responsive responsible bidder; and,

WHEREAS, the Director of Public Works recommends award to Foster's Construction in the best interest of the City; and,

WHEREAS, funding for this project is provided through a Department of Commerce, Community, and Economic Development Grant Agreement, Grant number 12-DC-377.

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

Section 1. That the Kenai City Council authorizes the City Manager to execute a construction contract with Foster's Construction in the amount of \$94,670 for the Peninsula Avenue Bluff Erosion Repair Project.

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

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance:



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Scott Curtin, Public Works Director

DATE: June 24, 2020

SUBJECT: Resolution 2020-57 – Peninsula Avenue Bluff Erosion Repair Project

The Bluff near 607 Peninsula Avenue has continued to deteriorate due to storm water infrastructure, and over the course of the last year, is now approaching the actual roadway itself. Larsen Engineering and Design has developed a set of construction documents to address the needed repairs which include a new storm water manhole, new conveyance piping down to the beach, and rip rap at the outfall.

The project was released on May 31, 2020 and Foster’s Construction was found to be the successful bidder. The Work will take place late summer and into the fall, but is expected to be completed before winter sets in. The Public Works Department is in support of this project and award to Foster’s Construction is in the best interest of the City.

Council’s support is respectfully requested.





Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020 - 58

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AUTHORIZING THE AWARD OF A CONSTRUCTION AGREEMENT FOR THE KENAI BEACH VAULT RESTROOMS PROJECT.

WHEREAS, the City of Kenai released an Invitation to Bid on June 14, 2020 with Bids due on June 29, 2020; and

WHEREAS, the City received XXXXX bids as indicated below

Contractor	Bid
XXXXXXXX	XXXXXX
XXXXXXXX	XXXXXX
XXXXXXXX	XXXXXX

; and,

WHEREAS, XXXXXXXX was found to be the lowest responsive responsible bidder; and,

WHEREAS, the Director of Public Works recommends award to XXXXXXXX is in the best interest of the City; and,

WHEREAS, funding for this project is being provided through a Department of Commerce, Community, and Economic Development Grant Agreement, Grant number 15-DC-078.

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

Section 1. That the Kenai City Council authorizes the City Manager to execute a construction contract with XXXXXXXX in the amount of XXXXXXXX.

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

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: _____



MEMORANDUM

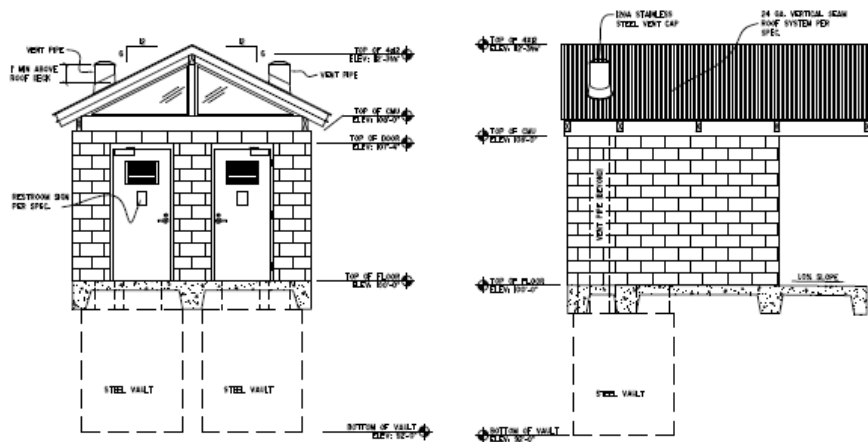
TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Scott Curtin, Public Works Director
DATE: June 24, 2020
SUBJECT: Resolution 2020-58 – Vault Restrooms

In coordination with Nelson Engineering, who designed the existing beach vault restrooms, construction documents were developed to provide four new vault restrooms in three different locations. One new restroom will be located adjacent to the existing vault restrooms at the end of South Spruce Street on North Beach, two new restrooms will be located adjacent to Meek’s trail on Kenai Avenue on North Beach, and one new restroom will be placed near the fee shack at the end of Royal Street on South Beach.

Project was released for Bid on June 14, 2020 with Bids due on June 29, 2020. As a result of the bid due date being two days prior to the Council Meeting, a substitute Resolution will be provided to Council the day of the meeting to fill in the XXXXXX information on the Resolution included in the packet.

Temporary facilities will be provided during the upcoming personal use fishery similar to years past. Construction will start after the fishery and is expected to be completed before winter sets in.

Council’s support is respectfully requested.





Sponsored by: Council Member Knackstedt

CITY OF KENAI

RESOLUTION NO. 2020-59

A RESOLUTION OF THE CITY OF KENAI, ALASKA, REQUESTING THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES WARRANTY AND MAINTAIN RESPONSIBILITY FOR BEAVER LOOP ROAD IMPROVEMENTS FOR A REASONABLE TIME AFTER THE CITY BEGINS MAINTENANCE ACTIVITIES.

WHEREAS, in 2012 the City and State of Alaska Department of Transportation and Public Facilities (the State) entered into an agreement for the State to improve Beaver Loop Road and the City to assume ownership and future maintenance responsibilities; and,

WHEREAS, on February 6, 2019 the City accepted a quitclaim deed for the road; and,

WHEREAS, the State designed, permitted and performed construction management of improvements to Beaver Loop Road that is now at or near substantial completion; and,

WHEREAS, the City was not part of construction management and is not a party to the warranty from the contractor and did not direct the contractor's work; and,

WHEREAS, the City desires to ensure that should unforeseen problems with Beaver Loop Road improvements come to light with regard to construction, product or design deficiencies, the State will take responsibility for any such issues, beyond the City's maintenance responsibilities.

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

Section 1. That the City of Kenai requests the State provide warranty assurances to the City that it will maintain responsibility for the workmanship, products and design of the Beaver Loop Improvements for 3 years after final completion.

Section 2. That a copy of this Resolution will be provided to DOTPF Commissioner John MacKinnin.

Section 3. That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of July, 2020.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Council Member Henry Knackstedt

DATE: June 23, 2020

SUBJECT: **Resolution No. 2020-59 – Warranty and Maintaining Responsibility for Beaver Loop Road Improvements**

The State and its contractor are at or near substantial completion of improvements to Beaver Loop Road. Pursuant to the City's agreement with the State executed in 2012 (attached), the City has taken ownership of the road and will be responsible for future maintenance. The State designed, permitted and performed construction management of the improvements to the road. If any defects in the design, construction or products used are discovered going forward, the State should ensure these potential issues are addressed and not leave it up to the City to remedy as the City does not have any warranty from the contractor that the State may have. Likewise the City did not have oversight of the work to ensure its quality.

Your consideration of this Resolution is appreciated.

Memorandum of Agreement
Between the State of Alaska
Department of Transportation and Public Facilities
and the City of Kenai
Regarding the Improvement and Transfer of
Beaver Loop Road - Bridge Access Road to Kenai Spur Highway
Project No. 53456

The Parties to this Agreement are the State of Alaska acting through its Department of Transportation and Public Facilities (hereafter DOT&PF) and the City of Kenai, a City established under Alaska law (hereafter the City).

WHEREAS, A.S.19.20.060 authorizes the State and the City to enter into agreements for establishing, maintaining, and regulating use of public ways within their respective jurisdictions, and

WHEREAS, the City requests DOT&PF to plan, design, and construct the Beaver Loop Road Improvement and Pedestrian Pathway Project, identified as Project No. 53456 (hereafter known as the Project), located within the boundaries of the City of Kenai, and

WHEREAS, the DOT&PF agrees to fund and construct the Project and will provide all labor, materials and equipment necessary to construct the Project in accordance with the provisions contained within the Project documents and plans, and

WHEREAS, DOT&PF owns that portion of Beaver Loop Road covered by this Project and desires to transfer all of its existing rights and future maintenance of the right of way to the City, and

WHEREAS, the City agrees to accept, by Commissioner's Quit Claim Deed, all of the existing rights and future maintenance of Beaver Loop Road, and

WHEREAS, it has been determined that this work will serve the public interest and enhance the quality of life for the residents of, and visitors to, the City, and

WHEREAS, the parties hereto wish to memorialize within this document, hereinafter referred to as the "Agreement", their specific agreements related to the Project and the maintenance and operations of the facility,

IT IS THEREFORE AGREED by the parties, in consideration of the mutual promises contained in this Agreement, as set forth below, regarding the planning, design, construction, maintenance, transfer of right of way and operation of the Project.

1. PLANNING, DESIGN, AND CONSTRUCTION

- a. DOT&PF shall plan, design, and construct the Project within the approved scope and funding. The City shall have no claim against DOT&PF for cost overruns or if the money available is not adequate to complete the Project.
- b. DOT&PF shall be responsible for permitting all utility relocations necessary for this Project.

2. SCOPE OF WORK

The scope of the improvements to Beaver Loop Road being implemented under this agreement are depicted within the drawings for the Project. Generically, the improvements include, but are not limited to, resurfacing the existing roadway adding 4 foot paved shoulders and a separated pedestrian pathway.

3. MAINTENANCE AND OPERATIONS

- a. The City agrees to maintain and operate the transferred road after substantial completion of the construction of the Project.
- b. The City shall perform its activities under this Agreement at its sole cost and expense and without reimbursement from DOT&PF. The City's maintenance activities include, but are not limited to:
 - 1) Planning, scheduling, administration, and logistics of maintenance activities;
 - 2) Traffic control and safety;
 - 3) Preservation of drainage in an as-built condition, including maintenance of all culverts, ditches, storm sewers, gutters, dry wells, and under-drains;
 - 4) Embankment protection, including erosion control, to as-built conditions;
 - 5) Roadside management;
 - 6) Snow and ice removal;
 - 7) Snow and ice control, including all plowing, sanding, culvert and storm sewer thawing, snow hauling, winging, opening of shoulders, ice scraping, drift control, snow slide removal, and associated tasks as may be required for the safe and timely passage of the public;
 - 8) Maintaining signs and delineators in an as-built condition and their replacement, including posts and foundations, when damaged, unreadable, or worn out;
 - 9) Highway marking and repainting as required maintaining performance of their intended function;
 - 10) Repair of street lights as required to ensure a functioning system, including repair/replacement of lenses, light bulbs, photo cells, contacts, relays, and wiring;
 - 11) Removal of debris, rubbish, and dead animals;
 - 12) Signing of seasonal weight restrictions as may be required by local conditions;
 - 13) Pothole repair using asphalt products on an as-needed basis;

- 14) Annual crack sealing;
- 15) Repairs of minor rutting, waves, sags, humps, corrugations, raveling, alligator cracks, pitting, and bleeding on an as-needed basis.

4. TITLE TRANSFER

- a. Upon completion of preliminary design and approval of an environmental document, the City will have an opportunity to review and accept the scope of the project. After the City has accepted the scope of the project and prior to final design and construction of the proposed improvements DOT&PF shall execute and the City shall accept a quitclaim deed that conveys all of DOT&PF's right, title, and interest in Beaver Loop Road and the Project to the City, subject to utility permits issued under 17 AAC 15, encroachment permits issued under 17 AAC10.010 through 17 AAC 10.015, and driveway permits issued under 17 AAC 10.020 through 17 AAC 10.990. A draft copy of the quitclaim deed is attached for reference.

5. DISPUTE RESOLUTION

- a. If a dispute arises under this Agreement between the City and DOT&PF, and the parties cannot resolve the matter between them within 45 days after the aggrieved party gives notice to the other party, the aggrieved party may request that the matter be resolved by arbitration.
- b. Each party shall appoint an arbitrator to hear the dispute. The two arbitrators acting together shall select a third arbitrator to join them on an arbitration panel. The three arbitrators shall hear the matter under such rules and procedures as they deem necessary to conduct the proceedings.
- c. Each party shall pay the expenses of the arbitrator it appoints. The party against whom a decision is rendered shall pay the costs of the arbitrator selected by the arbitrators appointed by the parties, and all expenses incurred in the conduct of any hearing on the dispute.
- d. Except when the provisions of this paragraph (5) provide otherwise, any arbitration under this paragraph is subject to AS 09.43.010-09.43.180, the Uniform Arbitration Act.
- e. A decision by the Federal Government denying, or limiting, federal participation in project costs may not be arbitrated under this Agreement. The City may only pursue such claims under federal law and procedure.

6. INDEMNIFICATION

To the maximum extent allowed by law, the City shall indemnify, defend, and hold the Department, its officers, employees, and agents (collectively the "Indemnified Parties") harmless from all liability, claims, causes of action, and costs (including attorney's fees) arising out of this Agreement or relating to the obligations assigned or work performed under this Agreement, including, but not limited to, liability, claims, and causes of action alleging or arising out of a negligent act or omission by one of the Indemnified Parties.

Notwithstanding the forgoing, the City shall have no obligation to indemnify, defend, or hold the Indemnified Parties harmless from:

- (a) claims for personal injury, death, or property damage arising from incidents occurring prior to Substantial Completion;
- (b) claims for personal injury, death, or property damage alleging a negligent act or omission by one of the Indemnified Parties and arising from incidents occurring within three years from the date of Substantial Completion; or
- (c) claims arising from or asserted under AS 46.03.822.

As used in this Section, "Substantial Completion" means the time at which the Project (a) can be safely and effectively used by the public without further delays, disruption, or other impediments, and (b) pavement structure, shoulder, drainage, sidewalk, permanent signing and marking, guardrail and other traffic barrier, safety appurtenances, utilities, lighting, and bridge deck and parapet work is complete.

7. AMENDMENT OF AGREEMENT

This Agreement may only be modified or amended by written agreement on the prescribed Supplemental Agreement forms signed by both parties.

8. THE WHOLE AGREEMENT

This Agreement constitutes the entire agreement between the parties. There are no other understandings or agreements between the parties, either oral or memorialized in writing regarding the matters addressed in this Agreement. The parties may not amend this Agreement unless agreed to in writing with both parties signing through their authorized representatives.

CITY OF KENAI

By: [Signature] _____
 Rick Koch
 City Manager
[Signature] _____
 Date

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

On this 15 day of JUNE, 2012, Rick Koch, City Manager acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.



[Signature]
 Notary Public, State of Alaska
 My commission expires: w/office

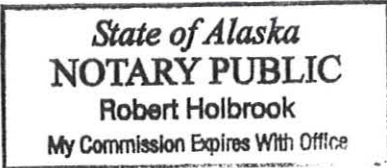
STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITY

By: [Signature] _____
 Robert A. Campbell, P.E.
 Regional Director
[Signature] _____
 Date

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

On this 15th day of JUNE, 2012, Robert Campbell, Regional Director of the DOT&PF of Transportation and Public Facilities, acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.



[Signature]
 Notary Public, State of Alaska
 My commission expires: w/office



COMMISSIONER'S QUITCLAIM DEED

THE GRANTOR, STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, whose mailing address is P.O. Box 196900, Anchorage, AK 99519-0690, hereinafter referred to as “the State”, acting by and through its Commissioner, under the authority of A.S. 19.05.070, for and in consideration of mutual benefits, subject to the below-described interests and conditions, does hereby remise, release, and quitclaim unto the GRANTEE, the **CITY OF KENAI**, whose mailing address is 210 Fidalgo Avenue, Kenai, Alaska 99611, hereinafter referred to as “the City”, the Grantee’s successors and assigns forever, all right, title, and interest, if any, not herein reserved unto the State, in and to that real property and all improvements located thereon situated in the Kenai Recording District, Third Judicial District, State of Alaska, more particularly described as follows:

All of the following road as shown on Plat No. 2014-104, located within Sections 1, 2, 4, 9, 10, and 11, Township 5 North, Range 11 West and Section 36, Township 6 North, Range 11 West, Seward Meridian, Kenai Recording District, Third Judicial District, State of Alaska, or as may be amended.

1. **Beaver Loop Road**: Starting at its intersection with Kenai Spur Highway approximately M.P. 0.0 and proceeding south 3.7 miles to its intersection with Bridge Access Road.

The Grantee takes title to the conveyed property subject to:

- (a) All rights reserved by the State of Alaska, pursuant to Art. 8, Section 9, of the Alaska State Constitution, AS 38.05.125, and AS 38.05.130;
- (b) All existing legal or equitable rights, easements, reservations, or restrictions of third parties, including other state agencies, recorded or unrecorded.

In consideration of this conveyance, the Grantee agrees as follows:

1. The City is familiar with the property described above, including all rights-of-way, improvements, and structures located thereon hereafter referred to as the “road”.
2. The Grantee represents that it has inspected the above-described property and has had sufficient opportunity to perform an environmental assessment of that property for the purpose of determining whether any hazardous material contaminates the property. For purposes of this agreement, a “hazardous material” is any chemical, metal, petroleum product, or other substance (or any combination of hazardous materials) that is designated as “hazardous” by the U.S. Environmental Protection Agency and that is regulated by any government agency in any quantity as a contaminant, hazardous material, or threat to health or safety. The Grantee, by accepting this conveyance, recognizes that Grantor makes no representations concerning the presence or absence of any hazardous material on the property. Grantee, by accepting this conveyance, releases and indemnifies Grantor, but not Grantor’s predecessors in interest, from all risk, cost, and responsibility should any hazardous material contamination of the property be found to exist subsequent to the transfer of title under this deed.

Return to: State of Alaska
DOT&PF ROW Engineering
P.O. Box 196900
Anchorage, AK 99519-6900
State Business-No Charge

3. Upon acceptance of this Deed by the City, the State shall cease ownership, maintenance, and operation of the road and the City shall be solely responsible for its ownership, maintenance and operation. Notwithstanding the City's responsibilities stated herein, the State shall provide for maintenance and operations of the facility until Substantial Completion of the construction of the Beaver Loop Road Improvement and Pedestrian Pathway Project, identified as Project No. 53456.

In addition to the conveyance described above, and relating to the property and property interests therein conveyed to the City, the State hereby assigns to the City all its rights, powers, interests, and privileges in or arising from each and every one of the utility permits listed below:

<u>Permit Number</u>	<u>Permittee</u>	<u>Facility</u>
1-117770-05-067	ACS	underground telecom
1-Z534560000-17-57	ACS of the Northland, LLC	
1-117770-15-013	APC	natural gas transmission line
1-117623-69-001	Better Concrete	culvert
1-117790-11-107	CINGS	buried natural gas mainline
1-117770-14-167	ENSTAR	natural gas service line
1-117770-10-232	ENSTAR	natural gas mainline
1-117770-05-350	ENSTAR	natural gas service line connect
C03-047	ENSTAR	natural gas service line connect
C96-064	ENSTAR	natural gas service line connect
C95-187	ENSTAR	natural gas service line connect
C96-028	ENSTAR	natural gas service line connect
C04-071	ENSTAR	main connect 2"
C93-157	ENSTAR	service line
C92-153	ENSTAR	service line
C87-050	ENSTAR	main bore
1-Z534560000-17-59	ENSTAR	
1-117770-07-303	GCI	buried & aerial telecommunications facility
1-Z534560000-17-60	GCI	
1-117623-84-119	GSTC	underground communication cable
1-117623-84-019	GSTC	underground communication cable
1-117623-83-585	GSTC	underground communication cable
1-117623-83-566	GSTC	underground telecommunications facility
1-117623-83-303	GSTC	underground telephone facility
1-117623-83-003	GSTC	buried communications
1-117623-82-318	GSTC	underground telephone facility
1-117623-80-008	GSTC	underground telephone facility

<u>Permit Number</u>	<u>Permittee</u>	<u>Facility</u>
1-117770-11-049	HEA	overhead electric line
1-117770-10-324	HEA	buried primary electric line
1-117623-85-508	HEA	overhead electrical distribution
1-117623-69-001	HEA	electric distribution line
1-117623-68-001	HEA	pole line
C95-224	HEA	overhead secondary service line
C93-182	HEA	overhead secondary service line
C90-205	HEA	street light
C87-010	HEA	street light
1-Z534560000-17-61	HEA	
1-Z534560000-17-62	HEA Line Extension	
1-117623-83-390	Inlet Visions	telecommunications facility
1-117770-13-085	Kenai	buried sewer main line
1-117770-13-084	Kenai	buried water main line
1-117770-11-317	Kenai	buried water main line
1-117623-67-001	Kenai	sewer line crossing
1-117770-10-342	Kenai	buried water main
1-117770-10-343	Kenai	buried sewer main
1-117623-77-023	KUSCo	gas line casing
1-117600-67-011	KUSCo	buried gas line
C84-259	KUSCo	gas service line
C84-099	KUSCo	3/4" gas line tap
C84-074	KUSCo	2" gas line tap
C80-121	KUSCo	natural gas service line connect
C83-024	KUSCo	2" gas line
C81-109	KUSCo	3/4" natural gas service line
C80-102	KUSCo	natural gas service line connect
1-117623-91-165	Prime Cable	underground telecommunications facility
1-117623-94-228	PTI	buried telephone cable
1-117623-98-142	PTI	buried telephone cable
C93-005	Union Oil	natural gas transmission line
C93-028	Union Oil	natural gas transmission line

The GRANTEE’S signature on the Certificate of Acceptance below constitutes acceptance of the above-described real property as well as the terms and conditions of this conveyance.

STATE OF ALASKA, DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITY

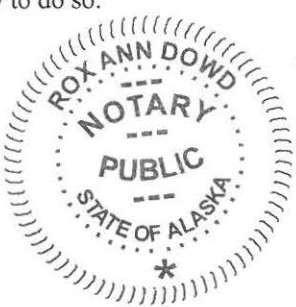
By: [Signature] 12-10-18
Dave Kemp, P.E., PMP Date
Regional Director

NOTARY ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

[Signature] Diana Rotkis for Dave Kemp

On this 10th day of December, 2018, Dave Kemp, Central Region Director of the DOT&PF of Transportation and Public Facilities, acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.



[Signature]
Notary Public, State of Alaska
My commission expires: End of Office

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the City of Kenai, Grantee herein, hereby accepts the conveyance of real property, or interest therein, described in this instrument and consents to the recordation thereof:

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of FEBRUARY, 2018.

CITY OF KENAI

By: [Signature] 2/6/19
Paul Ostrander, City Manager Date

**KENAI CITY COUNCIL – REGULAR MEETING
JUNE 3, 2020 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai City Council was held on June 3, 2020, in City Hall Council Chambers, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Mayor Gabriel led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

- | | |
|----------------------|-----------------|
| Brian Gabriel, Mayor | Robert Molloy |
| Henry Knackstedt | Tim Navarre |
| Jim Glendening | Robert Peterkin |
| Glenese Pettey | |

A quorum was present.

Also in attendance were:

- Paul Ostrander, City Manager
- Scott Bloom, City Attorney
- Jamie Heinz, City Clerk

3. Agenda Approval

Mayor Gabriel noted the following revisions to the agenda and packet:

- Add to item D.1. **Ordinance No. 3127-2020**
 - Memo Requesting Postponement

- Add to item D.2. **Ordinance No. 3128-2020**
 - Memo Requesting Postponement

- Add to item D.9. **Resolution No. 2020-39**
 - Supplemental Information – FAQ’s and Applications

- Add to item J.1. **City Manager’s Report**
 - Letter from Alaska Department of Transportation

MOTION:

Vice Mayor Molloy **MOVED** to approve the agenda with the requested additions to the agenda and packet and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion.

VOTE: There being no objections, **SO ORDERED**.

4. Consent Agenda

MOTION:

Council Member Knackstedt **MOVED** to approve the consent agenda and requested **UNANIMOUS CONSENT**. Vice Mayor Molloy **SECONDED** the motion.

The items on the Consent Agenda were read into the record.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

VOTE: There being no objections, **SO ORDERED**.

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

B. SCHEDULED PUBLIC COMMENTS – None.

C. UNSCHEDULED PUBLIC COMMENTS – None.

D. PUBLIC HEARINGS

- 1. **Ordinance No. 3127-2020** - Repealing and Replacing Kenai Municipal Code Title 6 - Elections to Provide Clarity, Process Improvements, and Increase Voter Accessibility through Vote By Mail Elections. (Council Member Peterkin)

MOTION:

Council Member Peterkin **MOVED** to enact Ordinance No. 3127-2020 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing.

Kenai Peninsula Borough Assembly Member Cox noted the borough’s version of the ordinance passed today and was up for reconsideration at the next Borough Assembly meeting.

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

MOTION TO POSTPONE:

Council Member Peterkin **MOVED** to postpone Ordinance No. 3127-2020 to the July 1, 2020 Council meeting and Vice Mayor Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

The Council discussed and set a work session meeting date of Thursday, June 18 at 5 p.m.

MOTION TO AMEND:

Vice Mayor Molloy **MOVED** to hold a public hearing of Ordinance No. 3127-2020 at the July 1, 2020 meeting and Council Member Knackstedt **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

VOTE ON THE AMENDMENT: There being no objections, **SO ORDERED.**

VOTE ON THE MOTION TO POSTPONE AS AMENDED: There being no objections, **SO ORDERED.**

- 2. **Ordinance No. 3128-2020** - Amending Kenai Municipal Code Section 1.85.040 – Records Public, To Provide For a Record Retention Length. (City Clerk)

MOTION:

Vice Mayor Molloy **MOVED** to enact Ordinance No. 3128-2020 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

MOTION TO POSTPONE:

Council Member Knackstedt **MOVED** to postpone Ordinance No. 3128-2020 to the July 1, 2020 Council meeting and Council Member Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT.**

VOTE ON POSTPONEMENT: There being no objections, **SO ORDERED.**

- 3. **Ordinance No. 3129-2020** – Accepting and Appropriating Private Donations to the Kenai Animal Shelter for the Care of Animals. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3129-2020 and Council Member Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Gratitude was expressed for the donations.

VOTE:

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel
 NAY:

MOTION PASSED UNANIMOUSLY.

4. **Resolution No. 2020-34** - Authorizing the City Manager to Extend the Restaurant Concession Agreement in the Kenai Municipal Airport for One Year. (Administration)

MOTION:

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2020-34 and requested **UNANIMOUS CONSENT**; Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

Clarification was provided the contract extension was for one year.

VOTE: There being no objections, **SO ORDERED.**

5. **Resolution No. 2020-35** - Approving the Fourth Amendment to the Airline Operating Agreement and Terminal Area Lease and Authorizing the City Enter Into Such Agreement with Grant Aviation, Inc. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-35 and requested **UNANIMOUS CONSENT**; Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

It was clarified this was the fourth amendment for the airline agreement for five-years with Grant Aviation; rates would be effective July 1, 2020. It was added that in the first year, there were no changes in rates, starting in the second year there would be an increase in rental rate, and reducing joint space subsidy by two-percent per year.

VOTE: There being no objections, **SO ORDERED.**

6. **Resolution No. 2020-36** - Authorizing a Budget Transfer in the Airport Fund, Airfield Department for Costs in Excess of Budgeted Amounts. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-36 and Council Member Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Clarification was provided that it was anticipated that the amendment was sufficient to cover costs through the end of the fiscal year.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

- 7. **Resolution No. 2020-37** - Supporting the Kenai Peninsula Borough Assembly Establishing the Resilience and Security Advisory Commission For The Kenai Peninsula Borough. (Vice Mayor Molloy)

MOTION:

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2020-37 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing.

Assembly Member Cox noted he was a sponsor of Borough Ordinance 2020-25 and requested support for the establishment of the Resilience and Security Advisory Commission for the Kenai Peninsula Borough.

Ben Boettger expressed support for a Commission like this; noting sustainability, tapping local specialists, energy efficiencies, sustainable waste management, local crude development, landfill gas project, land management, and grants available to explore which could help with community projects. He added that the University of Alaska Anchorage was creating a bridge between the Borough, the community groups and private interest, but having an advisory commission would increase likelihood of ideas being carried out with minimal expense.

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

Council Member Peterkin disclosed he was a volunteer board member of Maddie’s Farm; Mayor Gabriel determined there was no conflict.

It was suggested that the City of Kenai have a seat on the Commission and concern was noted regarding no end date or way of monitoring the results of the commission.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend Resolution No. 2020-37 by adding a 7th whereas clause to read, “Whereas, the City of Kenai recommends the commission sunsets three (3) years after its creation.” Council Member Navarre **SECONDED** the motion.

MOTION TO AMEND THE AMENDMENT:

Vice Mayor Molloy **MOVED** to amend the amendment by requesting the Kenai Peninsula Borough amend Section 7 of borough ordinance 2020-25 accordingly. Council Member Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT.**

VOTE ON AMENDMENT OF AMENDMENT: There being no objections, **SO ORDERED.**

UNANIMOUS CONSENT of main amendment was requested.

VOTE ON AMENDMENT AS AMENDED: There being no objections, **SO ORDERED.**

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend Resolution No. 2020-37 4th whereas clause by adding “Borough” in front of mayor and Vice Mayor Molloy **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

VOTE: There being no objections, **SO ORDERED**.

Council Member Knackstedt **MOVED** to amend Resolution No. 2020-37 by adding a 7th whereas clause to read, “Whereas, it is in the best interest of the City of Kenai to have an appointed member on the Commission.” Vice Mayor Molloy **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

VOTE: There being no objections, **SO ORDERED**.

VOTE ON MAIN MOTION AS AMENDED:

YEA: Pettey, Molloy, Peterkin, Navarre, Gabriel, Knackstedt
NAY: Glendening

MOTION PASSED.

- 8. **Resolution No. 2020-38** - Authorizing the City Manager to Enter into an Agreement with the City of Soldotna to Provide Animal Shelter Services for the City of Soldotna at the Kenai Animal Shelter. (Administration)

MOTION:

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2020-38 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager provided an overview of the positive collaboration between the cities of Kenai and Soldotna.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED**.

- 9. **Resolution No. 2020-39** - Approving a Grant Disbursement Program for Small Businesses and Non-Profit Organizations Utilizing Funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-39 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing.

Robert Ruffner with the Alaska Salmon Alliance noted support for City Administration in moving these funds forward to make available locally, noting additional expenses occurred that are directly related to mitigating COVID-19 and would appreciate consideration of this sector, including fish processors.

The City Clerk read into record the comments from Pacific Star Seafoods Plant Manager, Nate Berga, requesting that Council consider a grant amount of \$25,000 for companies with a large employee base, such as Pacific Star Seafoods.

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

The City Manager announced the team that collaborated and put the program together noting the response from agencies around the state was positive. The City of Kenai grant program was being evaluated for use by the Alaska Municipal League and Valdez Task Force. The intent was to make it simple for the applicant, administrative review, and quick turnaround.

The Project Lead provided additional information about the program, the reasoning behind the process, and eligibility review expectations.

The Finance Director provided clarification on City of Kenai financial obligations, how grant amounts were determined, and gross sales tax data of the local businesses as reported by the Kenai Peninsula Borough.

The City Manager provided clarification regarding concerns expressed with the commercial fishing industry.

MOTION TO AMEND:

Council Member Navarre **MOVED** to amend Resolution No. 2020-39 to include language that any leftover funds of \$3 million automatically be proportioned to small businesses and Council Member Peterkin **SECONDED** the motion.

VOTE:

YEA: Gabriel, Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening

NAY:

MOTION PASSED UNANIMOUSLY.

MOTION TO AMEND:

Council Member Peterkin **MOVED** to amend Resolution No. 2020-39 to change small business grant payout amounts by fifty percent.

MOTION FAILED for lack of a second.

VOTE ON MAIN MOTION AS AMENDED:

YEA: Gabriel, Knackstedt, Pettey, Molloy, Navarre, Glendening

NAY: Peterkin

MOTION PASSED.

10. **Resolution No. 2020-40** - Further Extending the Disaster Emergency Declaration for the City of Kenai Made on March 18, 2020 in Response to the COVID-19 Pandemic. (Administration)

MOTION:

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2020-40 and Council Member Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager clarified that the City of Kenai emergency declaration was expiring and the situation has not changed at all so it would continue to allow the same executive order authority to the City Manager and allow the Incident Management Team to be in place. The City Attorney assured Council it was still in the best interest of the City to have this Emergency Declaration in place and the City was in line with the Borough.

MOTION TO AMEND:

Council Member Peterkin **MOVED** to amend Resolution No. 2020-40 by removing the word “pandemic” and replacing with “health emergency” and Council Member Glendening **SECONDED** the motion.

UNANIMOUS CONSENT was requested.

Clarification was provided that the dipnet fishery was a state managed fishery authorized under state law and the City of Kenai did not have the authority to shut it down due COVID-19 but could enact and enforce mandates to protect public health.

VOTE: There being no objections, **SO ORDERED.**

E. MINUTES

- 1. *Work Session Summary of May 18, 2020. (City Clerk)

Approved by the consent agenda.

- 2. *Regular Meeting of May 20, 2020. (City Clerk)

Approved by the consent agenda.

F. UNFINISHED BUSINESS – None.

G. NEW BUSINESS

- 1. ***Action/Approval** – Bills to be Ratified. (Administration)

Approved by the consent agenda.

- 2. ***Action/Approval** – Special Use Permit to Crowley Fuels, LLC for Aircraft Loading and Parking on the Apron. (Administration)

Approved by the consent agenda.

- 3. ***Action/Approval** – Special Use Permit to Empire Airlines, Inc. for Aircraft Parking on the Apron. (Administration)

Approved by the consent agenda.

- 4. ***Action/Approval** – Special Use Permit to Everts Air Fuel, Inc. for Aircraft Loading and Parking on the Apron. (Administration)

Approved by the consent agenda.

- 5. ***Action/Approval** – Special Use Permit to United Parcel Service Company for Aircraft Loading and Parking on the Apron. (Administration)

Approved by the consent agenda.

- 6. ***Ordinance No. 3131-2020** - Amending the Official Kenai Zoning Map by Rezoning a Portion of S1/2 SE1/4 SW1/4 Lying North of K-Beach Road Excluding VIP Country Estates Subdivision Part 5 from Rural Residential (RR) to Limited Commercial (LC). (Administration)

Introduced by the consent agenda and public hearing set for June 17, 2020.

- 7. ***Ordinance No. 3132-2020** - Increasing Estimated Revenues And Appropriations by \$454.84 in the General Fund – Police Department for Drug Investigation Overtime Expenditures. (Administration)

Introduced by the consent agenda and public hearing set for June 17, 2020.

- 8. ***Ordinance No. 3133-2020** - Authorizing a Budget Transfer in the Airport Terminal Improvement Capital Project Fund and Appropriating FY2020 Budgeted Funds in the Airport Master Plan Capital Project, Airport Snow Removal Equipment and Airport Operations Facility Improvement Capital Project Funds for Heating, Ventilation and Air Conditioning (HVAC) Improvement to the Airport Operations Facility and Replacement of the Airport’s Wide Area Mower. (Administration)

Introduced by the consent agenda and public hearing set for June 17, 2020.

- 9. ***Ordinance No. 3134-2020** - Appropriating Funds in the Water & Sewer Improvement and Wastewater Treatment Facility Improvement Capital Project Funds for FY2021 Capital Improvement Plan Projects. (Administration)

Introduced by the consent agenda and public hearing set for June 17, 2020.

10. ***Ordinance No. 3135-2020** - Appropriating FY2020 Budgeted Funds in the Kenai Multipurpose Facility Improvements Capital Project Fund for Installation of an Exhaust Fan and Corrosion Remediation. (Administration)

Introduced by the consent agenda and public hearing set for June 17, 2020.

11. **Resolution No. 2020-26** - Amending its Comprehensive Schedule of Rates, Charges, and Fees to Incorporate Changes Included in the FY2021 Budget to Include Adjusting the Kenai Municipal Airport Apron Rental Rates, Airport Reserve Land Annual Lease Rates, and Adjusting the Monthly Rental Rates at Vintage Pointe. (Administration)
[Clerk's Note: This resolution was adopted at the 05/20/2020 meeting. It has been discovered that five of the new rates calculated for Vintage Pointe rents were incorrect. A motion to amend something previously adopted is in order and, as such appearance on this agenda serves as notice.]

MOTION TO AMEND:

Council Member Navarre **MOVED** to amend Resolution No. 2020-26 as previously adopted, Section 2, Vintage Pointe Rents for units with rental agreements grandfathered per the City's policy before June 30, 2020 by the following: the rental rate for apartment 1-B 637 sq ft Ocean Side to \$959.35; the rental rate for apartment 1-C 682 sq ft Ocean Side to \$959.35; the rental rate for apartment 2-B 876 sq ft Street Side to \$1,022.39; the rental rate for apartment 2-B 876 sq ft Ocean Side to \$1,080.17; and the rental rate for apartment 2-C 789 sq ft Ocean Side to \$1,064.40. Council Member Peterkin **SECONDED** the motion.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

H. COMMISSION/COMMITTEE REPORTS

1. Council on Aging – No report; next meeting June 11.
2. Airport Commission – No report; next meeting June 11.
3. Harbor Commission – No report; next meeting June 8.
4. Parks and Recreation Commission – The meeting this month was canceled; next meeting August 6.
5. Planning and Zoning Commission – It was reported the Commission met on May 27 and approved two plats and discussed review of criteria for variances; next meeting June 10.
6. Beautification Committee – It was reported that the volunteers planted at the end of May and were thanked with a certificate for their participation; the next meeting is in September.
7. Mini-Grant Steering Committee – No report.

I. REPORT OF THE MAYOR

Mayor Gabriel reported he attended the Avenue of Flags Ceremony for Memorial Day at the Kenai Cemetery, although disappointingly due to COVID-19, the annual ceremony at the Leif Hansen Memorial Park was canceled this year.

J. ADMINISTRATION REPORTS

1. City Manager – City Manager P. Ostrander reported on the following:
 - Provided an overview of current opening statuses of City facilities and employment statuses and leave due to COVID-19;
 - Ongoing discussions with Chamber of Commerce regarding Independence Day Parade;
 - Discussions with Salamatof Native Corporation regarding young adults working around town;
 - Offering free advertising on the Dipnet App for businesses due to COVID-19;
 - Provided an Airport Terminal Rehabilitation Project update;
 - Provided an update on EagleCam viewership;
 - Provided an update on the Bluff Erosion Project, Project Engineering and Design Agreement and the possibility of a 221 Agreement;
 - Noted a Letter submitted by the Alaska Department of Transportation regarding the bike path project on Bridge Access Road.

There was discussion on the anticipated amount of the match for the bike path project, the length of the project, the funding source for the match, the Capital Improvement Project List, and the implications of waiting for legislative assistance and the 2021 construction season.

MOTION:

Council Member Navarre **MOVED** to give direction to the City Manager to notify DOT that we are prepared to move ahead with the local match and Council Member Peterkin **SECONDED** the motion.

There was additional discussion regarding current projects being completed using appropriated funds and possibility of utilizing restricted Daubenspeck Funds, the use of Fund Balance and its effect on the Fund Balance Policy, continuing to work toward the City managing the project, and the possibility of losing the project

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend by adding the caveat that Daubenspeck Funds are available to be used for the match and Council Member Peterkin **SECONDED** the motion.

Clarification was provided that an appropriate avenue would be to appropriate the funds by an ordinance before notifying DOT that the City was prepared to move ahead with the local match.

Both motions were withdrawn with the concurrence of those that seconded the motions.

2. City Attorney – No report.

Clarification was provided on the City's liabilities related to the Dipnet Fishery during COVID-19.

3. City Clerk – No report.

K. ADDITIONAL PUBLIC COMMENT

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

None.

2. Council Comments

Council Member Peterkin noted it was good to meet in person and appreciated the discussions.

Council Member Navarre noted the lack of chairs in the room and the difficulty in getting through the public health emergency; thought the work completed to provide funding to the community was a start for the economy; hoped things started turning around.

Council Member Pettey thanked those that donated to the Animal Shelter.

Council Member Glendening thanked staff for recommending an ordinance for the bike path funding match and for the programs to utilize the CARES Act funding.

Vice Mayor Molloy thanked Assembly Member Cox for providing input on the KPB Resiliency Ordinance; appreciated discussion on the resolution supporting the resiliency ordinance; did good work on other matters, specifically the programs to utilize the CARES Act funding and extending the emergency declaration. Thanked staff for their work managing the public health emergency.

Council Member Knackstedt noted the Beaver Loop Road Project was completed and the job was done well.

L. EXECUTIVE SESSION

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

MOTION:

Vice Mayor Molloy **MOVED** to enter into executive session to discuss the facility management agreement for the Kenai Visitor and Cultural Center pursuant to AS 44.32.310(c)(1)(3) is a matter of which the immediate knowledge may have an adverse effect upon the finances of the City, and a matter by which law, municipal charter, or ordinance are required to be confidential and request the attendance of the City Manager and City Attorney as may be needed. Council Member Glendening **SECONDED** the motion.

VOTE:

YEA: Gabriel, Peterkin, Glendening, Pettey, Molloy, Navarre, Knackstedt
NAY:

MOTION PASSED UNANIMOUSLY.

Council reconvened in open session and it was noted for the record that Council met in executive session and reviewed and discussed the facility management agreement for the Kenai Visitor and Cultural Center and provided direction to the City Manager.

M. PENDING ITEMS

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

N. ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 11:55 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of June 3, 2020.

Jamie Heinz, CMC
City Clerk

**KENAI CITY COUNCIL – REGULAR MEETING
JUNE 17, 2020 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai City Council was held virtually on June 17, 2020, in City Hall Council Chambers, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Mayor Gabriel led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

- | | |
|----------------------|-----------------|
| Brian Gabriel, Mayor | Robert Molloy |
| Henry Knackstedt | Tim Navarre |
| Jim Glendening | Robert Peterkin |
| Glenese Pettey | |

A quorum was present.

Also in attendance were:

- Paul Ostrander, City Manager
- Scott Bloom, City Attorney
- Jamie Heinz, City Clerk

3. Agenda Approval

Mayor Gabriel noted the following revisions to the agenda and packet:

- Add to item D.4. **Ordinance No. 3133-2020**
 - Memo Requesting Postponement

- Add to item D.12. **Resolution No. 2020-45**
 - Public Comment

- Add to item G.9. **Ordinance No. 3141-2020**
 - Draft Agreement

- Add item G.13. **Action/Approval – Resolution No. 2020-22**
 - Memo Requesting to Amend Something Previously Adopted

- Add to item J.1. **City Manager's Report**
- Library Report

MOTION:

Vice Mayor Molloy **MOVED** to approve the agenda with the requested additions to the agenda and packet and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion.

VOTE: There being no objections, **SO ORDERED**.

4. Consent Agenda

MOTION:

Council Member Knackstedt **MOVED** to approve the consent agenda and requested **UNANIMOUS CONSENT**. Vice Mayor Molloy **SECONDED** the motion.

The items on the Consent Agenda were read into the record.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

VOTE: There being no objections, **SO ORDERED**.

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a 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 – None.

C. UNSCHEDULED PUBLIC COMMENTS – None.

D. PUBLIC HEARINGS

1. **Ordinance No. 3117-2020** - Appropriating Funds in the Airport Fund, Accepting a Grant From the Federal Aviation Administration and Appropriating Funds in the Airport Equipment Capital Project Fund for the Purchase of Snow Removal Equipment (SRE) – Loader with Attachments. (Administration) *[Clerk's Note: At the May 20 Meeting, this item was Postponed to the June 17 Council Meeting. A Motion to Enact is On the Floor.]*
 - **Substitute Ordinance No. 3117-2020** - Accepting and Appropriating an Airport Improvement Program Grant from the Federal Aviation Administration in the Airport Equipment Capital Project Fund and Awarding a Contract for the Purchase of Snow Removal Equipment (SRE) - Loader with Attachments.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

MOTION:

Vice Mayor Molloy **MOVED** to amend Ordinance No. 3117-2020 with Substitute Ordinance No. 3117-2020 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing again; there being no one wishing to be heard, the public hearing was closed.

VOTE:

YEA: Gabriel, Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening
NAY:

MOTION PASSED UNANIMOUSLY.

- 2. **Ordinance No. 3131-2020** - Amending the Official Kenai Zoning Map by Rezoning a Portion of S1/2 SE1/4 SW1/4 Lying North of K-Beach Road Excluding VIP Country Estates Subdivision Part 5 from Rural Residential (RR) to Limited Commercial (LC). (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3131-2020 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

The City Planner was thanked for the map comparison of zoning and land use tables information in packet and the public comments; consistent with other zones in the area. City Planner clarified the intent of property for use as business and residential.

VOTE:

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

- 3. **Ordinance No. 3132-2020** - Increasing Estimated Revenues And Appropriations by \$454.84 in the General Fund – Police Department for Drug Investigation Overtime Expenditures. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3132-2020 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

VOTE:

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

4. **Ordinance No. 3133-2020** - Authorizing a Budget Transfer in the Airport Terminal Improvement Capital Project Fund and Appropriating FY2020 Budgeted Funds in the Airport Master Plan Capital Project, Airport Snow Removal Equipment and Airport Operations Facility Improvement Capital Project Funds for Heating, Ventilation and Air Conditioning (HVAC) Improvement to the Airport Operations Facility and Replacement of the Airport's Wide Area Mower. (Administration)

• **Substitute Ordinance No. 3133-2020** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue Fund, Authorizing a Budget Transfer in the Airport Terminal Improvement Capital Project Fund and Appropriating FY2020 Budgeted Funds in the Airport Master Plan Capital Project, Airport Snow Removal Equipment and Airport Operations Facility Improvement Capital Project Funds for Heating, Ventilation and Air Conditioning (HVAC) Improvement to the Airport Operations Facility and Replacement of the Airport's Wide Area Mower.

MOTION:

Vice Mayor Molloy **MOVED** to enact Ordinance No. 3133-2020 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend Ordinance No. 3133-2020 with Substitute Ordinance No. 3133-2020 and Vice Mayor Molloy **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

VOTE: There being no objections, **SO ORDERED**.

MOTION TO POSTPONE:

Council Member Knackstedt **MOVED** to postpone Ordinance No. 3133-2020 to the July 15 Council Meeting and requested **UNANIMOUS CONSENT**; Vice Mayor Molloy **SECONDED** the motion.

Administration noted support of the postponement to the second Council meeting in July.

VOTE ON POSTPONEMENT: There being no objections, **SO ORDERED**.

5. **Ordinance No. 3134-2020** - Appropriating Funds in the Water & Sewer Improvement and Wastewater Treatment Facility Improvement Capital Project Funds for FY2021 Capital Improvement Plan Projects. (Administration)

MOTION:

Vice Mayor Molloy **MOVED** to enact Ordinance No. 3134-2020 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

VOTE:

YEA: Knackstedt, Pettey, Molloy, Peterkin, Navarre, Glendening, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

6. Ordinance No. 3135-2020 - Appropriating FY2020 Budgeted Funds in the Kenai Multipurpose Facility Improvements Capital Project Fund for Installation of an Exhaust Fan and Corrosion Remediation. (Administration)

MOTION:

Council Member Peterkin **MOVED** to enact Ordinance No. 3135-2020 and Council Member Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

It was clarified that the corrosion was in the roof structure from excess humidity and condensation build up and the fan would help remove that in the future and the plan would be to remove the existing corrosion rust; likely to be completed spring 2021.

Council Member Peterkin disclosed his company performs this type of work; Mayor Gabriel deemed there was no conflict.

MOTION TO AMEND:

Vice Mayor Malloy **MOVED** to amend Ordinance No. 3135-2020 to substitute “FY2021” for “FY2020” wherever it appears; Council Member Knackstedt **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

VOTE ON THE AMENDMENT: There being no objections, **SO ORDERED.**

VOTE ON THE MAIN MOTION AS AMENDED:

YEA: Navarre, Glendening, Gabriel, Knackstedt, Pettey, Molloy, Peterkin
NAY:

MOTION PASSED UNANIMOUSLY.

7. Ordinance No. 3142-2020 - Increasing FY2021 Estimated Revenues and Appropriations in the General, Personal Use Fishery Special Revenue, and Senior Citizen Special Revenue Funds for FY2021 Insurance Coverage. (Administration)

- 1. Motion for Introduction
- 2. Motion for Second Reading (Requires a Unanimous Vote)
- 3. Motion for Adoption (Requires Five Affirmative Votes)

MOTION FOR INTRODUCTION:

Council Member Knackstedt **MOVED** to introduce Ordinance No. 3142-2020 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

VOTE ON INTRODUCTION:

YEA: Glendening, Gabriel, Knackstedt, Pettey, Molloy, Peterkin, Navarre
NAY:

MOTION PASSED UNANIMOUSLY.

MOTION FOR SECOND READING:

Council Member Knackstedt **MOVED** to hold the second reading on Ordinance No. 3142-2020 and requested **UNANIMOUS CONSENT**. Council Member Navarre **SECONDED** the motion.

VOTE ON SECOND READING: There being no objections, **SO ORDERED.**

MOTION FOR ENACTMENT:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3142-2020 and Council Member Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

The Finance Director clarified the projected increase in the FY2021 Budget was not sufficient for the General, Personal Use Fishery, and Senior Citizen funds requiring supplemental funding in order to bind insurance for July 1, 2020 – June 30, 2021.

VOTE ON ENACTMENT:

YEA: Glendening, Gabriel, Knackstedt, Pettey, Molloy, Peterkin, Navarre
NAY:

MOTION PASSED UNANIMOUSLY.

- 8. **Resolution No. 2020-41** - Approving a Lease Renewal of Airport Reserve Lands Between the City of Kenai and Kenai Aviation Service, Inc. d/b/a Aviation Services, for Lot 1A, Block 1, General Aviation Apron Subdivision No. 6. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-41 and Council Member Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

VOTE: There being no objections, **SO ORDERED.**

9. **Resolution No. 2020-42** - Authorizing the Binding of Insurance Coverage for the City for the Period of July 1, 2020 through June 30, 2021 and Authorizing Execution of a Three-Year Agreement for Insurance Coverage. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-42 and Council Member Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The Finance Director noted execution of this three-year agreement entitled the City to a discount and the City may terminate this agreement at any time should the annual premium for coverage increase by more than 10% year over year.

VOTE: There being no objections, **SO ORDERED**.

10. **Resolution No. 2020-43** - Awarding a Contract for Janitorial Services at the Kenai Municipal Airport. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-43 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager clarified bids received were highly competitive and the scope of work had increased since last year.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED**.

11. **Resolution No. 2020-44** - Authorizing a Budget Revision in the General Fund, Fire Department for the Purchase of Self-Contained Breathing Apparatus Bottles. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-44 and requested **UNANIMOUS CONSENT**; Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

VOTE: There being no objections, **SO ORDERED**.

12. Resolution No. 2020-45 - Naming the City of Kenai’s Wildlife Viewing Platform, the “Tarbox Wildlife Viewing Platform.” (Vice Mayor Molloy)

MOTION:

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2020-45 and Council Member Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT**. Council Member Pettey objected to the **UNANIMOUS CONSENT**.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Concern was noted regarding a lack of guidelines on how to name public places and City codes and policies should be established with specific criteria and guidelines.

MOTION TO POSTPONE:

Council Member Pettey **MOVED** to postpone Resolution No. 2020-45 to the September 1 Council Meeting and Council Member Glendening **SECONDED** the motion.

VOTE ON POSTPONEMENT:

YEA: Pettey, Peterkin, Glendening
NAY: Gabriel, Knackstedt, Molloy, Navarre

MOTION FAILED.

VOTE ON MAIN MOTION:

YEA: Gabriel, Knackstedt, Molloy, Navarre, Peterkin, Glendening
NAY: Pettey

MOTION PASSED.

13. Resolution No. 2020-46 - Authorizing the City Manager to Prepare and Execute an Amendment to the City of Kenai's Participation Agreement with the Public Employees' Retirement System (PERS) to Remove the Recreation Center Assistant Class of Employees from Participation Effective November 1, 2003. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-46 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager provided an overview of the position and the benefits policies.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

14. Resolution No. 2020-47 - Authorizing the City Manager to Prepare and Execute an Amendment to the City of Kenai's Participation Agreement with the Public Employees' Retirement System (PERS) to Remove the Visitor Center Assistant and Janitor Classes of Employees from Participation Effective July 1, 2020. (Administration)

MOTION:

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2020-47 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager clarified health care benefits and additional flexibility in future hirings that the City currently does not have.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

15. Resolution No. 2020-48 - Authorizing An Agreement For Professional Engineering Services To Begin Development Of The New Master Plan For The Waste Water Treatment Facility. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-48 and Council Member Peterkin **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Clarification was provided regarding the phases of the project and that updates would be provided to Council.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

16. Resolution No. 2020-49 - Approving a Conversion of Airport Reserve Lands Described as Lots 2 and 3, Block 5, General Aviation Apron Subdivision No. 1 Amended with SOAR International Ministries, Inc. and Approving of Temporary Development Incentives. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2020-49 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager provided an overview of the project and noted this as an example of the development incentive program.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

17. Resolution No. 2020-50 - Authorizing the City Manager to Execute an In-Kind Memorandum of Understanding with the Department of the Army for Design Work Prior to Execution of a Design Agreement for the Kenai Bluff Stabilization Project. (Administration)

MOTION:

Council Member Navarre **MOVED** to adopt Resolution No. 2020-50 and requested **UNANIMOUS CONSENT**; Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

The City Manager clarified that this resolution would allow the City to start working on design work in support of the anticipated signed design agreement with United States Army Corps of Engineers in November 2020. He added that the City of Kenai would be working closely with the Alaska District to ensure the work done is reimbursable, and it was clarified that Public Works Director, Scott Curtin would be the project lead on this.

The City Manager, prior Administration and elected officials were thanked for diligence through this lengthy process.

VOTE: There being no objections, **SO ORDERED.**

E. MINUTES – None.

F. UNFINISHED BUSINESS

1. Resolution No. 2020-30 - Recommending the Kenai Peninsula Borough Assembly Enact Ordinance 2020-24 which would Provide for Vote by Mail Elections, More Time Between a Regular Election and Run-Off Election and Removal of Proposition Statements. (Council Member Peterkin) *[Clerk's Note: At the May 20 Meeting, this item was Postponed to this Council Meeting. A Motion to Adopt is On the Floor.]*

The City Clerk provided an update regarding the Borough Assembly meeting decision that the motion to reconsider of enactment of the borough's ordinance failed meaning it was still enacted to become effective on January 1, 2021.

MOTION TO POSTPONE:

Council Member Peterkin **MOVED** to postpone Resolution No. 2020-30 indefinitely; Council Member Knackstedt **SECONDED** the motion and requested **UNANIMOUS CONSENT.**

VOTE: There being no objections, **SO ORDERED.**

G. NEW BUSINESS

1. ***Action/Approval** - Bills to be Ratified. (Administration)

Approved by the consent agenda.

2. ***Action/Approval** - FY2021 Purchase Orders over \$15,000. (Administration)

Approved by the consent agenda.

3. ***Action/Approval** - Special Use Permit to Kenai Chamber of Commerce & Visitor Center for Moosemeat John Cabin. (Administration)

Approved by the consent agenda.

4. ***Ordinance No. 3136-2020** - Increasing Estimated Revenues and Appropriations in the General and the Public Safety Capital Project Funds and Authorizing the Sole Source Purchase and Installation of Updated Radio Consoles for the City of Kenai Dispatch Center. (Administration)

Introduced by the consent agenda and public hearing set for July 1, 2020.

5. ***Ordinance No. 3137-2020** - Increasing Estimated Revenues And Appropriations In The General And Municipal Roadway Improvements Capital Project Fund's To Provide Matching Funds To The State Of Alaska Department Of Transportation And Public Facilities To Construct A Pedestrian Path From The Kenai Spur Highway To Beaver Loop Along Bridge Access Road Utilizing Restricted General Fund, Fund Balance. (Administration)

Introduced by the consent agenda and public hearing set for July 1, 2020.

6. ***Ordinance No. 3138-2020** - Increasing Fiscal Year 2020's Estimated Revenues and Appropriations in the Airport Land Sale Permanent Fund to Transfer Earnings in Excess of Budgeted Amounts to the City's Airport Fund. (Administration)

Introduced by the consent agenda and public hearing set for July 1, 2020.

7. ***Ordinance No. 3139-2020** - Increasing Estimated Revenues and Appropriations in the COVID-19 CARES Act Recovery Fund for a Federal CARES Act Grant Passed through the State of Alaska Department of Public Safety for Overtime and Direct Expenditures of the Police, Fire, and Communications Departments of the City from March 16, 2020 through May 17, 2020. (Administration)

Introduced by the consent agenda and public hearing set for July 1, 2020.

8. ***Ordinance No. 3140-2020** - Increasing Estimated Revenues and Appropriations in the Personal Use Fishery Special Revenue Fund to Provide Supplemental Funding for Additional Portable Restrooms and to Award a Contract to Provide Dumpsters, Portable Restrooms and Portable Hand Wash Stations for the 2020 Kenai River Personal Use Fishery. (Administration)

Introduced by the consent agenda and public hearing set for July 1, 2020.

9. ***Ordinance No. 3141-2020** - Increasing Estimated Revenues and Appropriations in the General Fund, Visitor Center Department and Authorizing Amendment to the Facility

Management Agreement with the Kenai Chamber of Commerce and Visitor Center, Inc., for the Operation and Management of the Kenai Visitor and Cultural Center. (Administration)

Introduced by the consent agenda and public hearing set for July 1, 2020.

- 10. *Ordinance No. 3143-2020** - Increasing General Fund Estimated Revenues and Appropriations by \$34,216 in the General Fund, Parks, Recreation and Beautification Department for an Increase of a Grant from the United States Environmental Protection Agency Passed through the State of Alaska Department of Environmental Conservation for Bacteria Level Monitoring on the City's Beaches from July 1, 2020 through March 1, 2021. (Administration)

Introduced by the consent agenda and public hearing set for July 1, 2020.

- 11. Action/Approval** - Lease Assignment of Lot 3, Block 4, General Aviation Apron from DeWayne Benton to Joel Caldwell. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to approve the lease assignment from DeWayne Benton to Joel Caldwell; Council Member Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

It was noted the use of this lease would not change.

VOTE: There being no objections, **SO ORDERED**.

- 12. Discussion** - City Response to COVID-19. (City Manager)

The City Manager reported that the Kenai Recreation Building was planning for an opening on July 1; the Community Library had a partial opening since June 1, and would increase on June 22 to allow people in to browse the library with time limits; and the next re-opening phase of City Hall would start early next week, to include unlocking doors but encourage continuing appointments. The Visitors Center is still open while the Senior Center was still closed. It was further reported that two furloughed employees returned to work recently and it was the intent to have the last two employees return to work by July 1. An update on the return-to-work policy following traveling was also provided.

- 13. Resolution No. 2020-22** - Authorizing the City of Kenai to Issue General Obligation Refunding Bonds in the Principal Amount of Not to Exceed the Sum of \$1,250,000 to Refund Certain Outstanding General Obligation Bonds of the City, Fixing Certain Details of Such Bonds and Authorizing Their Sale. (Administration)

[Clerk's Note: This item to amend something previously adopted was added to the agenda during approval of the agenda. Because it was not previously noticed a two-thirds vote is required for passage.]

MOTION:

Vice Mayor Molloy **MOVED** to amend the previously adopted legislation Resolution No. 2020-22 by amending the year "2021" in the second paragraph of Section 4 to "2020"; Council Member Knackstedt **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

VOTE: There being no objections, **SO ORDERED**.

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging – No report; next meeting July 9.
2. Airport Commission – It was reported the Commission met on June 11 and considered the janitorial services award, a lease renewal recommendation for Crowley Fuel to continue, conversion of lease contract, a lease assignment to Joel Caldwell and specific Special Use Permits that were approved. The next meeting is July 9.
3. Harbor Commission – It was reported the Commission met on June 8 and heard a report on the upcoming dipnet fishery efforts, the boat launch use and upcoming ITB's; next meeting August 10.
4. Parks and Recreation Commission – No report; next meeting August 6.
5. Planning and Zoning Commission – It was reported the Commission met on June 10 and recommended two plats for approval, approved a recommendation for rezoning from Rural Residential to General Commercial, approved renaming of a street on Beaver Loop Road, and authorized the City Planner to support a time extension to the Kenai Peninsula Borough. The next meeting is June 24.
6. Beautification Committee – No report; next meeting September 8.
7. Mini-Grant Steering Committee – No report.

I. REPORT OF THE MAYOR

Mayor Gabriel reported that normalcy has not returned and there were fewer events happening, including the Fourth of July event that was canceled due to COVID-19 concerns. He encouraged showing patriotism and recognizing the meaning behind Independence Day, even if the event is not occurring.

J. ADMINISTRATION REPORTS

1. City Manager - City Manager P. Ostrander reported on the following:
 - On June 5 he met with Annette Villa to see her efforts in growth of a property in Old Town, commending her vision and bringing community together on Friday and Saturday nights with vendors and music;
 - He recognized staff for their efforts and quality of work with the legislation brought forward in the Council packets, noting the Finance Director produced most legislation items in one packet;
 - Provided an update on the CARES Act Grand Funding program; received 139 applications with two days remaining to apply;
 - An Ordinance was anticipated for Council consideration at the next meeting regarding the individual assistance program as well as a Resolution for direction with the remaining grant funds for small businesses; and
 - The City was working with the Borough on the CARES Act Funding they received, determining how best to move forward, treating businesses equally.
2. City Attorney – No report.

- 3. City Clerk – City Clerk J. Heinz reported she was focused on developing the materials for tomorrow’s work session and working with Administration to develop the large agendas and packets. She further reported on June 19 she would begin 2020 Election preparation.

K. ADDITIONAL PUBLIC COMMENT

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

Council Member Knackstedt encouraged visiting the Old Town Kenai Market.

Vice Mayor Molloy noted he was looking at the second meeting in July to bring forth the Resolution about the Student Representative policy.

Council Member Glendening thanked the City Manager for the COVID-19 update. He noted he was pleased to hear about the Old Town Kenai Market and Diamond M Ranch events occurring to bring the community together.

Council Member Peterkin expressed gratitude to the Administration on their continued efforts.

Council Member Pettey expressed recognition to Administration for looking at the bottom line; looking forward to moving ahead with the Bluff Erosion and signing the agreement.

Council Member Navarre reported that Industry Appreciation Day was unfortunately going to be canceled this year noting health concerns surrounding COVID-19. He also provided an update on the Alaska Municipal League.

Council Members commended Administration on their efforts with the amount of legislation and quality of work.

L. EXECUTIVE SESSION

M. PENDING ITEMS

- 1. **Ordinance No. 3127-2020** - Repealing and Replacing Kenai Municipal Code Title 6 - Elections to Provide Clarity, Process Improvements, and Increase Voter Accessibility through Vote By Mail Elections. (Council Member Peterkin)
- 2. **Ordinance No. 3128-2020** - Amending Kenai Municipal Code Section 1.85.040 – Records Public, To Provide For A Record Retention Length. (City Clerk)

N. ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:27 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of June 17, 2020.

Jamie Heinz, CMC
City Clerk

**KENAI CITY COUNCIL JOINT WORK SESSION
ELECTIONS
JUNE 18, 2020 – 5:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

NOTES

Council present: B. Gabriel, H. Knackstedt, B. Molloy, R. Peterkin, J. Glendening, G. Pettey, T. Navarre
Others present: City Manager P. Ostrander, City Attorney S. Bloom, City Clerk J. Heinz, Deputy Clerk J. LaPlante

A. Call to Order

Mayor Brian Gabriel called the work session to order at approximately 5:00 p.m.

B. Introduction – Mayor Gabriel

Mayor Gabriel noted the purpose of the work session was to hear about and discuss elections, vote by mail hybrid elections, and Ordinance No. 3127-2020.

C. Presentation Regarding Elections, Vote by Mail Hybrid and Ordinance No. 3127-2020 – City Clerk, Jamie Heinz

The Kenai City Clerk provided a walkthrough of the current voting process, voting percentage comparisons, presented the pros and cons of the traditional process versus vote-by-mail, noted findings and recommendations in the Kenai Peninsula Borough elections feasibility study done to determine if transition to a by-mail hybrid style election was feasible, and thoroughly reviewed Ordinance No. 3127-2020 with proposed changes to the Kenai Municipal Code (KMC).

D. Council Discussion

There was discussion about the feasibility study recommendations for vote by mail hybrid style election, ranked choice voting, moving to appointed areas service boards, consideration of statements advocating for approval or rejections of props, and CDC guidance with vote-by-mail. It was clarified that as recommended in the feasibility study it would be the intent to have a voting center in Soldotna and in Kenai.

It was noted the proposed changes to KMC were based on the combination of reviewing existing code, following the City of Soldotna code format, the Kenai Peninsula Borough code and ordinance, and the Kenai Charter to establish the format and proposed ordinance. It was noted the Kenai City Attorney also briefly reviewed the ordinance.

Inefficiencies of in-person voting along with redundancy with absentee ballots were discussed and the requirement of an ADA machine for each polling center.

It was clarified that a decision regarding who would pay the postage for the returned ballots had not yet been made.

Interest was noted to include a clause in the Ordinance for it to become effective on January 1, 2021 only if the Kenai Peninsula Borough were to go into effect.

Council members expressed interest to have another work session to further develop/refine the ordinance and thanked the City Clerk for the hard work and thoroughness of information provided.

E. Public Comment (limited to 3 minutes per individual; 20 minutes aggregate)

None.

F. Adjournment

The work session adjourned at approximately 8:24 p.m.

Notes were prepared by:

Jacquelyn LaPlante
Deputy City Clerk



Sponsored by: City Clerk

CITY OF KENAI

ORDINANCE NO. 3128-2020

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

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

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

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

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

1.85.040 Records public.

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

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

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

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

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

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



MEMORANDUM

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

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

Your consideration is appreciated.



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

FROM: Jamie Heinz, City Clerk

DATE: June 25, 2020

SUBJECT: **Ordinance No. 3128-2020 Record Retention on Financial Disclosure Statements**

Because Ordinance No. 3128-2020 is a companion ordinance to Ordinance No. 3127-2020, I recommend you also postpone Ordinance No. 3128-2020 to the same date that Ordinance No. 3127-2020 is postponed to.

Your consideration is appreciated.

PAYMENTS OVER \$15,000.00 WHICH NEED COUNCIL RATIFICATION
COUNCIL MEETING OF: JULY 1, 2020

VENDOR	DESCRIPTION	DEPARTMENT	ACCOUNT	AMOUNT
PERS	PERS	VARIOUS	LIABILITY	90,451.86

INVESTMENTS

VENDOR	DESCRIPTION	MATURITY DATE	AMOUNT	Effect. Int.
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PURCHASE ORDERS OVER \$15,000.00 WHICH NEED COUNCIL APPROVAL
 COUNCIL MEETING OF: JULY 1, 2020

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
BEST TRANSIT MIX	FY21 SAND DELIVERED	AIRPORT	OPERATING SUPPLIES	29,250.00

INCREASE OF EXISTING PURCHASE ORDER

VENDOR	DESCRIPTION	P.O. # - DEPT.	REASON	AMOUNT	TOTAL PO AMT
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MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Paul Ostrander, City Manager
FROM: Mary Bondurant, Airport Manager
DATE: June 19, 2020
SUBJECT: **Purchase Order over \$15,000 – Best Transit**

The purpose of this memo is to request approval to purchase 1,500 yards of FAA spec'd sand. This is replenishing our sand supply after the 2019-2020 winter season.

There are only two vendors that provided a quote:

Best Transit - \$ 29,250 delivered

North Star Paving - \$271,350 delivered

Davis Block – not interested.

Best Transit's price was found to be fair and reasonable.

Thank you for your consideration.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3144-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING THE OFFICIAL ZONING MAP BY REZONING TRACTS 1 AND 2, HOLLAND SPUR HIGHWAY SUBDIVISION FROM RURAL RESIDENTIAL (RR) TO GENERAL COMMERCIAL (CG).

WHEREAS, Tracts 1 and 2, Holland Spur Highway Subdivision are currently zoned Rural Residential with a physical address of 7344 and 7450 Kenai Spur Highway; and,

WHEREAS, the owner of the two adjacent parcels has requested a rezone to General Commercial and the two adjacent parcels combined are over 10 acres in size meeting the application requirement of Kenai Municipal Code 14.20.270, Amendment procedures; and,

WHEREAS, the RR Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment; and,

WHEREAS, the CG Zone is intended to provide for areas where a broad range of retail, wholesale, and service establishments is desirable and uses are regulated to concentrate commercial development to the greatest extent possible; and,

WHEREAS, the CG Zone is consistent with commercial development along the Kenai Spur Highway, other parcels in the CG Zone across the street and adjacent to these two parcels, and adjacent land uses and ownership; and,

WHEREAS, the rezone will not impact residential housing or the quality of neighborhoods within the City and the parcels do not border areas with residential housing; and,

WHEREAS, the parcels to be rezoned front approximately 2,640 feet of the Kenai Spur Highway, a major collector street maintained by the State of Alaska; and,

WHEREAS, the rezone is consistent with the 2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan and supports Goal 3 – Land Use: Develop land use strategies to implement a forward-looking approach to community growth and development; and,

WHEREAS, the City of Kenai Planning and Zoning Commission voted unanimously to recommend the property be rezoned to General Commercial during a public hearing held at their meeting on June 10, 2020.

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

Section 1. That pursuant to KMC 14.20.030 Establishment of Zones and Official Zoning Map, the official City of Kenai Zoning Map is hereby amended by rezoning Tracts 1 and 2, Holland Spur

Highway Subdivision at 7344 and 7450 Kenai Spur Highway from Rural Residential (RR) to General Commercial (CG).

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 15th day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Introduced: July 1, 2020
Enacted: July 15, 2020
Effective: August 15, 2020



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Elizabeth Appleby, City Planner

DATE: June 23, 2020

SUBJECT: Ordinance 3144-2020 – Rezone Two Kenai Spur Highway Parcels

A completed application was submitted to the City requesting that adjacent parcels Tracts 1 and 2, Holland Spur Highway Subdivision located at 7344 and 7450 Kenai Spur Highway (parcel numbers 04103056 and 04103055) be rezoned from Rural Residential (RR) to General Commercial (CG). Kenai Municipal Code (KMC) 14.20.270, Amendment procedures, describes initiation of zoning code and official map amendments. Zoning code amendments may be initiated by a submission of a petition by a majority of the property owners in the area for consideration if the area to be rezoned contains a minimum of one acre unless the amendment enlarges an adjacent district boundary. Glen Martin is the owner of the adjacent parcels that combined are approximately 11.84 acres in size. The requested rezone meets the criteria for an amendment. No public comments have been received as of June 23, 2020.

These parcels front the Kenai Spur Highway for approximately 2,640 feet. The Kenai Spur Highway Road is a major collector street maintained by the State of Alaska. Their parcels are vacant and surrounded mostly by vacant land. There is a gravel pad covering the middle of the two parcels. Parcels adjacent to these two parcels are either within the CG Zone or the RR Zone: Across the street on the Kenai Spur Highway from Tract 1 (parcel 04103055) is a City of Kenai wellhead that was damaged in the 2018 earthquake and is slated to be relocated. The wellhead is on parcels within the RR Zone. A City owned parcel borders the east of Tract 2 (parcel 04103056) and is within the RR Zone. The parcel bordering the north of these two is within the RR Zone and is owned by the Alaska Mental Health Trust Authority. The fronting parcel along the Kenai Spur Highway across from Tract 2 (parcel 04103056) and half of Tract 1 (parcel 04103055) is within the CG Zone. The parcel bordering the west of Tract 1 (parcel 04103055) is also within the CG Zone and is owned by the Alaska Mental Health Trust Authority. There is not a neighborhood or plans for a neighborhood in the vicinity that would necessitate a more transitional zone from the Kenai Spur Highway frontage.

The RR Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The CG Zone is intended to provide for areas where a broad range of retail, wholesale, and service establishments

is desirable. Uses are regulated to concentrate commercial development to the greatest extent possible and new residential uses and other noncommercial uses are not permitted in this zone as principal uses.

The CG Zone is more consistent with the layout of the parcel. The applicant has indicated plans for commercial development. Commercial uses could take advantage of the frontage on the Kenai Spur Highway. A neighborhood is not adjacent to these parcels and a rezone would not impact residential housing or the quality of neighborhoods within the City. An anadromous stream is on the eastern part of Tract 2 (parcel 04103056) and the Kenai Peninsula Borough 50-Foot Habitat Ordinance prohibiting development within 50-feet of anadromous streams would apply and protect the creek.

The 2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan states, “original community has expanded with commercial development along the Kenai Spur Highway.” This change in zoning reflects the change in the City layout over time and supports Goal 3 – Land Use: Develop land use strategies to implement a forward-looking approach to community growth and development. The 2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan also notes that, “commercial land uses dominate the corridor along the Kenai Spur Highway” and a rezone for these two rectangular parcels with long frontages on the Kenai Spur Highway is consistent with the Comprehensive Plan.

Attached to this memorandum is the Land Use Table in Kenai Municipal Code 14.22.010 Land use table. I have highlighted allowed uses in the Rural Residential (RR) and the CG (General Commercial) zones of the City so Council members may compare the two zones. A summary of differences in land use between the RR and CG zones includes the following:

- (more restrictive change) Principal uses in the RR Zone that do not require a conditional use permit and are not permitted in the CG Zone include: farming/general agriculture
- (more restrictive change) Principal uses in the RR Zone that do not require a conditional use permit and are only allowed in the CG Zone as a secondary use include: one-family dwelling, two-, three-family dwelling, four-family dwelling
- (more restrictive change) Uses that are allowed with a conditional use permit in the RR Zone that are not permitted in the CG Zone include: accessory building on parcel without main building or use
- (less restrictive change) Uses that are not allowed in the RR Zone that would be allowed in the CG Zone with a conditional use permit include: airport compatible uses, standard marijuana cultivation facility, marijuana testing facility, retail marijuana store, marijuana product manufacturing facility
- (less restrictive change) Uses that are allowed in the RR Zone with a conditional use permit that would be allowed as a principal use without a conditional use permit in the CG Zone include: adult businesses (additional restrictions apply under footnote 31), automotive sales, automotive service stations, banks, business/consumer services, commercial recreation, guide service, hotels/motels, lodge, professional offices,



restaurants, retail business, theaters, wholesale business, necessary aviation facilities, automotive repair, manufacturing/fabricating/assembly, mini-storage facility, storage yard, warehouses, clinics, colleges, elementary schools, high schools, hospitals, libraries, museums, parks and recreation, governmental buildings, assemblies (additional requirements under footnote 15), cabin rentals, communications towers and antenna(s), radio/TV transmitters/cell sites, day care centers, fraternal organizations/private clubs/social halls and union halls, greenhouses/tree nurseries, nursing, convalescent or rest homes, gunsmithing, taxidermy, personal services

- (differing change; unclear if more or less restrictive) Uses that are allowed with a conditional use permit in the RR Zone are only allowed in the CG Zone as a secondary use include: five-six-family dwelling, seven- or more family dwelling, dormitories/boarded houses
- (no change) Principal uses in both RR and CG zones that do not require a conditional use permit include: essential services, churches (some additional requirements under footnote 10)
- (no change) Conditional uses in both RR and CG zones that require a conditional use permit include: townhouses (some additional requirements in RR zone; see footnote 3), planned unit residential development, mobile home parks, limited marijuana cultivation facility, airports, assisted living, animal boarding/commercial kennel, bed and breakfasts, cemeteries, crematories/funeral homes, public parking lots, recreational vehicle parks, subsurface extraction of natural resources, surface extraction of natural resources
- (no change) Uses not permitted in both RR and CG zones: gas manufacturer/storage, assisted living

The Kenai Planning and Zoning Commission considered this request during their meeting on June 10, 2020 and unanimously recommended City Council approve of the rezone request for Tracts 1 and 2, Holland Spur Highway Subdivision located at 7344 and 7450 Kenai Spur Highway from the Rural Residential Zone to the General Commercial Zone. Thank you for your consideration.

Memorandum Attachments

- Application
- Resolution PZ2020-13
- Map
- Highlighted Land Use Table from Kenai Municipal Code 14.22.010





Rezoning Application

City of Kenai
 Planning and Zoning Department
 210 Fidalgo Avenue
 Kenai, AK 99511
 (907) 283-8200
 planning@kenai.city
 www.kenai.city/planning

PETITIONER

Name:	Glen Martin						
Mailing Address:	POB 1389	City:	Soldotna	State:	AK	Zip Code:	99669
Phone Number(s):	907-252-5326						
Email:	akgold16@gmail.com						

PROPERTY INFORMATION

Kenai Peninsula Borough Parcel # (s):	04103056, 04103055					
Physical Address:	7344 and 7450 Kenai Spur Hwy - 6.56 acres + 5.28 acres = 11.84 total acres					
Legal Description:	T6N R11W SEC35 SEWARD MERIDIAN KN 2011068 HOLLAND SPUR HIGHWAY SUB TRACTS 1&2					

ZONING INFORMATION

Present Zone:	RR
Proposed Zone:	CG

Intended Use and/or Reason for Rezoning (attach additional sheets if necessary):
 I would like to make this highway strip available for restaurants, clinics, gas stations, retail shops, etc. It abuts CG lands, and most of the Spur Highway between Swires Road and Beaver Loop Road has already been rezoned CG. This will help make the zoning consistant in this area.

AMENDMENT PROCEDURE REQUIREMENTS

The area proposed to be rezoned contains a minimum of 1 acre (excluding street or alley rights-of-way), unless the amendment enlarges an adjacent zoning district boundary.	<input checked="" type="checkbox"/> YES
This proposed amendment to the zoning ordinance is not substantially the same as any other unapproved proposed amendment submitted within the previous 9 months.	<input checked="" type="checkbox"/> YES
I understand a public hearing is required as outlined in the Kenai Zoning Code, a \$250 fee is required (\$265 total after tax), and that this application will be reviewed following Kenai City Code 14.20.270, available at kenai.municipal.codes/KMC/14.20.270.	<input checked="" type="checkbox"/> YES
I have included a map of the proposed rezone area and applicable signatures.	<input checked="" type="checkbox"/> YES

The proposed Zoning Code and Official Zoning Map Amendments is initiated by (check one):

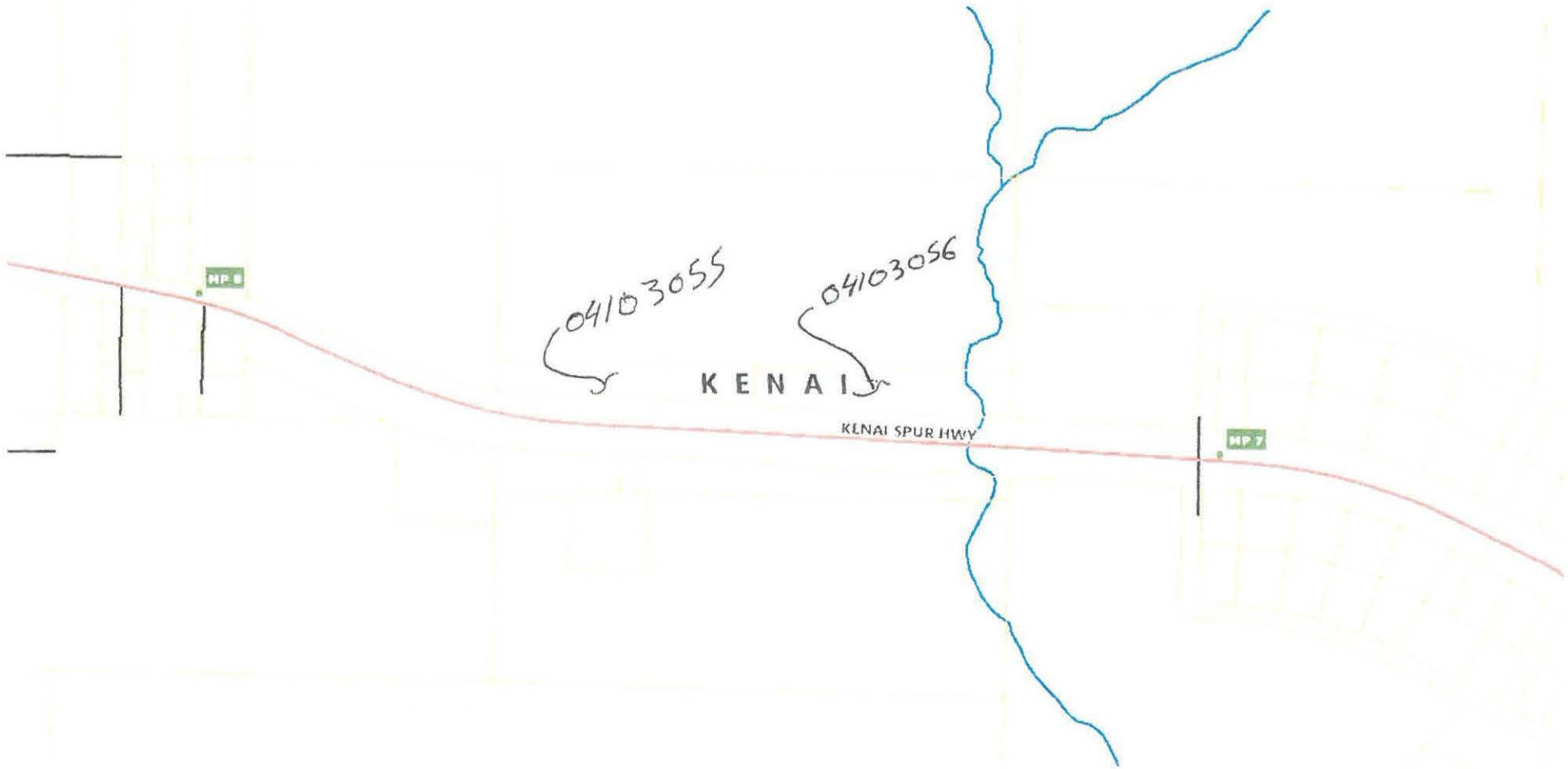
- Kenai City Council
- Kenai Planning & Zoning Commission
- Petition of majority of the property owners in the area to be rezoned
- Petition bearing the signatures of 50 registered voters within the City of Kenai
- Petition as provided by the Home Rule Charter of the City of Kenai

PETITIONER'S SIGNATURE

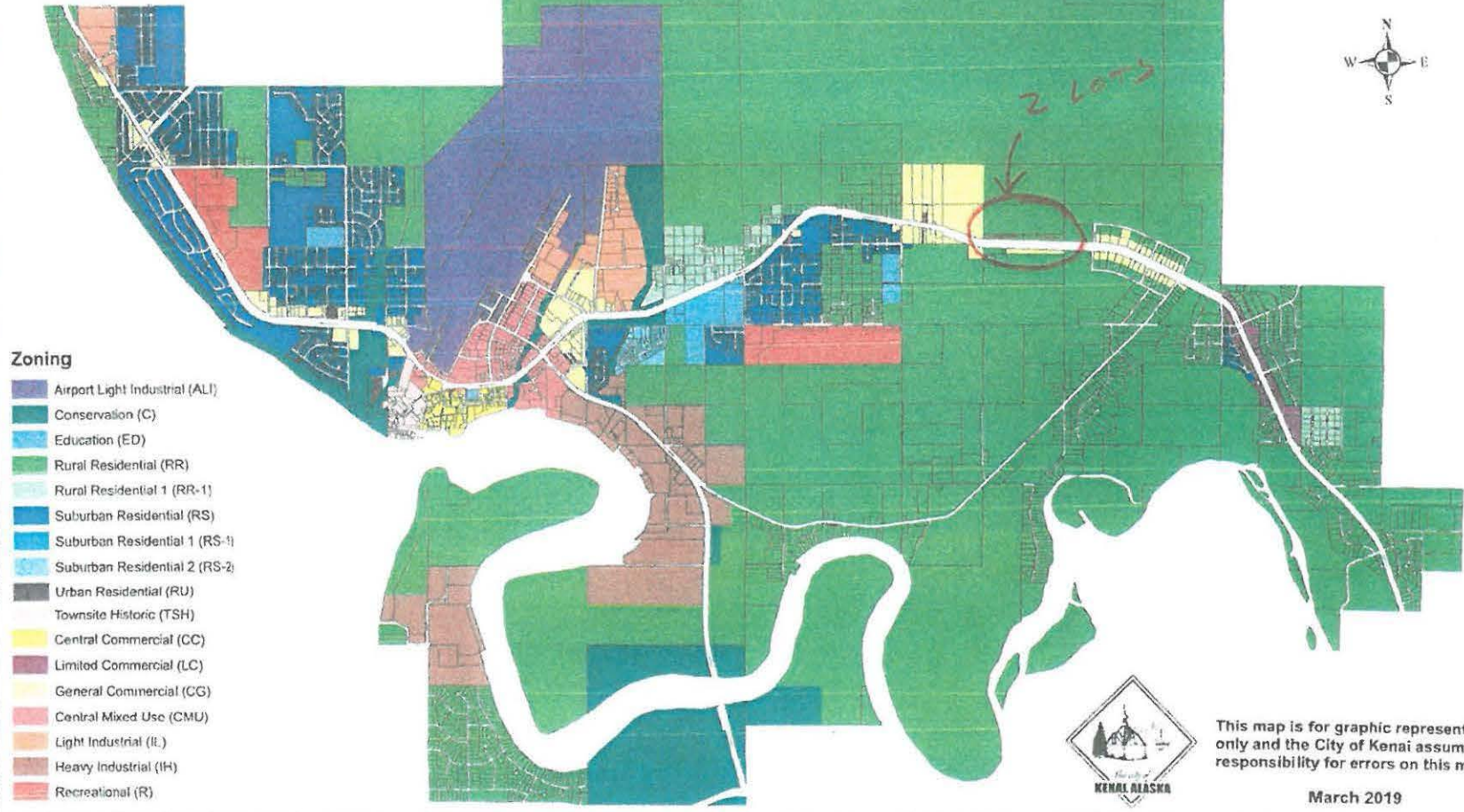
Signature:			
Printed Name:	Glen F. Martin	Date:	5/15/2020

For City Use Only

Date Application Fee Received:
 PZ Resolution Number: PZ2020-13



City of Kenai Zoning Map



This map is for graphic representation only and the City of Kenai assumes no responsibility for errors on this map.
March 2019





**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2020-13**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THE COUNCIL OF THE CITY OF KENAI APPROVE THE REZONE REQUEST OF TRACTS 1 AND 2, HOLLAND SPUR HIGHWAY SUBDIVISION FROM RURAL RESIDENTIAL TO GENERAL COMMERCIAL

WHEREAS, the City of Kenai received a rezone application from the majority property owner in accordance with Kenai Municipal Code 14.20.270, Amendment procedures; and,

WHEREAS, the RR Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment; and,

WHEREAS, the CG Zone is intended to provide for areas where a broad range of retail, wholesale, and service establishments is desirable and uses are regulated to concentrate commercial development to the greatest extent possible; and,

WHEREAS, the rezone request is for an area over ten acres in size; and,

WHEREAS, the area to be rezoned fronts the Kenai Spur Highway, a major collector street maintained by the State of Alaska; and,

WHEREAS, other parcels in the CG Zone border and are across the street from these two parcels; and,

WHEREAS, the CG Zone is consistent with commercial development along the Kenai Spur Highway and will not impact residential housing or the quality of neighborhoods within the City; and,

WHEREAS, the rezone is consistent with Goal 3 – Land Use: Develop land use strategies to implement a forward-looking approach to community growth and development of the 2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan.

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

Section 1. That the Kenai City Council approve of the rezone request of Tracts 1 and 2, Holland Spur Highway Subdivision from Rural Residential to General Commercial.

Section 2. That a copy of Resolution PZ2020-13 be forwarded to the Kenai City Council.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 10th day of June, 2020.

Resolution No. PZ2020-04

Page 2 of 2

Diane Fikes
Diane Fikes For
JEFF TWAIT, CHAIRPERSON

ATTEST:

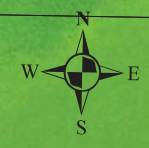
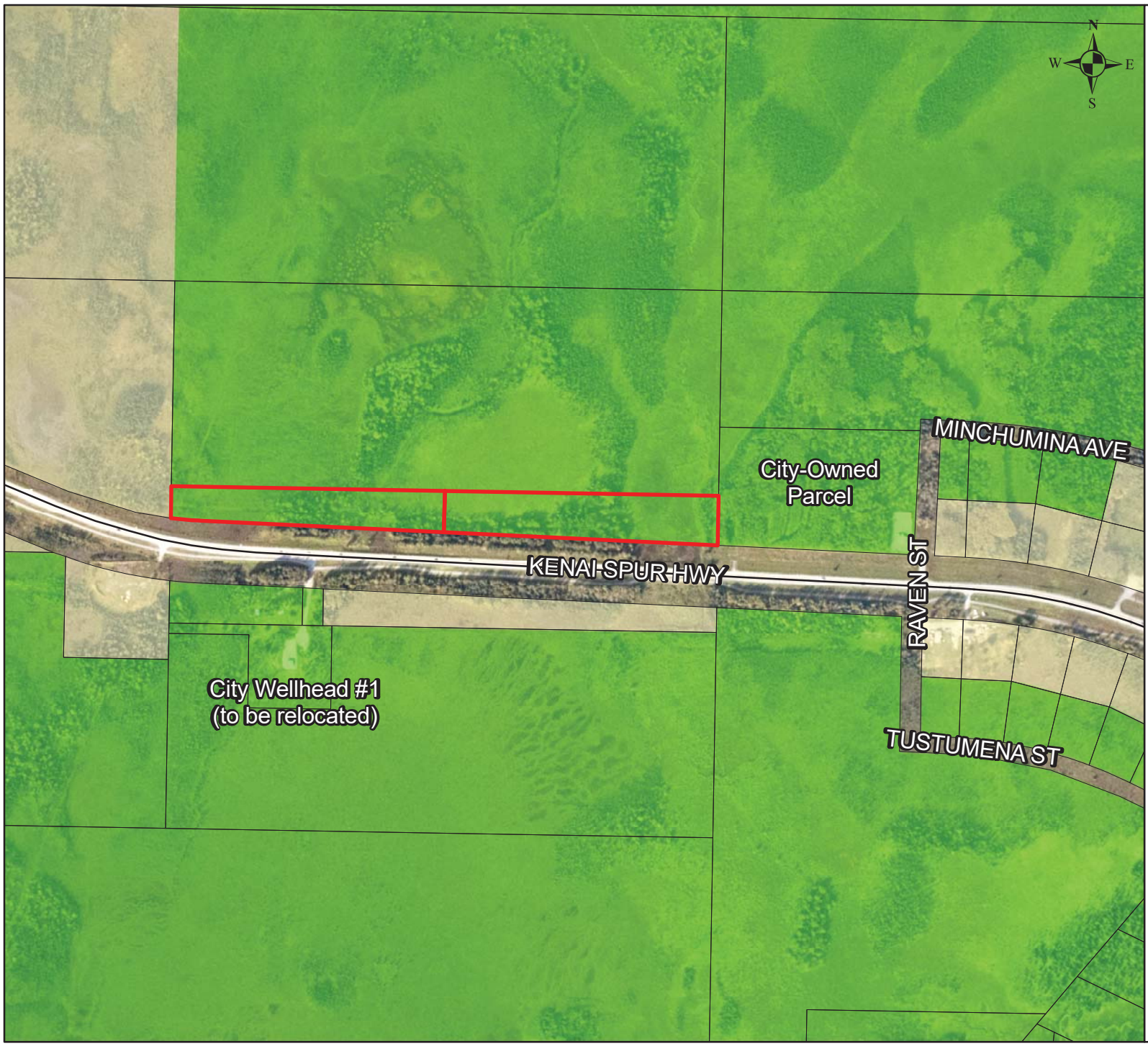
Jamie Heinz
JAMIE HEINZ, CITY CLERK





Rezone Request of Parcels: 04103055, 04103056

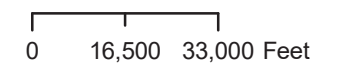
7450 and 7344 Kenai Spur Hwy
Tracts 1 and 2,
Holland Spur Hwy Subdivision



LEGEND

Zoning

- Rural Residential
- General Commercial (CG)



The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

Date: 5/15/2020

14.22.010 Land use table.

LAND USE TABLE

KEY: P = Principal Permitted Use
 C = Conditional Use
 S = Secondary Use
 N = Not Permitted

NOTE: Reference footnotes on following pages for additional restrictions

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
RESIDENTIAL																	
One-Family Dwelling	N	C ¹⁸	P	P	P	P	P	P	P ²¹	S ¹	S ²	S ²	C ²²	P	P	P	S ¹ /C ²¹
Two-, Three-Family Dwelling	N	C ¹⁸	P	P	P	P	P	P	P ²¹	S ¹	C	C	C ²²	P	P	P	S ¹ /C ²¹
Four-Family Dwelling	N	C ¹⁸	P	C ^{3,29}	P	N	N	P	P ²¹	S ¹	C	C	C ²²	N	P	C	S ¹ /C ²¹
Five-, Six-Family Dwelling	N	C ¹⁸	C ³	N	P	N	N	P	P ²¹	S ¹	C	C	N	N	P	C	S ¹ /C ²¹
Seven- or More Family Dwelling	N	C ¹⁸	C ³	N	C ³	N	N	P	P ²¹	S ¹	C	C	N	N	P	C	S ¹ /C ²¹
Mobile Home Parks ⁶	N	N	C	N	C	C	C	C	C	C	C	C	N	C	N	N	C
Planned Unit Residential Development ⁷	N	C ¹⁸	C	C ²⁹	C	C	C	C	C	C	C	C	N	C	C	C	C
Townhouses ⁴	N	C ¹⁸	C ³	C ^{3,29}	C ³	C ³	C ³	C ³	C	C	C	C	C ²²	C	C	C	C
Accessory Building on Parcel Without Main Building or Use (See KMC 14.20.200)	N	N	C	C	C	C	C	C	N	N	N	N	N	N	C	N	N
COMMERCIAL																	
Airport Compatible Uses	P	N	N	N	N	N	N	N	C	C	C	C	N	N	N	C	C
Adult Businesses	N	N	N	N	N	N	N	N	P ³¹	P ³¹	P ³¹	P ³¹	N	N	N	N	N

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
Automotive Sales	C	N	C	N	N	N	N	C	P	P	P	P	N	N	N	N	P
Automotive Service Stations	C	N	C	N	N	N	N	C	P	P	P	P	N	C	N	N	P
Banks	C	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Business/Consumer Services	C	N	C	C	C	N	N	C	P	P	P	C	N	C	C	C	P
Commercial Recreation	N	N	C	N	C	N	N	C	P	P	C	C	N	P	C	C	P
Guide Service	C	N	C	N	C	N	N	C	P	P	P	P	N	P	P	C	P
Hotels/Motels	C	N	C	N	C	N	N	C	P	P	P	C	N	C	P	C	P
Lodge	C	N	C	N	C	N	N	C	P	P	P	C	N	P	P	C	P
Marijuana Cultivation Facility, Limited ³⁰	N	N	C	C	C	C	C	C	N	C	C	C	N	N	N	C	N
Marijuana Cultivation Facility, Standard ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	N
Marijuana Product Manufacturing Facility ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	N	N
Marijuana Testing Facility ³⁰	N	N	N	N	N	N	N	N	C	C	P	P	N	N	N	C	C
Professional Offices	C	N	C	C	C	N	N	P	P	P	P	P	N	C	P	P	P
Restaurants	C	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Retail Business	C	N ²⁶	C	N	C	N	N	C	P	P	P	P	S ²⁴	S ²⁴	C	C	P
Retail Marijuana Store ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	C
Theaters	N	N	C	N	C	N	N	C	P	P	C	C	N	P	C	C	P
Wholesale Business	C	N	C	N	C	N	N	C	C	P	P	P	N	S ²⁴	C	C	N
INDUSTRIAL																	
Airports	C	P ²⁰	C	N	C	N	N	C	C	C	C	C	N	C	N	N	C
Necessary Aviation Facilities	P	P	C	C	C	C	C	C	P	P	P	P	C	P	C	P	P
Automotive Repair	P	N	C	N	C	N	N	C	P	P	P	P	N	N	N	N	P

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
Gas Manufacturer/ Storage	C ⁹	N	N	N	C	N	N	N	N	N	C ⁹	C ⁹	N	N	N	N	N
Manufacturing/ Fabricating/Assembly	P	N	C	N	C	N	N	C	C	P	P	P	N	C	C	N	C
Mini-Storage Facility	C	N	C	N	C	N	N	C	C	P	P	P	N	N	N	C	C
Storage Yard	C	N	C	N	C	N	N	C	C	P	P	P	N	N	N	N	C
Warehouses	C	N	C	N	C	N	N	C	N	P	P	P	N	C	N	N	N
PUBLIC/ INSTITUTIONAL																	
Assisted Living	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Churches*	N	C	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	C	C	P	P ¹⁰	P	P	P
Clinics	N	C	C	N	C	C	C	C	P	P	P	C	C	C	C	P	P
Colleges*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Elementary Schools*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Governmental Buildings	P	C	C	C ²⁹	C	C	C	C	P	P	P	C	P	C	C	P	P
High Schools*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Hospitals*	N	C	C	N	C	C	C	C	P	P	P	C	C	C	C	C	P
Libraries*	N	C	C	C ²⁹	C	C	C	C ¹²	P	P	P	C	P	C	P	C	P
Museums	C	C	C	C ²⁹	C	C	C	C	P	P	P	C	P	C	P	C	P
Parks and Recreation	N	P	C	C ²⁹	C	C	C	C	P	P	P	P	P	P	P	C	P
MISCELLANEOUS																	
Animal Boarding/ Commercial Kennel ¹³	C	C	C	N	C	C	N	N	C	C	C	C	N	C	N	C	C
Assemblies ¹⁵ (Large: Circuses, Fairs, etc.)	P	C	C	N	C	C	C	C	P ¹⁵	P ¹⁵	P ¹⁵	P ¹⁵	P ¹⁵	C	P	N	P ¹⁵
Bed and Breakfasts	N	C	C	C	C	C	C	C	C	C	C	C	N	P	C	C	P
Cabin Rentals	N	C	C	N	C	N	N	N	P	P	P	C	N	P	P	C	P
Cemeteries	P	C	C	N	C	N	N	N	N	C	C	C	N	C	C	N	N

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
Communications Towers and Antenna(s), Radio/TV Transmitters/ Cell Sites** ²⁸	C	P	C	N	C	C	C	C	P	P	P	P	P	C	C	C	C
Crematories/Funeral Homes	N	N	C	N	C	N	N	C	C	C	C	C	N	C	C	C	C
Day Care Centers ¹²	N	C	C	C ²⁹	C	C	C	C	P	P	P	C	C	C	C	P	P
Dormitories/Boarding Houses	N	C	C	N	C	C	C	P	p ²¹	S	C	P	p ²³	C	C	C	P
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Farming/General Agriculture***	N	P	P	N	N	N	N	N	N	N	N	P	N	P	N	N	N
Fraternal Organizations/ Private Clubs/Social Halls and Union Halls	N	N	C	N	C	C	C	C	P	P	P	C	N	C	P	C	P
Greenhouses/Tree Nurseries ¹³	N	C	C	N	C	C	C	C	P	P	P	C	N	C	C	C	P
Gunsmithing, Taxidermy	N	N	C	C	C	C	C	C	P	P	P	P	N	C	P	P	P
Nursing, Convalescent or Rest Homes	N	N	C	N	C	C	C	C	P	P	C	C	C	C	C	C	P
Parking, Public Lots ¹²	C	C	C	N	C	C	C	C	C	C	C	C	C	C	C	C	C
Personal Services ²⁵	N	C	C	N	C	C	C	C	P	P	P	P	C	C	P	P/ C ²⁷	P
Recreational Vehicle Parks	N	C	C	N	C	N	N	C	C	C	C	C	N	C	C	N	C
Subsurface Extraction of Natural Resources ¹⁶	C	C	C	C	C	C	C	C	C	C	C	C	N	C	N	N	N
Surface Extraction of Natural Resources ¹⁷	C	C	C	N	C	N	N	C	N	C	C	C	N	C	N	N	N

* See 42 USCA Sec. 2000cc (Religious Land Use and Institutionalized Persons Act of 2000)

** See 42 Telecommunications Act of 1996, Sec. 704(a)

*** See, however, the limitations imposed under KMC [3.10.070](#)

Footnotes:

- 1** Allowed as a secondary use except on the ground floor of the part of the building fronting on collector streets and major highways. Commercial or industrial which falls under the landscaping/site plans requirements of KMC Chapter [14.25](#) shall include any secondary uses in the landscaping and site plans.
- 2** One (1) single-family residence per parcel, which is part of the main building.
- 3** Allowed as a conditional use, subject to satisfying the following conditions:
 - a** The usable area per dwelling unit shall be the same as that required for dwelling units in the RS Zone;
 - b** The site square footage in area must be approved by the Commission;
 - c** Yards around the site, off-street parking, and other development requirements shall be the same as for principal uses in the RR Zone;
 - d** Water and sewer facilities shall meet the requirements of all applicable health regulations;
 - e** The proposed dwelling group will constitute a residential area of sustained desirability and stability, will be in harmony with the character of the surrounding neighborhood, and will not adversely affect surrounding property values;
 - f** The buildings shall be used only for residential purposes and customary accessory uses, such as garages, storage spaces, and recreational and community activities;
 - g** There shall be provided, as part of the proposed development, adequate recreation areas to serve the needs of the anticipated population;
 - h** The development shall not produce a volume of traffic in excess of the capacity for which the access streets are designed;
 - i** The property adjacent to the proposed dwelling group will not be adversely affected.
- 4** See "Townhouses" section.
- 5** See "Mobile Homes" section.
- 6** Allowed as a conditional use, subject to "Mobile Homes" section; and provided, that any mobile home park meets the minimum Federal Housing Authority requirements.
- 7** See "Planned Unit Residential Development" section.
- 8** Allowed as a conditional use; provided, that the proposed location and the characteristics of the site will not destroy the residential character of the neighborhood.
- 9** Allowed as a conditional use; provided, that all applicable safety and fire regulations are met.
- 10** Provided, that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line.
- 11** Allowed as a conditional use; provided, that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line; and provided further, that the proposed location and characteristics of the use will not adversely affect the commercial development of the zone.

- 12** Allowed as a conditional use; provided, that the following conditions are met:
- a** The proposed location of the use and the size and characteristics of the site will maximize its benefit to the public;
 - b** Exits and entrances and off-street parking for the use are located to prevent traffic hazards on public streets.
- 13** Allowed as a conditional use; provided, that setbacks, buffer strips, and other provisions are adequate to assure that the use will not be a nuisance to surrounding properties. The Commission shall specify the conditions necessary to fulfill this requirement. Animal boarding and commercial kennels require a kennel license (see KMC Chapter [3.15](#)).
- 14** Allowed as a conditional use; provided, that no indication of said use is evident from the exterior of the mortuary.
- 15** Allowed; provided, that the following conditions are met:
- a** An uncleared buffer strip of at least thirty (30) feet shall be provided between said use and any adjoining property in a residential zone.
 - b** Exits and entrances and off-street parking for the use shall be located to prevent traffic hazards on the public streets.
- 16** See “Conditional Uses” section.
- 17** See “Conditional Use Permit for Surface Extraction of Natural Resources” section.
- 18** **Conditional use allowed only on privately held property.** Not allowed on government lands.
- 19** Reserved.
- 20** The airport-related uses allowed under this entry are aircraft approach and departure zones pursuant to KMC [14.20.070\(a\)](#), except that for properties contained inside the airport perimeter fence or having access to aircraft movement areas, taxiways or parking aprons, FAA authorized uses are allowed.
- 21** Developments for use shall be the same as those listed in the Development Requirements Table for the RU/TSH Zones.
- 22** **Allowed as a conditional use in conjunction with a permitted use in the ED Zone.** For example, housing for teachers or students for a school in the zone.
- 23** **Allowed as an accessory use in conjunction with a permitted use in the ED Zone.** For example, a dormitory used to house students for a school or educational facility.
- 24** Retail businesses allowed as a secondary use in conjunction with the primary use (e.g., a gift shop or coffee shop within another business).
- 25** Art studios, barbers, beauticians, tattoo parlors, dressmakers, dry cleaners and self-service laundries, fitness centers, photographic studios, tailors, tanning salons and massage therapists.
- 26** Food services are allowed on a temporary or seasonal basis of not more than four (4) months per year.
- 27** Personal services not set forth in the below matrix are conditional uses.

Limited Commercial Zone		
Personal Services	Permitted (P)	Conditional Use (C)
Art Studios	X	
Barbers	X	
Beauticians	X	
Dressmakers	X	
Dry Cleaners		X
Fitness Centers	X	
Massage Therapist		X
Photographic Studios	X	
Self-Service Laundries		X
Tailors	X	
Tanning Salons	X	
Tattoo Parlors		X

28 Communications tower/antenna(s) allowed as a principal permitted (P) use if the applicable conditions set forth in KMC [14.20.255](#) are met or a conditional use (C) if the applicable conditions set forth in KMC [14.20.150](#) and [14.20.255](#) are met.

29 Use allowed only for those parcels that abut the Kenai Spur Highway. The access to any such parcel must be either from: (a) driveway access on the Kenai Spur Highway; or (b) driveway access from a dedicated right-of-way and that driveway access is not more than two hundred seventy-five (275) feet as measured from the constructed centerline of the Kenai Spur Highway to the center of the driveway access as shown on an as-built drawing/survey of the parcel.

30 See marijuana regulations, KMC [14.20.230](#)—Home Occupations, [14.20.320](#)—Definitions, [14.20.330](#)—Standards for commercial marijuana establishments.

31 See KMC [14.20.175](#)—Adult businesses; no adult business may be located within one thousand (1,000) feet of another adult business, or sensitive use. “Sensitive use” means a church or other place of worship, a public or private school (licensed pre-K through twelfth grade) or businesses where or areas where youth are likely to be present (limited to public parks, youth recreational centers, public playgrounds, public libraries).

(Amended during 7-7-99 supplement; Ord. 1862-2000; Amended during 12-1-00 supplement; Ords. 1911-2001, 1938-2001, 1956-2002, 1962-2002, 1990-2003, 1994-2003, 2053-2004, 2081-2005, 2112-2005, 2113-2005, 2144-2006, 2152-2006, 2185-2006, 2195-2006, 2246-2007, 2272-2007, 2403-2009, 2425-2009, 2546-2011, 2610-2012, 2649-2012, 2688-2013, 2784-2014, 2870-2016, 2884-2016, 3025-2018, 3056-2019, 3083-2019 (Substitute))

The Kenai Municipal Code is current through Ordinance 3110-2020, passed March 18, 2020.

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

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14.20.320 Definitions.

(a) *General Interpretation.*

- (1) Words used in the present tense include the future tense.
- (2) The singular number includes the plural.
- (3) The word "person" includes a corporation as well as an individual.
- (4) The word "lot" includes the word "plot" or "parcel."
- (5) The term "shall" is always mandatory.
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed to be used or occupied."

(b) *Specific Definitions.*

"Accessory building" means a detached building or structure, the use of which is appropriate, subordinate, and customarily incidental to that of the main building or to the main use of the land and which is located on the same lot as the main building or use, except as allowed by a conditional use permit. An accessory building shall be considered to be a part of the main building when joined to the main building by a common wall or when any accessory building and the main building are connected by a breezeway.

"Accessory use" means a use customarily incidental and subordinate to the principal use of the land, building, or structure and located on the same lot or parcel of land.

"Administrative official" means the person charged with the administration and enforcement of this chapter.

"Agricultural building" means a building or structure used to shelter farm implements, hay, grain, poultry, livestock, or other farm produce, in which there is no human habitation and which is not used by the public.

"Agriculture" means the science, art, and business of cultivating soil, producing crops, and raising livestock; farming.

"Airport" means a location where aircraft such as fixed-wing aircraft, helicopters, and blimps take off and land. Aircraft may be stored or maintained at an airport. An airport consists of at least one (1) surface such as a paved or gravel runway, a helicopter touchdown and lift off (TLOF) area, helipad, or water runway for aircraft takeoffs and landings, and often includes buildings such as control towers, hangars and terminal buildings.

"Airport compatible uses" means uses which include, but are not limited to: hangars, fixed base operators, aircraft repair and manufacturing, aircraft sales, and other uses approved by the ordinance of the City of Kenai, and the Federal Aviation Administration's regulations, and compatible with the current airport master plan, the airport layout plan and the comprehensive plan.

“Alley” means a public way designed and intended to provide only a secondary means of access to any property abutting thereon.

“Alteration” means any change, addition, or modification in construction, location, or use classification.

“Animal boarding” means any building or structure and associated premises in which animals are fed, housed, and/or exercised for commercial gain.

Apartment House. See “Dwelling, multiple-family.”

“Area, building” means the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of steps.

“Assemblage” means a large gathering of people for an event such as a concert, fair, or circus.

“Assisted living” means a living arrangement in which people with special needs, especially seniors with disabilities, reside in a facility that provides help with everyday tasks such as bathing, dressing, and taking medication.

“Automobile sales” means the use of any building or structure and associated premises for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreation vehicles and including any warranty repair work and other repair service conducted as an accessory use.

“Automobile service station” means the use of any building or structure and associated premises or other space used primarily for the retail sale and dispensing of motor fuels, tires, batteries, and other small accessories; the installation and servicing of such lubricants, tires, batteries, and other small accessories; and such other services which do not customarily or usually require the services of a qualified automotive mechanic.

“Automobile wrecking” means the dismantling of used motor vehicles or trailers or the storage or sale of parts from dismantled or partially dismantled, obsolete, or wrecked vehicles.

“Automotive repair” means the use of any building or structure and associated premises on which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

“Bank” means any establishment or building or structure used for a financial institution that provides financial services for its clients or members. The term “bank” includes savings and loan.

“Bed and breakfast” means a residential, owner-occupied dwelling in which rooms are rented to paying guests on an overnight basis with no more than one (1) meal served daily.

“Boarding house” means a dwelling where the principal use is a dwelling by the owner or keeper and where the owner or keeper provides lodging for three (3) or more persons who are not members of the owner’s or keeper’s family and the lodgers pay compensation to use one (1) or more rooms. The common parts of the building or structure are maintained by the owner or keeper who may also provide lodgers with some services, such as meals, laundry, and cleaning. Boarding houses are not motels or hotels and are not open to transient guests.

“Building” means any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

“Building code” means the building code and/or other building regulations applicable in the City.

“Building, existing” means a building erected prior to the adoption of the ordinance codified in this chapter or one for which a legal building permit has been issued.

“Building height” means the vertical distance from the “grade,” as defined herein, to the highest point of the roof.

“Building, principal or main” means a building or structure in which is conducted the principal or main use on the lot which said building is situated.

“Business/consumer services” means the provision of services to others on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

“Cabin rentals” means the renting out of one (1) or more individual, detached dwelling units or buildings to provide overnight sleeping accommodations for a period of less than thirty (30) consecutive days.

“Cemetery” means any property used to inter the dead in buried graves or in columbarium, stacked vaults, or similar structures.

“Centerline” means the line which is in the center of a public right-of-way.

“Church” means a building or structure in which persons regularly assemble for worship, ceremonies, rituals, and education pertaining to a particular system of beliefs. The term “church” includes a synagogue or temple.

“City” means the City of Kenai, Alaska.

“Clinic” (or outpatient clinic or ambulatory care clinic) means a health care facility that is primarily devoted to the care of outpatients. Clinics can be privately operated or publicly managed and funded, and typically cover the primary health care needs of populations in local communities, in contrast to larger hospitals which offer specialized treatments and admit inpatients for overnight stays.

“Collector street” means a street located and designed for the primary purpose of carrying through traffic and of connecting major areas of the City. Unless otherwise designated by the Commission, collector street shall be defined on the plan for streets and community facilities in the comprehensive development plan.

“College” means an educational institution providing postsecondary (after high school) education.

“Commercial kennel” has the same meaning given in KMC [3.05.010](#).

“Commercial marijuana establishment” means any retail marijuana store, excluding on-site consumption endorsements, marijuana cultivation facility, marijuana product manufacturing facility, and marijuana testing facility.

“Commercial recreation” means a recreation facility operated as a business and open to the public for a fee.

“Commission” means the Kenai Planning and Zoning Commission.

“Communication antenna” has the same meaning given in KMC [14.20.255](#).

“Communication tower” has the same meaning given in KMC [14.20.255](#).

“Conditional use” means a use which is permitted under the terms of this chapter; provided, that under the specified procedures, the Commission finds that certain conditions specified in this chapter are fulfilled. Conditional uses are listed in the Land Use Table.

“Condominium” means a common interest ownership dwelling in which:

- (1) Portions of the real estate are designated for separate ownership;
- (2) The remainder of the real estate is designated for common ownership solely by the owners of those portions;
- (3) The undivided interests in the common elements are vested in the unit owners. In the Land Use Table (KMC [14.22.010](#)), “condominiums” shall be treated as two (2) or more family dwellings. For example, a four (4) unit condominium building would be treated as a four (4) family dwelling.

“Coverage” means that percentage of the total lot area covered by the building area.

“Crematory/funeral home” means building or structure used for preparation of the deceased for display and/or interment and may also be used for ceremonies connected with interment. Preparation may include cremation, which is the process of reducing dead bodies to basic chemical compounds in the form of gases and bone fragments. This is accomplished through burning—high temperatures, vaporization, and oxidation.

“Day care center” means an establishment where child care is regularly provided for children for periods of less than twenty-four (24) hours, including the building housing the facility and adjoining areas, and where tuition, fees, or other compensation for the care of the children is charged.

“Dormitory” means a building, whether public or private, associated with a school, college or university and designed, used, and arranged for private sleeping, studying, and living accommodation for students.

“Dwelling” means a building or any portion thereof designed or used exclusively for residential occupancy including one-family, two-family and multiple-family dwellings, but not including any other building wherein human beings may be housed.

“Dwelling, multiple-family” means any building containing three (3) or more dwelling units.

“Dwelling, one-family” means any detached building containing only one (1) dwelling unit.

“Dwelling, two-family” means any building containing only two (2) dwelling units.

“Dwelling unit” means one (1) or more rooms and a single kitchen in a dwelling designed as a unit for occupancy by not more than one (1) family for living or sleeping purposes.

“Elementary school” means any school usually consisting of grades pre-kindergarten through grade six (6) or any combination of grades within this range.

“Essential service” means the erection, construction, alteration, or maintenance by public utility companies or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. This definition shall not be interpreted to include public buildings.

“Family” means any number of individuals living together as a single housekeeping unit in a dwelling unit.

“Farming” means a tract of land cultivated for the purpose of commercial agricultural production.

“Fence, height” means the vertical distance between the ground directly under the fence and the highest point of the fence.

“Floor area” means the total of each floor of a building within the surrounding outer walls but excluding vent shafts and courts.

“Fraternal organization” means a group of people formally organized for a common object, purpose, or interest (usually cultural, religious or entertainment) that conducts regular meetings and has written membership requirements.

“Frontage” means all the property fronting on one (1) side of a street between intersection streets.

“Garage, private” means an accessory building or any portion of a main building used in connection with residential purposes for the storage of passenger motor vehicles.

“Garage, public” means any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other vehicles.

“Gas manufacturer/storage” means the surface use of lands used in the production, the mechanical transformation, or the chemical transformation of hydrocarbon gas and includes uses for gas conditioning/compressor stations. “Storage” means surface uses necessary for storage of produced or nonnative natural gas.

“Governmental building” means a building or structure owned and operated by any department, commission, or agency of the United States or of a state or municipality and used to conduct official business of government.

“Grade (ground level)” means the average level of the finished ground at the center of all walls to a building. In case walls are parallel to and within five (5) feet of a public sidewalk, the ground level shall be measured at the sidewalk.

“Greenhouse” means a building or structure, usually a glassed or clear plastic enclosure, used for the cultivation and protection of plants.

“Guest room” means any room in a hotel, dormitory, boarding, or lodging house used and maintained to provide sleeping accommodations for one (1) or more persons.

“Guide service” means any activity on any premises used for collecting or returning persons from recreational trips when remuneration is provided for the service.

“Gunsmith” means a person who repairs, modifies, designs, or builds firearms.

“High school” means a secondary school usually consisting of grades nine (9) through twelve (12) or any appropriate combination of grades within this range.

“Home occupation” means an accessory use carried out for remuneration by a resident in the resident’s dwelling unit.

“Hospital” means an institution that provides medical, surgical, or psychiatric care and treatment for the sick or the injured.

“Hotel” means a building or group of buildings containing more than five (5) guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals.

“Junkyard” means any space one hundred (100) square feet or more of any lot or parcel of land used for the storage, keeping, or abandonment of junk or waste material, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or any parts thereof.

“Library” means a collection of sources, resources, and services, and the structure in which it is housed; it is organized for use and maintained by a public body, an institution, or a private individual.

“Licensed premises for commercial marijuana establishment” means any and all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a commercial marijuana establishment license is issued, and used, controlled, or operated by the commercial marijuana establishment to carry out the business for which it licensed.

“Loading space” means an off-street space or berth on the same lot with a building or structure to be used for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

“Lodge” means a building or group of buildings containing five (5) or fewer guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals.

“Lot” means a parcel of land occupied or to be occupied by a principal use and having frontage on a public street.

“Lot, corner” means a lot situated at the junction of, and bordering on, two (2) intersecting streets, two (2) platted rights-of-way, two (2) government easements, or any combination thereof.

“Lot coverage” means that portion of the lot covered by buildings or structures that require a building permit.

“Lot depth” means the horizontal distance separating the front and rear lot lines of a lot and at right angles to its width.

“Lot line, front—corner lot” means the shortest street line of a corner lot.

“Lot line, front—interior lot” means a line separating the lot from the street.

“Lot line, rear” means a line that is opposite and most distant from the front lot line, and in the case of irregular, triangular, or gore shaped lot, a line not less than ten (10) feet in length, within a lot, parallel to and at the maximum distance from the front lot line.

“Lot line, side” means any lot boundary line not a front lot line or a rear lot line.

“Lot width” means the mean horizontal distance separating the side lot lines of a lot and at right angles to its depth.

“Manufactured housing” means a dwelling unit that meets Department of Housing and Urban Development standards for manufactured housing and is wider than sixteen (16) feet, has a roof pitch of 4:12 or greater with roofing and siding common to standard residential construction and is transported to the site and placed on a permanent foundation.

“Manufacturing/fabricating/assembly” means the mechanical or chemical transformation of materials or substances into new products including assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

“Marijuana” means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. The term does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

“Marijuana concentrate” means resin, oil, wax, or any other substance derived from the marijuana plant by any method which isolates the tetrahydrocannabinol (THC) bearing resins of the plant.

“Marijuana cultivation facility” means any entity with a State license registered to cultivate, prepare, and package marijuana and to sell marijuana to marijuana retail facilities, marijuana products manufacturing facilities, marijuana testing facilities, but not to consumers.

“Marijuana cultivation facility, limited” means an entity registered to cultivate in an area of five hundred (500) square feet or less of cultivation, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

“Marijuana cultivation facility, standard” means an entity registered to cultivate in an area greater than five hundred (500) square feet under cultivation, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

“Marijuana product manufacturing facility” means a State-licensed fully enclosed secure indoor facility registered to purchase marijuana, manufacture, prepare and package marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

“Marijuana products” means concentrated marijuana and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

“Marijuana testing facility” means a State-licensed commercial marijuana testing facility that is registered to analyze and certify the safety and potency of marijuana and marijuana products.

“Mini-storage facility” means a completely enclosed structure containing three (3) or more areas or rooms available for lease or rent for the purpose of the general storage of household goods, vehicles or personal property; where the lessee of the unit is provided direct access to deposit or store items and where vehicles do not fill the majority of the allowed storage space.

“Mobile home” means a structure, which is built on a permanent chassis in accordance with Department of Housing and Urban Development Standards and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. A mobile home is subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided.

“Mobile home park” means a site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.

“Modular home” means a dwelling constructed in modules or sections at a place other than the building site, built to conform to KMC Title [4](#), is transported to the site and then assembled and placed on a permanent foundation.

“Motel” means a group of one (1) or more detached or semi-detached buildings containing two (2) or more individual dwelling units and/or guest rooms designed for, or used temporarily by, automobile tourists or transients, with a garage attached or parking space conveniently located to each unit, including groups designated as auto courts, motor lodges, or tourist courts.

“Museum” means a building or structure that houses and cares for a collection of artifacts and other objects of scientific, artistic, or historical importance and makes them available for public viewing through exhibits that may be permanent or temporary.

“Necessary aviation facilities” means any air navigation facility, airport visual approach aid, airfield lighting and signage, meteorological device or any type of device approved by the Federal Aviation Administration (FAA), the location and height of which is fixed by its functional purpose.

“Nonconforming lot” means a lot lawfully existing at the time this chapter became effective, which by reason of area or dimensions, does not meet the development requirements for the zone in which it is located.

“Nonconforming structure” means a structure or portion thereof, lawfully existing at the time this chapter became effective, which by reason of its yards, coverage, height, or other aspects of design, does not meet the development requirements of this zone.

“Nonconforming use” means a use of a structure or land, or of a structure and land in combination, lawfully existing at the time this chapter became effective, or established on the premises of a previous nonconforming use as specified in this chapter, which is not in conformity with the uses permitted in the zone in which it exists.

“Nursing, convalescent or rest home” means a building or structure used as a residence for people who require constant nursing care and/or have significant deficiencies with activities of daily living.

“Office” means a room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

“On-site consumption endorsement” means the State-regulated consumption of certain marijuana products at or adjacent to a retail marijuana store by patrons of the commercial marijuana establishment.

“Park” means a tract of land, designated by a public entity for the enjoyment of the public and generally used for active and passive recreational activities.

“Parking, public lots” means a parking area available to the public, whether or not a fee for use is charged.

“Parking space, private” means any automobile parking space, excluding garages, not less than nine (9) feet wide and one hundred eighty (180) square feet in total area.

“Parking space, public” means an area of not less than one hundred eighty (180) square feet exclusive of drives or aisles giving access thereto in area accessible from streets and alleys for the storage of passenger motor vehicles operated by individual drivers.

“Person” means a natural person, his or her heirs, executors, administrators, or assigns, and also including firm, partnership, or corporation, or their successors and/or assigns or the agent of any of the aforesaid.

“Personal services” mean establishments engaged in providing services involving the care of a person or his or her apparel.

“Planned unit residential development” means an alternative method of development of a residential neighborhood under more flexible conditions than otherwise required in a specific zoning district.

“Principal use” means the major or predominant use of a lot or parcel of land.

“Profession” means an occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued by an institution of high learning, e.g., Doctor of Medicine.

“Property owner” means the owner shown on the latest tax assessment roll.

“Public” means a place to which the public or a substantial group of persons has access and includes highway, rivers, lakes, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Recreation” means leisure activities sometimes requiring equipment and taking place at prescribed places, sites, parks, or fields. It can include active recreation, such as structured individual or team activities requiring the use of

special facilities, courses, fields or equipment or passive recreation, such as activities that do not require prepared facilities such as wildlife and bird viewing, observing and photographing nature, picnicking, and walking.

“Recreational vehicle” means a vehicular-type unit, primarily designed as temporary living quarters for recreational camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. Recreational vehicles include, but are not limited to, travel trailers, camping trailers, truck campers, and motor homes.

“Recreational vehicle park” means an area established by a conditional use permit for the parking of two (2) or more recreational vehicles on a temporary basis.

“Recreation or youth center” means a building, structure, athletic playing field, or playground, run or created by a local government or the State to provide athletic, recreational, or leisure activities for minors, or operated by a public or private organization, licensed to provide shelter, training, or guidance for persons under twenty-one (21) years of age.

“Restaurant” means an establishment where food and drink is prepared, served, and consumed primarily within the principal building.

“Retail business” means establishments engaged in selling goods or merchandise to the general public for business or personal/household consumption and rendering services incidental to the sale of such goods.

“Retail marijuana store” means a State-licensed entity registered to purchase marijuana from a marijuana cultivation facility, to purchase marijuana and marijuana products from a marijuana manufacturing facility, and sell marijuana and marijuana products to consumers.

“Secondary use” means a use allowed on a lot or parcel of land only if there is also an allowed principal use on the property.

“Sign” means any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names, or trademarks by which anything is made known, such as are used to designate an individual, firm, association, corporation, profession, business, or a commodity or product, which are visible from any public street or highway and used to attract attention.

“Square feet under cultivation” means an area of the licensed premises of a standard or limited cultivation facility that is used for growing marijuana, measured on the perimeter of the floor or growing space for marijuana.

“Square feet under cultivation” does not include hallways, equipment storage areas, or other areas within the licensed premises that are not used for growing marijuana such as an office, or a processing or storage area.

“State highway” means a right-of-way classified by the State of Alaska as a primary or secondary highway.

“Storage yard” means a lot used primarily for the storage of operational vehicles, construction equipment, construction materials or other tangible materials and equipment.

“Street” means a public right-of-way used as a thoroughfare and which is designed and intended to provide the primary means of access to property abutting thereon.

“Structure” means that which is built or constructed, an edifice or a building of any kind, composed of parts joined together in some definite manner.

“Subsurface extraction of natural resources” means removing valuable minerals or other geological materials from the earth, from an ore body, vein or (coal) seam. Materials recovered could include gas, oil, base metals, precious metals, iron, uranium, coal, diamonds, limestone, oil shale, rock salt and potash.

“Surface extraction of natural resources” means removal of material, usually soil, gravel, or sand for use at another location.

“Taxidermy” means the act of mounting or reproducing dead animals, fish, and/or birds for display.

“Theater” means a building or structure, or part thereof, devoted to the indoor exhibition of motion pictures and/or of live dramatic, speaking, musical, or other presentations.

“Townhouse” means single-family dwelling units constructed in a series or group of two (2) or more units separated from an adjoining unit by an approved party wall or walls, extending from the basement of either floor to the roof along the linking lot line.

“Tree nursery” means a place where trees/plants are propagated and grown to usable size.

“Use” means the purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

“Variance” means the relaxation of the development requirements of this chapter to provide relief when the literal enforcement would deprive a property owner of the reasonable use of his or her real property.

“Warehouse” means a building or structure used for the storage of goods, wares and merchandise that will be processed, sold or otherwise disposed of off of the premises.

“Wholesale business” means business conducted primarily for the purpose of selling wares or merchandise in wholesale lots to retail merchants for resale.

“Yard” means an open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this chapter, on the same lot on which a building is situated.

“Yard, front” means a yard extending across the full width of the lot between the front lot line of the lot and the nearest exterior wall of the building which is the nearest to the front lot line.

“Yard, rear” means a yard extending across the full width of the lot between the most rear main building and the rear lot line.

“Yard, side” means a yard on each side of a main building and extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of a side lot line to the nearest part of the main building.

“Zoning change” means the alteration or moving of a zone boundary; the reclassification of a lot, or parcel of land, from one zone to another; and the change of any of the regulations contained in this chapter.

"Zoning ordinance or ordinances" mean the zoning ordinance of the City of Kenai and KMC Title [14](#).

(Ords. 925, 1017, 1179, 1305-89, 1306-89, 1634-95, 1744-97, 1745-97, 1862-2000, 1910-2001, 2068-2004, 2094-2005, 2099-2005, 2100-2005, 2185-2006, 2195-2006, 2272-2007, 2652-2012, 2688-2013, 2870-2016, 2884-2016, 3068-2019)

The Kenai Municipal Code is current through Ordinance 3110-2020, passed March 18, 2020.

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

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

City Telephone: (907) 283-7535

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Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3145-2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, WAIVING A PROVISION OF KENAI MUNICIPAL CODE 23.40.030 – ANNUAL LEAVE, TO REMOVE THE REQUIREMENT THAT EMPLOYEES USE A MINIMUM AMOUNT OF LEAVE FOR CALENDAR YEAR 2020.

WHEREAS, Kenai Municipal Code 23.40.030- Annual leave, provides in subpart (g) that employees must take a minimum amount of leave each calendar year or the leave will be removed from their account without compensation; and,

WHEREAS, the provision is intended to encourage employees to take time off for their benefit and the City's; and,

WHEREAS, due to the COVID-19 public health emergency and travel related quarantine mandates, travel is difficult for many employees; and,

WHEREAS, many employees have been away from work for reasons related to the public health emergency that did not require the use of annual leave; and,

WHEREAS, employees may not be in a position to take a minimum amount of annual leave for reasons related to the public health emergency and should not be penalized by having the leave removed from their accounts without compensation.

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

Section 1. That this is a non-code Ordinance.

Section 2. That KMC 23.40.030- Annual leave, subsection (g) that states:

(g) It is required that each employee use a minimum of eighty (80) hours of leave per calendar year for employees working forty (40) hours per week, and one hundred twelve (112) hours for employees working a 7(k) work period, and affect appropriate coordination with the department head. If actual hours used are less than the minimum requirement, then the difference shall be deducted from available leave hours without any compensation to the employee.

is hereby waived for the calendar year 2020.

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

Ordinance No. 3145-2020
Page 2 of 2

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 day of July, 2020.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Introduced: July 1, 2020
Enacted: July 15, 2020
Effective: August 14, 2020



MEMORANDUM

TO: Mayor Gabriel and Council Members
FROM: Scott Bloom, City Attorney
DATE: June 25, 2020
SUBJECT: **Ordinance No. 3145-2020 – Annual Leave**

The City of Kenai Municipal Code provides that employees must take a minimum amount of leave each calendar year or the leave will be removed from their account without compensation. This provision is intended to encourage employees to take time off for the employee and City's mutual benefit.

Due to the COVID-19 public health emergency and quarantine mandates, travel is difficult for many employees. In addition, many employees have been away from work due to the public health emergency that did not require the use of their accrued annual leave.

Employees may not be in a position to take a minimum amount of annual leave for reasons related to the public health emergency and should not be penalized by having the leave removed without compensation.

Your consideration is appreciated.



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Mary Bondurant, Airport Manager

DATE: June 19, 2020

SUBJECT: **Action/Approval – Special Use Permit to Alaska Air Fuel, Inc.**

Alaska Air Fuel, Inc. is requesting renewal of a Special Use Permit effective July 1, 2020 through June 30, 2021.

The Permit is for aircraft loading and parking on approximately 15,000 square feet on the apron.

The rate is based on the table below passed by City Council at the May 18, 2016 Council meeting.

Apron Rate Increases to Arrive at Market in 6 years	
Apron Lease Rate FY15 \$1.80s.f. x .08	\$ 0.144
FY2016	\$ 0.357
FY2017	\$ 0.528
FY2018	\$ 0.699
FY2019	\$ 0.870
FY2020	\$ 1.041
FY2021	\$ 1.210

Alaska Air Fuel, Inc. has completed the application, paid the application fee and is current on all fees owed. The City has a current Certificate of Insurance on file. The Special Use Permit has been reviewed and approved by the City Attorney.

Airport Commission reviewed the request at the June 11, 2020 Commission meeting and recommends Council approval.

Thank you for your consideration.

Attachment

SPECIAL USE PERMIT – 2020

The CITY OF KENAI (City) grants to ALASKA AIR FUEL, INC. (Permittee), whose address is P.O. Box 360, Palmer, AK 99645, a Special Use Permit to conduct aeronautical and/or aviation-related activities at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

1. **Premises.** Permittee shall have the non-exclusive right to use 15,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
2. **Term.** The term of this Permit shall be for 1 year commencing on July 1, 2020 and ending on June 30, 2021. Regardless of the date of signature, this Permit shall be effective as of July 1, 2020.
3. **Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
 - A. **Permit:** Permittee shall pay a monthly fee of \$1,512.50 plus applicable sales tax.
 - B. **Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of One Hundred Dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
 - C. **Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of 10% per annum, and penalty of 10% shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. **Use.** City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Loading & Parking. **NOTE:** This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

5. Airport Operations. Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

6. Inspection. The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

7. Coordination with Airport Management. Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

8. Radio Transmitting Equipment. Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

9. Insurance. Permittee shall secure and keep in force adequate insurance, as stated below, to protect City and Permittee. Where specific limits are stated, the limits are the minimum acceptable limits. If Permittee’s insurance policy contains higher limits, City is entitled to coverage to the extent of the higher limits.

A. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee’s fuel handling activities. The policy must name the City as an additional insured.

B. Worker’s compensation insurance with coverage for all employees engaged in work under this Permit or at the Premises as required by AS 23.30.045. Permittee is further responsible to provide worker’s compensation insurance for any subcontractor who directly or indirectly provides services to Permittee under this Permit.

C. Commercial Automobile Coverage with not less than \$1,000,000 combined single limit per occurrence. This insurance must cover all owned, hired, and non-owned motor vehicles the Permittee uses on the Airport. The policy must name the City as an additional insured.

D. All insurance required must meet the following additional requirements:

- i. All policies will be by a company/corporation currently rated “A-” or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.
- iii. Permittee shall request a waiver of subrogation against City from

Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.

- iv. Provide the City with notification at least 30 days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2020. The effective date of the insurance shall be no later than July 1, 2020.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

10. Assumption of Risk. Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

11. Indemnity, Defend, and Hold Harmless Agreement. Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

12. Fuel Spill Prevention and Response Plan. Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the

discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within 50' of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

13. Hazardous Substances and Materials. Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

14. No Discrimination. Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly

discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

15. Licenses and Permits. Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

16. Compliance with Law/Grant Assurances. This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

17. No Exclusivity. The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

18. Assignment. The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

19. No Joint Venture. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

20. No Waiver. Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

21. Personalty. Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

22. Termination; Default. This Permit may be terminated by either party hereto by giving 30 days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than 30 days, to protect public health and safety or due

ACKNOWLEDGMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2020, the foregoing instrument was acknowledged before me by Paul Ostrander, City Manager, of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

Notary Public for Alaska
My Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2020, the foregoing instrument was acknowledged before me by John Sliwinski, Vice President, Alaska Air Fuel, Inc., on behalf of the State of Alaska.

Notary Public for Alaska
My Commission Expires: _____

ATTEST:

Jamie Heinz, City Clerk

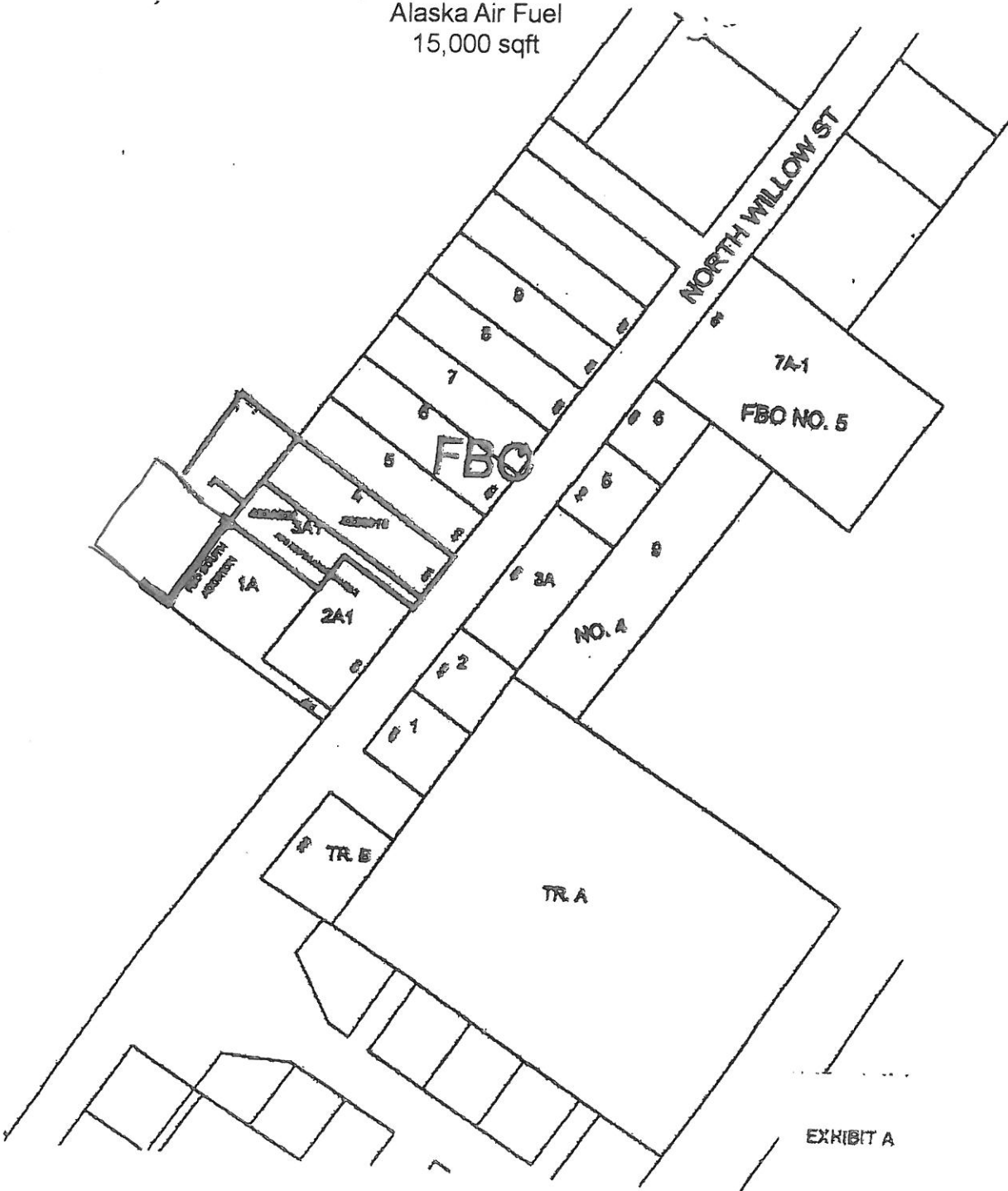
SEAL:

APPROVED AS TO FORM:

Scott M. Bloom, City Attorney

Exhibit A

Alaska Air Fuel
15,000 sqft





MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Terry Eubank, Finance Director

DATE: June 24, 2020

SUBJECT: **Approving Officials Bond Amounts for City Manager, City Clerk and Finance Director**

The purpose of this memo is to request approval for the bonding amounts of the City Manager, City Clerk and Finance Director. Kenai Municipal Charter Section 4-3 Official Bonds requires the City Administrator, the Finance Director, the City Treasurer, and other officers and employees as the Council may designate to be bonded for the faithful performance of their respective duties in such amounts as the Council may prescribe and the City shall pay the premiums.

Council previously established bonding amounts of \$2,000, \$10,000, and \$40,000 for the City Manager, City Clerk and Finance Director respectively. In addition to these bond amounts, the City's general liability insurance policy provides \$500,000 for employee dishonesty coverage for all City employees. Note, the general liability coverage amount of \$500,000 is half of what it was in FY2020 because of our change in insurer.

Because of the reduction in coverage from \$1,000,000 to \$500,000 I recommend the purchase of an additional \$100,000 bond on each the City Manager, City Clerk and Finance Director positions at a cost of \$359 per year. \$100,000 is the maximum inexpensive bonding amount. Higher amounts which include employee dishonesty provisions have been quoted at \$1,750 per position for an additional \$500,000 of coverage for a total cost of \$5,250. The purchase of bonds in the amount of \$100,000 will provide \$600,000 of coverage for each position at a total cost of \$359.

I respectfully request a motion approving \$100,000 as the prescribed bonding amount for the City Manager, City Clerk and Finance Director positions respectively for FY2021.

**KENAI HARBOR COMMISSION
REGULAR MEETING
JUNE 8, 2020 – 6:00 P.M.
KENAI CITY HALL
CHAIR MIKE DUNN, PRESIDING**

MEETING SUMMARY

1. CALL TO ORDER

Chair Dunn called the meeting to order at approximately 6:00 p.m.

a. Pledge of Allegiance

Chair Dunn led those assembled in the Pledge of Allegiance.

b. Roll Call

Roll was confirmed as follows:

Commissioners present: Chair M. Dunn, Vice-Chair C. Crandall, B. Peters, N. Berga, C. Hutchison, J. Desimone

Commissioners absent: B. Bornemann

Staff/Council Liaison present: Public Works Director S. Curtin, City Clerk J. Heinz, Council Member J. Glendening

A quorum was present.

c. Agenda Approval

Add item 6.b. **Action/Approval** – Ratify Decision for in-person/virtual hybrid meetings.

MOTION:

Commissioner Crandall **MOVED** to approve the agenda with the additions to the agenda as noted and Commissioner Desimone **SECONDED** the motion. There were no objections; **SO ORDERED**.

2. SCHEDULED PUBLIC COMMENTS – None.

3. UNSCHEDULED PUBLIC COMMENT – None.

4. APPROVAL OF MEETING SUMMARY

a. May 11, 2020

MOTION:

Commissioner Crandall **MOVED** to approve the meeting summary of May 11, 2020; and Commissioner Desimone **SECONDED** the motion. There were no objections; **SO ORDERED**.

5. **UNFINISHED BUSINESS** – None.

6. **NEW BUSINESS**

a. **Discussion** – Upcoming Fisheries

The Public Works Director noted the City was moving forward with the dipnet fishery, subject to changes due to the public health emergency; COVID material to be provided on window hangers, cashless, utilizing porta-potties, and adding hand wash stations for 2020. He also reported the vault restroom project would likely not be finished by July and that the Peninsula Avenue Bluff Erosion Project and City Dock Repair projects were out for bid and provided overviews of the projects.

He also noted the management agreement for the dock was in the process of being executed and other Special Use Permit dock permittees are using the dock.

b. **Action/Approval** – Ratify the Commission's Decision Regarding Future In-Person

MOTION:

Commissioner Crandall **MOVED** to meet in the in-person/virtual hybrid moving forward and Commissioner Hutchison **SECONDED** the motion. There were no objections; **SO ORDERED**.

7. **REPORTS**

a. **Public Works Director** – S. Curtin reported the following:

- Kenai Police and Fire would be policing the water and coordinating with the US Coast Guard and state troopers during dipnet;
- Provided update on the Bluff Erosion project noting the City has received authorization to begin spending their contribution for project.

b. **Commission Chair** – M. Dunn asked Commissioner Berga to provide an update on the Pacific Star dock. Commissioner Berga noted the Kenai Peninsula Borough (KPB) Planning Commission denied their request to expand a boat launch ramp as borough code didn't allow for any new construction in the mouth of the river. He added that City Administration had provided him with information and another meeting with the KPB Planning and Zoning Commission was tonight.

c. **City Council Liaison** – R. Peterkin reported on the actions of the June 3 Council Meeting; encouraged ideas for use of CARES Act funding be communicated with Public Works Director.

8. **NEXT MEETING ATTENDANCE NOTIFICATION** – August 10, 2020

9. **COMMISSIONER COMMENTS AND QUESTIONS**

Commissioner Berga noted he had a rough draft of a survey of the mouth of the river that he would share if it would be helpful for dredging in the future.

Commissioner Crandall wished all a good summer and encouraged everyone to be safe.

Commissioner Peters wished Pacific Star Seafoods well with their Launch Ramp application before

the KPB Planning Commission, wished everyone a happy Fourth of July, and wished everyone well with the dipnet fishery.

Commissioner Desimone expressed gratitude for continuing the meetings in the public emergency conditions noting it was good to have choices.

Commission Chair Dunn expressed gratitude for all attending the meeting; wished everyone a safe and good summer.

10. **ADDITIONAL PUBLIC COMMENT** – None.

11. **INFORMATION ITEMS** – None.

12. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at approximately 6:54 p.m.

Meeting summary prepared and submitted by:

Jamie Heinz, CMC
City Clerk

**KENAI PLANNING & ZONING COMMISSION
REGULAR MEETING
JUNE 10, 2020 – 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, ALASKA
VICE-CHAIR DIANE FIKES, PRESIDING**

MINUTES

A. CALL TO ORDER

Commission Vice-Chair Fikes called the meeting to order at 7:01 p.m.

1. Pledge of Allegiance

Commission Vice-Chair Fikes led those assembled in the Pledge of the Allegiance.

2. Roll Call

Commissioners present: J. Twait, D. Fikes, V. Askin, T. McIntyre, G. Greenberg, R. Springer, J. Halstead

Commissioners absent:

Staff/Council Liaison present: City Planner E. Appleby, City Clerk J. Heinz, Deputy Clerk J. LaPlante, Council Liaison H. Knackstedt

A quorum was present.

3. Agenda Approval

Vice-Chair Fikes noted the following revision to the agenda:

Add Item H. 4. **Action/Approval** - Transitioning to In-Person / Zoom Hybrid Meetings

MOTION:

Commissioner Askin **MOVED** to approve the agenda with the requested addition and Commissioner Twait **SECONDED** the motion. There were no objections; **SO ORDERED**.

4. Consent Agenda

MOTION:

Commissioner Askin **MOVED** to approve the consent agenda and Commissioner Twait **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. *May 27, 2020

The minutes were approved by the Consent Agenda.

C. SCHEDULED PUBLIC COMMENT – None.

D. UNSCHEDULED PUBLIC COMMENT – None.

E. CONSIDERATION OF PLATS

1. **Resolution PZ2020-15** - Preliminary Subdivision Plat of Holland Spur Highway Subdivision 2020 Addition, submitted by Segesser Surveys, 30485 Rosland St., Soldotna, AK 99669, on behalf of Glen Martin, P.O. Box 1389, Soldotna, AK 99669.

MOTION:

Commissioner Twait **MOVED** to approve Resolution PZ2020-15 and Commissioner Askin **SECONDED** the motion.

The staff report was reviewed as provided in the packet and it was noted the applicant was proposing a division of the plat into two smaller parcels and there were no public comments received. It was further noted there was an existing driveway that was not shown on the aerial view in addition to a gravel pad. Approval of the preliminary plat of Holland Spur Highway Subdivision 2020 Addition was recommended, subject to the following conditions:

- Further development of the property shall conform to all federal, State of Alaska, and local regulations;
- Plat note six (6) will be amended to read as follows:
 - 6) Portions of this subdivision are within the Kenai Peninsula Borough 50-foot Anadromous Stream Habitat Protection Area. See Chapter 21.18 Kenai Peninsula Borough Code of Ordinance, as may be amended, for restrictions that affect development of this subdivision.

COMMISSIONER HALSTEAD ARRIVED AT 7:06 PM.

Vice-Chair Fikes opened the floor for public testimony; there being no one wishing to be heard, public comment was closed.

It was clarified plat note four (4) references a public land order that created the right-of-ways for state highways; they cannot build on the Kenai Spur Highway right-of-way.

VOTE:

YEA: Twait, Springer, Halstead, McIntyre, Fikes, Askin, Greenberg
NAY:

MOTION PASSED UNANIMOUSLY.

- 2. **Resolution PZ2020-16** – Preliminary Subdivision Plat of McLennan Estates Addition No. 1, submitted by Segesser Surveys, 30485 Rosland St., Soldotna, AK 99669, on behalf of Cheney and Maryann McLennan, 701 Davidson Dr., Kenai, AK 99611.

MOTION:

Commissioner Springer **MOVED** to approve Resolution PZ2020-16 and Commissioner Halstead **SECONDED** the motion.

The staff report was reviewed as provided in the packet and it was noted the City did not receive any public comments on this item. It was added that access was a gravel driveway maintained by the City of Kenai and any new driveways would need to be approved by the State of Alaska. In addition, the applicant was aware that they needed to cap the water lines going between the houses.

Vice-Chair Fikes opened the floor for public testimony; there being no one wishing to be heard, public comment was closed.

AN AT EASE WAS ORDERED AT 7:28 p.m.; MEETING RECONVENED AT 7:41 p.m.

A discrepancy was noted in the street names between the plat and the aerial imagery and clarified it should be "Davidson Street."

MOTION:

Commissioner Askin **MOVED** to amend Resolution PZ2020-16 in Section One, adding a 4th condition to remove "Davidson Dr." and change to "Davidson St." and Commissioner Twait **SECONDED** the motion. There being no objections, **SO ORDERED.**

Clarification was provided regarding the driveway and utilities on this parcel.

VOTE ON MAIN MOTION AS AMENDED:

YEA: Halstead, McIntyre, Fikes, Askin, Greenberg, Twait, Springer
NAY:

MOTION PASSED UNANIMOUSLY.

F. PUBLIC HEARINGS

- 1. **Resolution PZ2020-13** - Application for the Rezoning of two parcels adjacent to the Kenai Spur Highway and described as Tracts 1 and 2, Holland Spur Highway Subdivision, and located at 7344 and 7450 Kenai Spur Highway, from Rural Residential (RR) to General Commercial (CG). The application was submitted by the majority property owner, Glen Martin, P.O. Box 1389, Soldotna, AK 99669.

MOTION:

Commissioner Springer **MOVED** to approve Resolution No. PZ2020-13 and Commissioner Askin **SECONDED** the motion.

The City Planner reviewed the staff report provided in the packet noting the maps provides clarity on the current zoning and the proposed, adding that the CG zone was more consistent with the layout of the parcel and with the City of Kenai Comprehensive Plan.

Vice-Chair Fikes opened the floor for public testimony. There being no one wishing to be heard, public comment was closed.

Clarification was provided on the relocation of the well head.

VOTE:

YEA: McIntyre, Fikes, Askin, Twait, Springer, Halstead, Greenberg
NAY:

MOTION PASSED UNANIMOUSLY.

G. UNFINISHED BUSINESS – None.

H. NEW BUSINESS

- 1. **Resolution PZ2020-17** - Request to Rename Pelchy Drive to Pelch Drive. The request was submitted by the adjacent property owner, Michael J. Pelch, Jr. 3230 Harlow Rd., Eugene, OR 97401.

MOTION:

Commissioner Springer **MOVED** to approve Resolution No. PZ2020-17 and Commissioner Askin **SECONDED** the motion.

The City Planner reviewed the staff report provided in the packet and noted City staff recommended the Commission approve of the name change from Pelchy Drive to Pelch Drive.

Vice-Chair Fikes opened the floor for public testimony. There being no one wishing to be heard, public comment was closed.

VOTE:

YEA: Twait, Springer, Halstead, McIntyre, Fikes, Askin, Greenberg
NAY:

MOTION PASSED UNANIMOUSLY.

- 2. **Action/Approval** - Authorizing the City Planner to Send a Letter to the Kenai Peninsula

Borough Supporting a One-Year Time Extension to Finalize the Plat of Kee's Tern Subdivision

The City Planner noted the reason for the time extension request was that the owner had not finalized the subdivision and several time extensions had been given over the years.

It was clarified that the Kenai Peninsula Borough was working on a code change to include a time limit for extensions. The Commission expressed support in having a time limit in place for extensions.

MOTION:

Commissioner Askin **MOVED** to approve authorizing the City Planner sending a letter to the Kenai Peninsula Borough supporting a one-year time extension as described and Commissioner Greenberg **SECONDED** the motion.

VOTE:

YEA: Twait, Springer, Halstead, Fikes, Askin, Greenberg
NAY: McIntyre

MOTION PASSED.

- 3. **Action/Approval** - Application for Ten-Year Lease Renewal of City-Owned Land Within the Airport Reserve described as Lot 1A, Block 1, General Aviation Apron Subdivision No. 6 and located at 330 Main Street Loop. The application was submitted by Kenai Aviation Services, Inc. d/b/a Aviation Services, 1755 Lincoln Hill Rd. Martinsville, IN 46151.

MOTION:

Commissioner Askin **MOVED** to recommend approval of the Application for Ten-Year Lease Renewal of City-Owned Land within the Airport Reserve described as Lot 1A, Block 1, General Aviation Apron Subdivision No. 6 and located at 330 Main Street Loop; and Commissioner Halstead **SECONDED** the motion.

The City Planner reviewed the staff report as provided in the memorandum in the packet.

VOTE:

YEA: Twait, Springer, Halstead, McIntyre, Fikes, Askin, Greenberg
NAY:

MOTION PASSED UNANIMOUSLY.

- 4. **Action/Approval** - Transitioning to In-Person / Zoom Hybrid Meetings

The Commission expressed support of in-person and virtual hybrid meetings.

MOTION:

Commissioner Askin **MOVED** to transition to in-person and Zoom virtual hybrid meetings; and Commissioner McIntyre **SECONDED** the motion.

VOTE:

YEA: Greenberg, Springer, Twait, Halstead, McIntyre, Askin, Fikes
NAY:

MOTION PASSED UNANIMOUSLY.

I. **PENDING ITEMS** – None.

J. **REPORTS**

- 1. **City Council** – Council Member Knackstedt reported on the actions from the June 3 City Council meeting.
- 2. **Borough Planning** – Fikes reported on the actions of the June 8 Commission meeting as provided in the packet, noting the plats and marijuana retail application that were approved.
- 3. **Administration** – City Planner Appleby reported on the information item provided in the packet and the City Attorney provided a historical background regarding the property donated for the six-plex' low income senior housing. It was clarified that the need for a variance on that property was due to a miscommunication between the Housing Initiative and City of Kenai when the property was initially donated.

K. **ADDITIONAL PUBLIC COMMENT** – None.

L. **INFORMATIONAL ITEMS**

- 1. Information on Variances and Variance Standards

M. **NEXT MEETING ATTENDANCE NOTIFICATION** – June 24, 2020

N. **COMMISSION COMMENTS & QUESTIONS** – None.

O. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 8:59 p.m.

Minutes prepared and submitted by:

Jacquelyn LaPlante
Deputy City Clerk

**KENAI PLANNING & ZONING COMMISSION
REGULAR MEETING
JUNE 24, 2020 – 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, ALASKA
VICE-CHAIR DIANE FIKES, PRESIDING**

MINUTES

A. CALL TO ORDER

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

1. Pledge of Allegiance

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

2. Roll Call

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

Commissioners absent: T. McIntyre, V. Askin

Staff/Council Liaison present: City Planner E. Appleby, Planning Assistant W. Anderson, City Clerk J. Heinz, Council Liaison H. Knackstedt

A quorum was present.

3. Agenda Approval

MOTION:

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

4. Consent Agenda

MOTION:

Commissioner Halstead **MOVED** to approve the consent agenda and Commissioner 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. *June 10, 2020

The minutes were approved by the Consent Agenda.

C. SCHEDULED PUBLIC COMMENT

Laura Sievert spoke encouraging consideration of ceasing transfers of Conditional Use Permits and instead require applicants to apply for their own Conditional Use Permit to provide for the public noticing that goes along with a new Conditional Use Permit. She noted that she owns property adjacent to the Quality Asphalt Paving pit which used to be the Cone pit noting the permit holder had been violating conditions of the Conditional Use Permit including storing old asphalt in the pit which has since been buried, covering an anadromous fish stream with dirt, a stream in which fish culverts were put in under the highway downstream, pumping pit water into an anadromous fish pond which was on her property which the Kenai Peninsula Borough successfully stopped.

D. UNSCHEDULED PUBLIC COMMENT – None.

E. CONSIDERATION OF PLATS – None.

F. PUBLIC HEARINGS – None.

G. UNFINISHED BUSINESS – None.

H. NEW BUSINESS

1. **Action/Approval** – Application for Four-Year Lease Renewal of City-Owned Land within the Airport Reserve described as Lot 4, Block 1, F.B.O. Subdivision and located at 411 North Willow Street. The application was submitted by CPD Alaska, LLC, 201 Arctic Slope Ave. Anchorage, AK 99518.

The City Planner reviewed the staff report provided in the packet and noted the lease term was determined based on useful life of improvements but the improvements weren't scheduled to be completed until 2024; it was determined the applicant qualified for a four-year lease renewal and could apply for an extension when they were closer to actual investment in the property.

MOTION:

Commissioner Fikes **MOVED** to recommend approval of a four-year lease renewal of city-owned land within the Airport Reserve described as Lot 4, Block 1, F.B.O. Subdivision and located at 411 North Willow Street to CPD Alaska, LLC, and Commissioner Halstead **SECONDED** the motion.

VOTE:

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

MOTION PASSED UNANIMOUSLY.**I. PENDING ITEMS** – None.**J. REPORTS**

1. **City Council** – Council Member Knackstedt reported on the actions from the June 17 City Council meeting and June 18 work session.
2. **Borough Planning** – Commissioner Fikes noted the Borough Planning Commission hasn't met since her last report.
3. **Administration** – City Planner Appleby reported on the following:
 - Update on the Davidson Street issue for the McLennon Estates Addition No. 1 plat from the June 10 meeting; it has been decided it should be Davidson Drive;
 - Noted the new budget starts on July 1;
 - Personal Use Fishery begins on July 10; recommending participants follow social distancing guidelines.

K. ADDITIONAL PUBLIC COMMENT – None.**L. INFORMATIONAL ITEMS** – None.**M. NEXT MEETING ATTENDANCE NOTIFICATION** – July 8, 2020**N. COMMISSION COMMENTS & QUESTIONS** – None.

Commissioner Halstead noted past practice of Planning Department conducting code enforcement; has had several requests in his neighborhood such as junk cars and garbage in yards which do not get investigated or resolved.

Commissioner Greenberg noted the transfer process for Conditional Use Permits for gravel pits do not go through the same process as a new Conditional Use Permit.

Commissioner Chair Twait noted it was nice to see everyone.

O. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 7:49 p.m.

Minutes prepared and submitted by:

Jamie Heinz, CMC
City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Terry Eubank, Finance Director

DATE: June 24, 2020

SUBJECT: **Update on Library Expansion Bond Refunding Issue**

The purpose of this memo is to provide an update on the process to issue advance refunding bonds for the City's outstanding library expansion bonds. Bond pricing was completed today and resulted in the issuance of bonds with a par value of \$1,020,000 which will be sold at a premium which will generate \$193,482.20 in additional funds. These proceeds will be used to refund the existing \$1,165,000 of outstanding bonds including accrued interest of \$29,604.46 through the call date of July 29, 2020. The remaining proceeds of \$18,877.74 will be applied to the City's cost of issuance, \$10,500, fees to the Alaska Municipal Bond Bank for cost of issuance, \$2,516.02, underwriting discounts of \$3,349.19 and \$2,512.53 which will be applied to the FY2021 bond payment.

The refunded bonds had an average interest rate of 3.62% and the new bonds have an average interest rate of 1.45% resulting in a savings of \$121,498.81 over the remaining ten-year life of the bond issuance. Average annual savings is \$12,149.88 per year. Bonds will close on July 7th requiring the signatures of the Mayor, City Manager, City Clerk and myself.

PURCHASE ORDERS BETWEEN \$2,500.00 AND \$15,000.00 FOR COUNCIL REVIEW
COUNCIL MEETING OF: JULY 1, 2020

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
WARNING LITES OF AK.	RUNWAY MARKER CONES	AIRPORT	OPERATING SUPPLIES	3,154.50
CROWLEY PETROLEUM	FLOAT PLANE BASIN FUEL	AIRPORT	OPERATING SUPPLIES	4,499.78
WEST COAST PAPER	KITCHEN & CLEANING SUPPLIES	SENIOR CENTER	OPERATING SUPPLIES	3,000.00
B&H PHOTO-VIDEO	CAMERAS FOR DIPNET SHACK	MUNICIPAL ROADWAY	CONSTRUCTION	2,800.22
MUNICIPAL EMERGENCY SERVICES	SCBA BOTTLES	FIRE	SMALL TOOLS	11,785.41



June 25, 2020

Matthew T. Bell, Jr.
Rear Admiral
United States Coast Guard
Commander 17th Coast Guard District

RE: Docket Number USCG-2020-0188 –Cook Inlet Regional Citizens Advisor Council
Recertification Application

Admiral Bell:

I am writing in full support of recertification of the Cook Inlet Regional Citizens Advisory Council (CIRCAC). For 30 years, CIRCAC has been Cook Inlet's most effective organization for promoting programs to prevent spills, enhance safety in both marine transportation and oil facilities operations, and protect Cook Inlet's waters, shorelines, cultural, natural and wildlife resources.

Not only does CIRCAC advocate for better regulatory oversight and safety measures, they contribute concrete solutions on how to achieve those goals. This includes conducting risk assessments, sharing data, developing applicable tools and strategies, evaluating best available technology, engaging the public, and thoroughly reviewing contingency plans and regulations that prioritize prevention while promoting safety. No other organization has focused as much attention for as many years to identifying, assessing and mitigating risks in this region.

CIRCAC has been proactive in identifying risks and developing recommendations to address them; an example is the recently completed Cook Inlet Pipeline Integrity Assessment. Through this project, a full catalog of Cook Inlet's undersea pipeline system was documented allowing a panel of experts, operators and the public to recommend risk reduction measures before problems arise.

Working with industry, CIRCAC has also been able to achieve the long-term goal of closing the Drift River Oil Terminal on the West side of Cook Inlet. Situated at the base of Mt. Redoubt, Drift River posed a significant safety hazard in the event of a natural disaster. Now, that oil is transported via pipeline, greatly reducing unnecessary risk.

CIRCAC's science program provides valuable data about coastal habitats, physical oceanography and oil behavior. Current research will generate new information about how biological debris interacts with oil as it moves through the water column.

CIRCAC continues to strengthen oil spill contingency plans and recommend substantive changes to ensure facilities are adequately staffed and that the plans are executable.

CIRCAC's accomplishments in the last three years include, but are certainly not limited to:

- Completing multi-year near-shore habitat assessment
- Launching groundbreaking study of marine snow as an oil transporter
- Advocating for a strengthening of oil spill prevention and response regulations
- Increasing public outreach efforts through new, local advertising, exhibits and expanding audiences for its newsletter, website, and social media
- Expanding Geographic Response Information Database (GRID) in scope and accessibility
- Working with regulators to maintain a robust Vessels of Opportunity program
- Upgrading the Cook Inlet Ice Monitoring Camera Network with modern video technology

Since its inception, CIRCAC has formed and strengthened partnerships and encouraged consensus decision-making. Through this process, CIRCAC brings a varied group of stakeholders together to create environmental monitoring and oil spill prevention programs to promote safe production and transportation of oil in Cook Inlet.

I strongly urge the U.S. Coast Guard to recertify CIRCAC so that it can continue to build on its work and positively impact the future of Cook Inlet.

Sincerely,



Brian Gabriel, Sr.
Mayor

