



## Kenai City Council - Regular Meeting

August 04, 2021 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

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

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

### Agenda

#### A. CALL TO ORDER

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

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

#### B. SCHEDULED PUBLIC COMMENTS

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

#### C. UNSCHEDULED PUBLIC COMMENTS

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

#### D. PUBLIC HEARINGS

- 1. Ordinance No. 3221-2021** - Determining that Real Property Described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, According to Plan No. 2014-21, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals, an Alaska Partnership. (Administration)
- 2. Ordinance No. 3222-2021** - Determining that Real Property Described as Lot 1A, Block 1, Dshka Subdivision, According to Plat No. K-1577, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals (2016), LLC. (Administration)
- 3. Ordinance No. 3223-2021** - Increasing Fiscal Year 2021 Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting a Grant from the US Department of Transportation Passed through the State of Alaska Department of Transportation and Public Facilities for Traffic Enforcement Overtime Expenditures. (Administration)

- 4. Ordinance No. 3224-2021** - Repealing and Reenacting Kenai Municipal Code Title 6 - Elections, to Provide Clarity, Housekeeping, and Process Improvements. (Vice Mayor Molloy and City Clerk)
- 5. Resolution No. 2021-53** - Authorizing the City Manager to Execute a Memorandum of Agreement with the State of Alaska Department of Transportation and Public Facilities for Design, Construction and Maintenance of the Kenai Bridge Access Road Pathway Project. (Administration)

**E. MINUTES**

- 1.** \*Regular Meeting of July 7, 2021. (City Clerk)

**F. UNFINISHED BUSINESS**

**G. NEW BUSINESS**

- 1.** \*Action/Approval - Bills to be Ratified. (Administration)
- 2.** \*Action/Approval - Purchase Orders Over \$15,000. (Administration)
- 3.** \*Action/Approval - Non-Objection to Marijuana License Renewals for Red Run Cannabis Company, LLC, Red Run Cannabis Cultivators, LLC, and Cook Inlet Cannabis Company. (City Clerk)
- 4.** \*Action/Approval - Special Use Permit to Kenai Chamber of Commerce & Visitor Center for Moosemeat John Cabin. (Administration)
- 5.** \*Ordinance No. 3226-2021 - Increasing Fiscal Year 2021 Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting a Grant from the Alaska High Intensity Drug Trafficking Area for Drug Investigation Overtime Expenditures. (Administration)
- 6.** \*Ordinance No. 3227-2021 - Accepting and Appropriating a Grant from the U.S. Department of Homeland Security Passed Through the State of Alaska Department of Military and Veterans' Affairs, Increasing Estimated Revenues and Appropriations in the General Fund - Fire Department, and Authorizing the Sole Source Purchase of Portable Radios and Accessories for the Fire Department. (Administration)
- 7.** \*Ordinance No. 3228-2021 - Increasing Estimated Revenues and Appropriations in the Airport Fund, Terminal Repair and Maintenance Department for Expenditures in Excess of Budgeted Amounts Related to Damage to Terminal Building Siding and Authorizing a Purchase Order to Blazy Construction, Inc. (Administration)
- 8.** \*Ordinance No. 3229-2021 - Accepting a Grant from the Federal Aviation Administration and Increasing Estimated Revenues and Appropriations in the Airport Snow Removal Equipment Capital Project Fund. (Administration)
- 9.** \*Ordinance No. 3230-2021 - Increasing Estimated Revenues and Appropriations in the General Fund - Fire Department for the Purchase of Extrication Equipment Needed to Provide Emergency Response to Motor Vehicle Accidents. (Administration)

- 10. \*Ordinance No. 3231-2021** - 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. (Administration)
- 11. \*Ordinance No. 3232-2021** - Increasing Estimated Revenues and Appropriations in the General Fund, Kenai Fine Arts Center Capital Project Fund and Amending the Lease for a Portion of Lot 3, Block 17, Original Townsite of Kenai for the Kenai Fine Arts Center to Provide Additional Funding for Improvements and Modifications Amendment to the Lease for the Kenai Fine Arts Center. (Administration)
- 12. Action/Approval** - Assignment and Assumption of Lease Agreement from Hilcorp Alaska, LLC to Kenai Beluga Pipeline, LLC. (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. Review and Discussion of the Terms of Employment Agreement for the City Clerk which, Pursuant to AS 44.62.310(c)(2) May be a Subject that Tends to Prejudice the Reputation and Character of the City Clerk.

**M. PENDING ITEMS****N. ADJOURNMENT****O. INFORMATION ITEMS**

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

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

**Join Zoom Meeting**

<https://us02web.zoom.us/j/81168359551>

**Meeting ID:** 811 6835 9551 **Passcode:** 784457

OR

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

**Meeting ID:** 811 6835 9551 **Passcode:** 784457





Sponsored by: Administration

## CITY OF KENAI

### ORDINANCE NO. 3221-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, DETERMINING THAT REAL PROPERTY DESCRIBED AS LOT 4A, BLOCK 3, COOK INLET INDUSTRIAL AIR PARK 2014 REPLAT, ACCORDING TO PLAT NO. 2014-21 CITY-OWNED AIRPORT LAND LOCATED OUTSIDE THE AIRPORT RESERVE, IS NOT NEEDED FOR A PUBLIC PURPOSE AND AUTHORIZING THE SALE OF THE PROPERTY TO SCHILLING RENTALS, AN ALASKA PARTNERSHIP.

WHEREAS, the City of Kenai received a quitclaim deed from the Federal Aviation Administration (FAA) on December 1, 1963, to nearly 2,000 acres of land subject to certain restrictions, including that no property shall be used, leased, sold salvaged, or disposed of for reasons other than for airport purposes; and,

WHEREAS, on August 20, 1970, the FAA executed a Deed of Release, for an area of land subject to the Quitclaim Deed allowing for the lease, sale, or disposal of Lot 4A, Block 3, Cook Inlet Industrial Air Park Subdivision, 2014 Replat, for other than airport purposes; and,

WHEREAS, the City has received a request to purchase Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, according to Plat No. 2014-21 (the Property) from the current Lessee; and,

WHEREAS, KMC 22.05.110 – Determination as to need for public purpose, provides that the City Council, may determine whether land is no longer needed for public purpose; and,

WHEREAS, the Property is leased to Schilling Rentals, an Alaska Partnership and developed for private commercial use and is not needed for a public purpose; and,

WHEREAS, Resolution No. 2018-12 amended the City's Policy for sale of specific Airport Land Lots and the subject property is one of the properties addressed in the policy; and,

WHEREAS, the sale of this property is in the best interest of the City and Airport and encourages new development and/or improvements to the property; and,

WHEREAS, KMC 22.05.100 – Sale procedure, the minimum acceptable offer for the land shall be the fair market value.

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

**Section 1. Statement of Ownership:** That the City of Kenai is the owner of Lot 4A, Cook Inlet Industrial Air Park 2014 Replat, according to Plat No. 2014-21 (the Property).

**Section 2. Public Purpose and Best Interest Findings:** That the Property is not needed for future public municipal or airport purposes. Under the Airport Layout Plan, the Property is designated for non-aviation commercial or light-industrial uses. The sale of the Property is in the best interests

of the City and Airport, as it serves a purpose of continuing commercial growth and investment in the City.

**Section 3. Authorization of Sale:** That the Kenai City Council hereby authorizes the City Manager to sell the City-owned lands described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, according to Plat 2014-21, under the procedures and terms established for the sale of lands, as set forth in KMC 22.05.100 et seq. and subject to the following additional essential terms and conditions of sale under the Policy for Sale of Specific Airport Leased Lands approved by City of Kenai Resolution No. 2018-12:

- a) The sale will be made through a negotiated sale to Schilling Rentals, an Alaska Partnership for a sum not less than the fair market value of the land excluding lessee-constructed improvements as determined by an appraisal and meet the minimum value of improvements requirement greater than or equal to four times the appraised fair market value of the land, which is \$1,200,000.

**Section 4. Title:** That title shall be conveyed by quitclaim deed. Any instrument conveying title to the Property shall include the following restrictions, promises, and/or covenants:

- a) that the City of Kenai reserves unto that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Property, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on or at and for taking off from or operating on Kenai Municipal Airport; and,
- b) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to restrict the height of structures, objects of natural grown, and other obstructions on the Property to a height of not more than 242 feet above mean sea level; and,
- c) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to prevent any use of the Property which would interfere with landing or taking off of aircraft at the Kenai Municipal Airport, or otherwise constitute an airport hazard; and,
- d) that all covenants heretofore stated shall run with the land and shall inure to the benefit of, and be binding upon the heirs, executors, administrators, successors, transferees, and assigns of the parties to the contract for sale and conveyance.

**Section 5. Proceeds of Sale:** That should a sale of the Property be finalized, all revenues from the sale shall be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport and as otherwise required in the Deed of Release dated August 20, 1970.

**Section 6. 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 4<sup>th</sup> day of August, 2021.

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BRIAN GABRIEL SR., MAYOR

ATTEST:

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Jamie Heinz, MMC, City Clerk

Introduced: July 7, 2021  
Enacted: August 4, 2021  
Effective: September 4, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** June 24, 2021

**SUBJECT:** **Ordinance No. 3221-2021 - Determining that real property described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, city-owned airport land located outside the airport reserve, is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals, an Alaska Partnership**

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The City has received a request to purchase the above City-owned leased land outside the Airport Reserve with substantial constructed leasehold improvements pursuant to the City's Policy for Sale of Specific Airport Leased Lands, approved by Resolution No. 2018-12.

Schilling Rentals, an Alaska Partnership is the current lessee of Lot 4A, Block 3, Cook Inlet Air Park 2014 Replat, which was entered into on March 1, 1967. The current use is for a medical office and clinic building and includes substantial recent improvements to the building made by the Lessee. The 55-year lease term expires on June 30, 2022 and is in good standing.

On August 20, 1970, the Federal Aviation Administration (FAA), released the property for sale for other than airport purposes, allowing the property to be sold at fair market value. All revenues from the sale would be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport as required by the Deed of Release.

The City's Policy does not provide for the sale of any specific property, but only a method for such sale, subject to the Ordinances of the City of Kenai. The policy is in effect until July 6, 2021. Any specific sale must be separately approved by the City Council, which may approve or disapprove any such sale, in its sole discretion. Schilling Rentals requests to purchase the property at its fair market value excluding lessee-constructed improvements as determined by an appraisal and value of improvements greater than or equal to four times the appraised fair market value of the land.

Schilling Rentals submitted a good-faith deposit and the City ordered an appraisal to be performed on the property as-if vacant. The fair market value of the property was determined to be \$300,000 by an appraisal performed by MacSwain Associates, LLC on May 18, 2021. Based on the amount

of the appraisal, Schilling Rentals proposes to meet the minimum value of improvements requirement greater than or equal to four times the appraised fair market value of the land, which is \$1,200,000. Attachment B identifies a total improvement value of \$2,005,700.

If the City Council approves the sale, City Administration may proceed with a sale.

Thank you for your consideration.

Attachment A: Aerial Map of 100 Trading Bay Road

Attachment B: Email request to begin the process for purchasing 100 Trading Bay Road

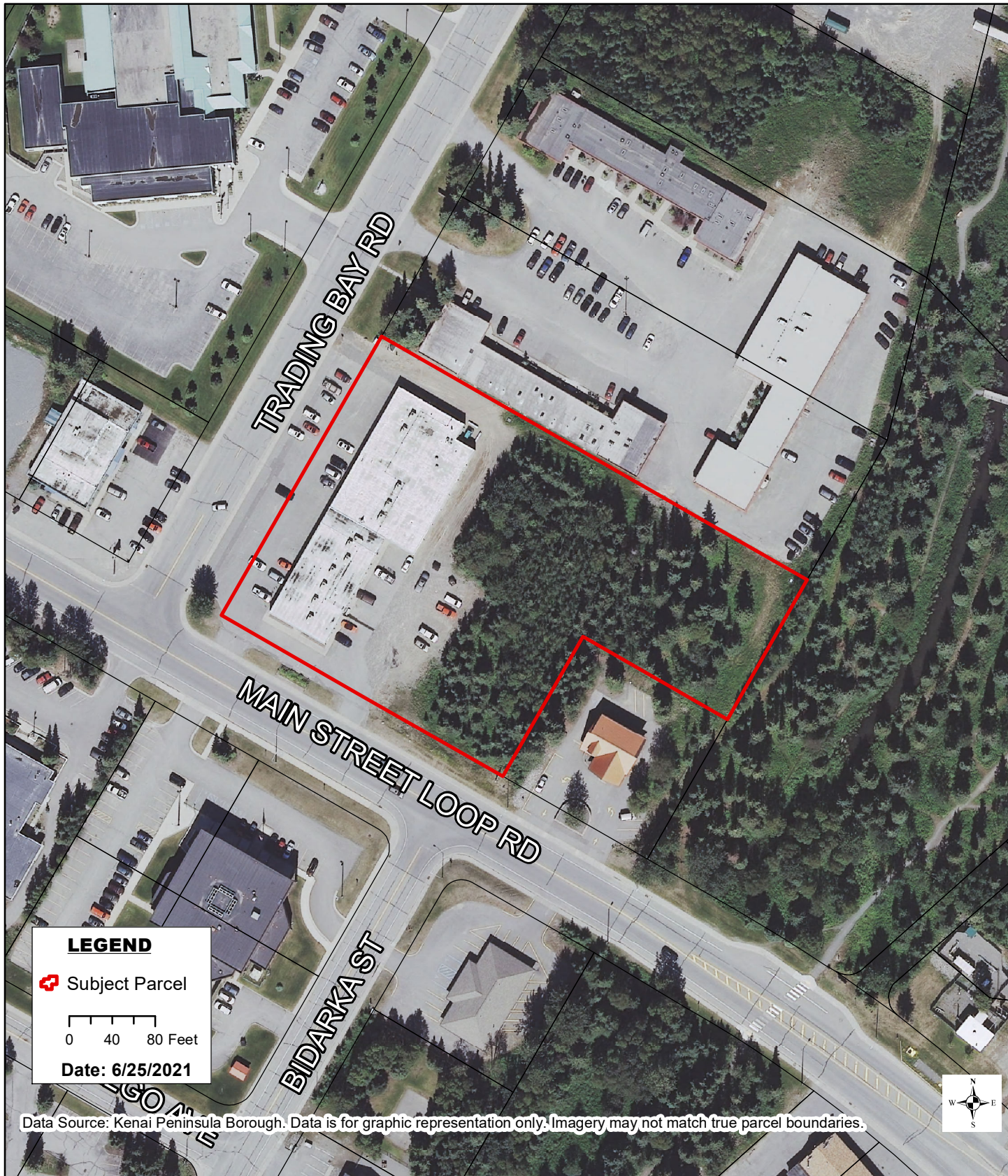
Attachment C: Submitted value of improvements of 100 Trading Bay Road







ORDINANCE 3221-2021  
KPB # 04323031  
Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat





**From:** [Duane Bannock](#)  
**To:** [Ryan Foster](#)  
**Subject:** Purchase of City lease Lots - Schilling Rentals  
**Date:** Wednesday, April 28, 2021 8:13:20 PM

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**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning Mr Foster

Thank you for the time on the phone to discuss the process and procedure that may lead to Schilling Rentals purchasing the following properties from the City of Kenai:

1. 100 Trading Bay Rd KPB Parcel ID: 04323031
2. 419 Frontage Rd KPB Parcel ID: 04705501

Schilling Rentals, an Alaska Partnership is the current leaseholder of the above properties.

Property #1 has met the improvement threshold; it has been suggested that KPB property tax values may be acceptable to establish the city's requirement

Property #2 likely has not met the improvement threshold and we seek your guidance on the necessary investment amount

As discussed yesterday, the City will accept \$1,750.00 for each of the above properties to initiate the required appraisal as well as conform with the timeline as described in Resolution 2018-12. Also, your office notified me that there a credit of \$900.00 in the name of Schilling Rentals; we request that credit be applied to this transaction.

Accordingly, I will deliver a check from Schilling Rentals in the amount of \$2,600.00 as a deposit.

Once the appraisal has been reviewed and agreed to, we will cheerfully sign the Purchase and Sale Agreement.

Thank you

Duane Bannock  
Schilling Rentals  
47 Spur View Drive  
Kenai, AK 99611  
907 283 3660 Uptown Motel office  
907 398 2316 cell

# ATTACHMENT C

04323031LN01

Property Cl  
100 TRADING

## IMPROVEMENT DATA

### PHYSICAL CHARACTERISTICS

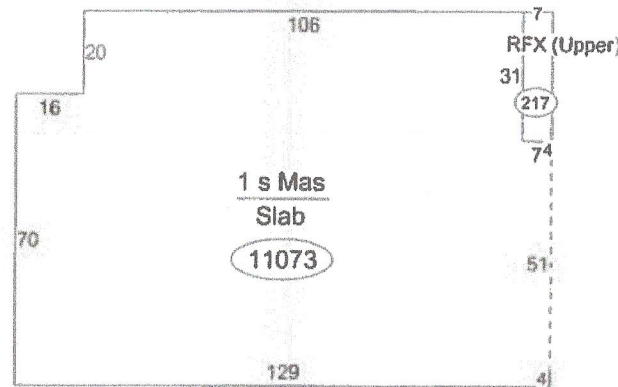
ROOFING  
Built-up

WALLS  
Frame B 1 2 U  
Brick Yes  
Metal  
Guard

FRAMING  
F Res B 1 2 U  
0 11073 0 0

HEATING AND AIR CONDITIONING  
Heat B 1 2 U  
0 11073 0 0

01



Item Description	Units	Cost	Total	Pct
M & S Cost Database Date: 10/2020				
Building Cost New	0	0.00	2069466	
Depreciated Cost	0	0.00	1303764	
Rounded Total	0	0.00	1303800	
RFX/	217	12.95	2810	
Total Exterior Features Value				2910
Depreciated Ext Features			1770	
Total Before Adjustments			1305570	
Neighborhood Adjustment			30	
<b>TOTAL VALUE</b>			<b>1305600</b>	

(LCM: 100.00)

### SPECIAL FEATURES

### SUMMARY OF IMPROVEMENTS

Description	Value	ID	Use	Sty Hgt	Const Type	Grade	Year Const	Eff Year	Cond	Base Rate	Feat-ures	Adj Rate	Size or Area	Computed Value	Phys Depr	Obsol Depr	Market Adj	% Comp	Value
C MEDOFF	0.00				F		1971	1998	AV	0.00	N	0.00	11073	0	0	0	0	100	1305600
01 PAVING	0.00			85	A		1989	1998	AV	1.75	N	1.75	7200	12600	80	0	100	100	2500

Data Collector/Date

Appraiser/Date

Neighborhood

Supplemental Cards

SR 11/06/2018

Neigh 120 AV

**TOTAL IMPROVEMENT VALUE 1308100**

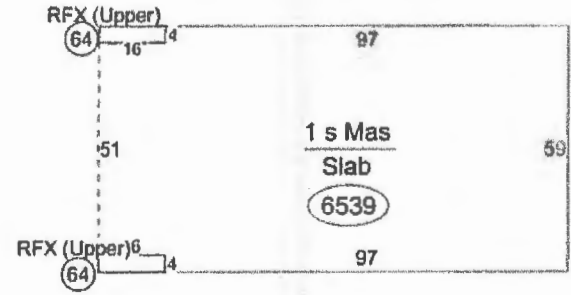


IMPROVEMENT DATA

PHYSICAL CHARACTERISTICS

ROOFING				
Built-up				
WALLS				
Frame	B	1	2	U
Brick		Yes		
Metal				
Guard				
FRAMING				
F Res	B	1	2	U
	0	6539	0	0
HEATING AND AIR CONDITIONING				
Heat	B	1	2	U
	0	6539	0	0

01 02



Item Description	Units	Cost	Total	Pct
M & S Cost Database Date: 10/2020				
Building Cost New	0	0.00	1096721	
Depreciated Cost	0	0.00	690934	
Rounded Total	0	0.00	690900	
RFX/	64	12.97	830	
REX/	64	12.97	830	
Total Exterior Features Value				1660
Depreciated Ext Features			1050	
Total Before Adjustments			691950	
Neighborhood Adjustment			50	
<b>TOTAL VALUE</b>			<b>692000</b>	

(LCM: 100.00%)

SPECIAL FEATURES

SUMMARY OF IMPROVEMENTS

Description	Value	ID	Use	Stry: Const Hgt	Type Grade	Year Eff Const	Year Cond	Base Rate	Feat-ures	Adj Rate	Size or Area	Computed Value	Phys Depr	Obsol Depr	Market Adj	% Comp	Value	
C MEDOFF	0.00				F	1967	1998	AV	0.00	N	0.00	6539	0	0	0	C	100	692000
01 PAVING	0.00		85		A	1989	1998	AV	1.75	N	1.75	12500	21880	80	0	100	100	4400
02 CONEX	0.00				A	3000	3000	AV	1200	N	1200	8x 20	1200	0	0	100	100	1300

Data Collector/Date  
SR 11/06/2018

Appraiser/Date

Neighborhood  
Neigh 120 AV

Supplemental Cards  
**TOTAL IMPROVEMENT VALUE** 697600



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** July 26, 2021

**SUBJECT:** **Ordinance No. 3221-2021 – Request to include the recommendation of the Planning and Zoning Commission**

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On July 7, 2021 Ordinance No. 3221-2021 was introduced to City Council. At their regular meeting on July 14, 2021, the Planning and Zoning Commission recommended Council approve the subject property is not needed for a public purpose and authorizing its sale. This memorandum requests the following amendment to Ordinance No. 3221-2021.

**Move to add as the eighth whereas; WHEREAS, the Planning and Zoning Commission recommended Council approve that the subject property is not needed for a public purpose and authorizing its sale at their meeting on July 14, 2021; and**

Thank you for your consideration.



Sponsored by: Administration

## CITY OF KENAI

### ORDINANCE NO. 3222-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, DETERMINING THAT REAL PROPERTY DESCRIBED AS LOT 1A, BLOCK 1, DESHKA SUBDIVISION, ACCORDING TO PLAT NO. K-1577 CITY-OWNED AIRPORT LAND LOCATED OUTSIDE THE AIRPORT RESERVE, IS NOT NEEDED FOR A PUBLIC PURPOSE AND AUTHORIZING THE SALE OF THE PROPERTY TO SCHILLING RENTALS (2016), LLC.

WHEREAS, the City of Kenai received a quitclaim deed from the Federal Aviation Administration (FAA) on December 1, 1963, to nearly 2,000 acres of land subject to certain restrictions, including that no property shall be used, leased, sold salvaged, or disposed of for reasons other than for airport purposes; and,

WHEREAS, on May 20, 1966, the FAA executed a Deed of Release, for an area of land subject to the Quitclaim Deed allowing for the lease, sale, or disposal of Lot 1A, Block 1, Deshka Subdivision, for other than airport purposes; and,

WHEREAS, the City has received a request to purchase Lot 1A, Block 1, Deshka Subdivision, according to Plat K-1577 (the Property) from the current Lessee; and,

WHEREAS, KMC 22.05.110 – Determination as to need for public purpose, provides that the City Council, may determine whether land is no longer needed for public purpose; and,

WHEREAS, the Property is leased to Schilling Rentals (2016), LLC and developed for private commercial use and is not needed for a public purpose; and,

WHEREAS, Resolution No. 2018-12 amended the City's Policy for sale of specific Airport Land Lots and the subject property is one of the properties addressed in the policy; and,

WHEREAS, the sale of this property is in the best interest of the City and Airport and encourages new development and/or improvements to the property; and,

WHEREAS, KMC 22.05.100 – Sale procedure, the minimum acceptable offer for the land shall be the fair market value.

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

**Section 1. Statement of Ownership:** That the City of Kenai is the owner of Lot 1A, Block 1, Deshka Subdivision, according to Plat K-1577 (the Property).

**Section 2. Public Purpose and Best Interest Findings:** That the Property is not needed for future public municipal or airport purposes. Under the Airport Layout Plan, the Property is designated for non-aviation commercial or light-industrial uses. The sale of the Property is in the best interests

of the City and Airport, as it serves a purpose of continuing commercial growth and investment in the City.

**Section 3. Authorization of Sale:** That the Kenai City Council hereby authorizes the City Manager to sell the City-owned lands described as Lot 1A, Block 1, Deshka Subdivision, according to Plat K-1577, under the procedures and terms established for the sale of lands, as set forth in KMC 22.05.100 et seq. and subject to the following additional essential terms and conditions of sale under the Policy for Sale of Specific Airport Leased Lands approved by City of Kenai Resolution No. 2018-12:

- a) The sale will be made through a negotiated sale to Schilling Rentals (2016), LLC for a sum not less than the fair market value of the land excluding lessee-constructed improvements as determined by an appraisal and a minimum new investment in the construction of new permanent improvements on the premises equal to 25% of the fair market value of the land within three (3) years of sale.

**Section 4. Title:** That title shall be conveyed by quitclaim deed. Any instrument conveying title to the Property shall include the following restrictions, promises, and/or covenants:

- a) that the City of Kenai reserves unto that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Property, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on or at and for taking off from or operating on Kenai Municipal Airport; and,
- b) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to restrict the height of structures, objects of natural grown, and other obstructions on the Property to a height of not more than 242 feet above mean sea level; and,
- c) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to prevent any use of the Property which would interfere with landing or taking off of aircraft at the Kenai Municipal Airport, or otherwise constitute an airport hazard; and,
- d) that all covenants heretofore stated shall run with the land and shall inure to the benefit of, and be binding upon the heirs, executors, administrators, successors, transferees, and assigns of the parties to the contract for sale and conveyance.

**Section 5. Proceeds of Sale:** That should a sale of the Property be finalized, all revenues from the sale shall be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport and as otherwise required in the Deed of Release dated May 20, 1966.

**Section 6. 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 4<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Introduced: July 7, 2021  
Enacted: August 4, 2021  
Effective: September 4, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** June 24, 2021

**SUBJECT:** **Ordinance No. 3222-2021 - Determining that real property described as Lot 1A, Block 1, Deshka Subdivision, city-owned airport land located outside the airport reserve, is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals (2016), LLC**

---

The City has received a request to purchase the above City-owned leased land outside the Airport Reserve with substantial constructed leasehold improvements pursuant to the City's Policy for Sale of Specific Airport Leased Lands, approved by Resolution No. 2018-12.

Schilling Rentals (2016), LLC is the current lessee of Lot 1A, Block 1, Deshka Subdivision, which was entered into on November 3, 1975, with assignment to Schilling Rentals on July 7, 2017. The current use is for a jewelry store. The 55-year lease term expires on June 30, 2030 and is in good standing.

On May 20, 1966 the Federal Aviation Administration (FAA), released the property for sale for other than airport purposes, allowing the property to be sold at fair market value. All revenues from the sale would be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport as required by the Deed of Release.

The City's Policy does not provide for the sale of any specific property, but only a method for such sale, subject to the Ordinances of the City of Kenai. The policy is in effect until July 6, 2021. Any specific sale must be separately approved by the City Council, which may approve or disapprove any such sale, in its sole discretion. Schilling Rentals requests to purchase the property at its fair market value excluding lessee-constructed improvements as determined by an appraisal and a minimum new investment in the construction of new permanent improvements on the premises equal to 25% of the fair market value of the land within three years of sale.

Schilling Rentals submitted a good-faith deposit and the City ordered an appraisal to be performed on the property as-if vacant. The fair market value of the property was determined to be \$250,000 by an appraisal performed by MacSwain Associates, LLC on May 18, 2021. Based on the amount

of the appraisal, Schilling Rentals (2016), LLC proposes to meet the minimum new investment requirement equal to \$62,500 on the premises.

If the City Council approves Ordinance 3222-2021, City Administration may proceed with a sale.

Thank you for your consideration.

Attachment A: Aerial Map of 419 Frontage Road

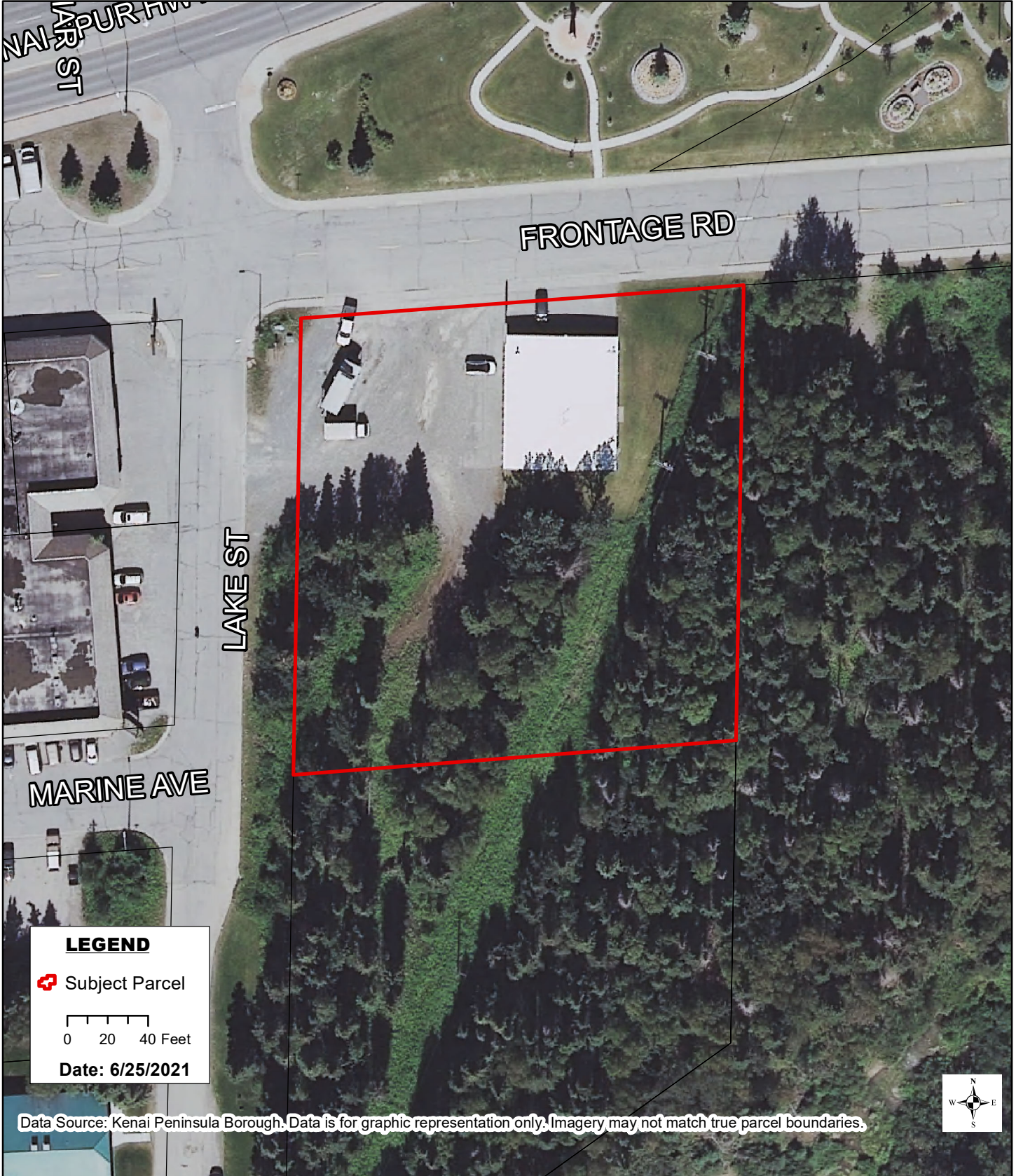
Attachment B: Email request to begin the process for purchasing 419 Frontage Road







ORDINANCE 3222-2021  
KPB # 04705501  
Lot 1A, Block 1, Deshka Subdivision



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



**From:** [Duane Bannock](#)  
**To:** [Ryan Foster](#)  
**Subject:** Purchase of City lease Lots - Schilling Rentals  
**Date:** Wednesday, April 28, 2021 8:13:20 PM

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**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning Mr Foster

Thank you for the time on the phone to discuss the process and procedure that may lead to Schilling Rentals purchasing the following properties from the City of Kenai:

1. 100 Trading Bay Rd KPB Parcel ID: 04323031
2. 419 Frontage Rd KPB Parcel ID: 04705501

Schilling Rentals, an Alaska Partnership is the current leaseholder of the above properties.

Property #1 has met the improvement threshold; it has been suggested that KPB property tax values may be acceptable to establish the city's requirement

Property #2 likely has not met the improvement threshold and we seek your guidance on the necessary investment amount

As discussed yesterday, the City will accept \$1,750.00 for each of the above properties to initiate the required appraisal as well as conform with the timeline as described in Resolution 2018-12. Also, your office notified me that there a credit of \$900.00 in the name of Schilling Rentals; we request that credit be applied to this transaction.

Accordingly, I will deliver a check from Schilling Rentals in the amount of \$2,600.00 as a deposit.

Once the appraisal has been reviewed and agreed to, we will cheerfully sign the Purchase and Sale Agreement.

Thank you

Duane Bannock  
Schilling Rentals  
47 Spur View Drive  
Kenai, AK 99611  
907 283 3660 Uptown Motel office  
907 398 2316 cell



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** July 26, 2021

**SUBJECT:** **Ordinance No. 3222-2021 – Request to include the recommendation of the Planning and Zoning Commission**

---

On July 7, 2021 Ordinance No. 3222-2021 was introduced to City Council. At their regular meeting on July 14, 2021, the Planning and Zoning Commission recommended Council approve the subject property is not needed for a public purpose and authorizing its sale. This memorandum requests the following amendment to Ordinance No. 3222-2021.

**Move to add as the eighth whereas; WHEREAS, the Planning and Zoning Commission recommended Council approve that the subject property is not needed for a public purpose and authorizing its sale at their meeting on July 14, 2021; and**

Thank you for your consideration.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3223-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING FISCAL YEAR 2021 ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND – POLICE DEPARTMENT AND ACCEPTING A GRANT FROM THE US DEPARTMENT OF TRANSPORTATION PASSED THROUGH THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES FOR TRAFFIC ENFORCEMENT OVERTIME EXPENDITURES.

WHEREAS, the Kenai Police Department joins with other law enforcement agencies statewide to support Alaska Highway Safety Office (AHSO) traffic safety programs to reduce fatalities and injuries on roadways; and,

WHEREAS, AHSO traffic-related overtime funds require no local match and allow the department to provide specific traffic safety patrols; and,

WHEREAS, actual AHSO overtime expenditures for traffic safety patrols totaled \$2,035.84 from May 17, 2021 through June 6, 2021; and,

WHEREAS, overtime for these additional traffic safety patrols was not budgeted and the department is requesting appropriation into the FY21 overtime budget equal to the amount of the AHSO grant funding received.

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

**Section 1.** That the City Manager is authorized to accept these grant funds in the amount of \$2,035.84 and to expend those funds pursuant to all grant terms and conditions and to fulfill the purpose and intent of this ordinance.

**Section 2.** That the fiscal year 2021 estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues –	
Federal Grants - Police	<u>\$2,035.84</u>

Increase Appropriations –	
Police – Overtime	<u>\$2,035.84</u>

**Section 3.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 4.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

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

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

ATTEST:

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

Approved by Finance: Paul O'Leary

Introduced: July 7, 2021  
Enacted: August 4, 2021  
Effective: August 4, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** David Ross, Police Chief

**DATE:** June 23, 2021

**SUBJECT:** **Ordinance No. 3223-2021, Accepting AHSO Grant Funds**

---

The Kenai Police Department continues to participate in traffic enforcement overtime patrols, reimbursed to the City of Kenai through a grant by the Alaska Highway Safety Office (AHSO).

Actual overtime costs for traffic enforcement between May 17, 2021 and June 6, 2021 that qualified for AHSO reimbursement, was \$2,035.84.

AHSO overtime reimbursements are deposited into the general fund. I would respectfully request consideration of the ordinance accepting and appropriating the grant amount to the police overtime account for the FY21 budget year.



Sponsored by: Vice Mayor Molloy and City Clerk

## CITY OF KENAI

### ORDINANCE NO. 3224-2021

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

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

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

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

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

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

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

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

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

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

[CHAPTER 6.05  
VOTING QUALIFICATIONS AND PROCEDURES

SECTIONS:

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

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

6.05.020 REGISTRATION.

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

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

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

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

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

6.05.030 PRECINCT AND POLLING PLACE.

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

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

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

6.05.040 PRECINCT BOARD.

(A) THERE SHALL BE ELECTION BOARDS FOR THE PRECINCTS IN THE CITY COMPOSED OF THREE (3) OR MORE JUDGES APPOINTED BY THE CITY COUNCIL. THE JUDGES SHALL BE QUALIFIED VOTERS OF THE CITY. THE CITY COUNCIL MAY DESIGNATE ONE OF THE JUDGES CHAIR OF THE BOARD, AND THE CHAIR SHALL BE PRIMARILY RESPONSIBLE FOR THE ADMINISTRATION OF THE ELECTION IN THE PRECINCT. THE CITY COUNCIL MAY ALSO APPOINT FROM AMONG THE QUALIFIED VOTERS OF THE CITY ONE (1) OR TWO (2) CLERKS WHERE IT DEEMS THEIR SERVICES ARE NECESSARY. THE CITY CLERK, AS THE ELECTION SUPERVISOR, MAY APPOINT NOT MORE THAN FOUR (4) ELECTION CLERKS FROM AMONG THE QUALIFIED VOTERS OF THE CITY AT ANY POLLING PLACE WHERE THEY ARE NEEDED TO CONDUCT AN ORDERLY ELECTION AND TO RELIEVE THE ELECTION JUDGES OF UNDUE HARDSHIP IF HE OR SHE THINKS THEY ARE NEEDED AND IF THE CITY COUNCIL AUTHORIZES IT.

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



(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

Ordinance No. 3224-2021

Page 7 of 45

PRECINCT CERTIFICATE OF RESULTS SHALL BE CORRECTED BY THE CANVASSING BOARD. A MISTAKE THAT HAS BEEN MADE IN PRECINCT RETURNS, AND THAT IS NOT CLEARLY AN ERROR IN THE TRANSFER OF THE RESULTS FROM THE TALLIES TO THE CERTIFICATE OF RESULTS, EMPOWERS THE CANVASSING BOARD TO RECOMMEND A RECOUNT OF THE RESULTS OF THE PRECINCT OR PRECINCTS FOR THAT PORTION OF THE RETURNS IN QUESTION.

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

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

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

#### 6.05.130 TIE VOTES.

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

#### 6.05.140 ABSENTEE VOTING.

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

#### 6.05.145 ABSENTEE VOTING IN PERSON.

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

Ordinance No. 3224-2021

Page 8 of 45

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

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

(D) THE ELECTION OFFICIAL MAY NOT ACCEPT A MARKED BALLOT THAT HAS BEEN EXHIBITED BY AN ABSENTEE VOTER WITH INTENT TO INFLUENCE OTHER VOTERS. IF THE ABSENTEE VOTER IMPROPERLY MARKS OR OTHERWISE DAMAGES A BALLOT, THE VOTER MAY REQUEST, AND THE ELECTION OFFICIAL SHALL PROVIDE HIM OR HER WITH ANOTHER BALLOT UP TO A MAXIMUM OF THREE (3). EXHIBITED, IMPROPERLY MARKED, OR DAMAGED BALLOTS SHALL BE DESTROYED. THE NUMBERS OF ALL BALLOTS DESTROYED SHALL BE NOTED ON THE BALLOT STATEMENT.

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

(ORD. 1799-98)

6.05.150 ABSENTEE VOTING—APPLICATION.

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

6.05.160 ABSENTEE VOTING—BALLOTS.

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

6.05.170 ABSENTEE VOTING—BY MAIL.

(A) A QUALIFIED VOTER MAY APPLY FOR AN ABSENTEE BALLOT BY MAIL IF THE APPLICATION IS POSTMARKED NOT EARLIER THAN THE FIRST OF THE YEAR IN WHICH THE ELECTION IS TO BE HELD NOR LESS THAN SEVEN (7) DAYS BEFORE AN

Ordinance No. 3224-2021

Page 9 of 45

ELECTION. A VOTER MAY REQUEST HIS OR HER NAME BE PLACED ON PERMANENT ABSENTEE BY MAIL STATUS. THE APPLICATION SHALL INCLUDE THE ADDRESS TO WHICH THE ABSENTEE BALLOT IS TO BE RETURNED, THE APPLICANT'S FULL ALASKA RESIDENCE ADDRESS, AND THE APPLICANT'S SIGNATURE.

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

(C) UPON RECEIPT OF AN ABSENTEE BALLOT BY MAIL, THE VOTER, IN THE PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE ARMED FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE OR MAGISTRATE, UNITED STATES POSTAL OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER OATHS, MAY PROCEED TO MARK THE BALLOT IN SECRET, TO PLACE THE BALLOT IN THE SECRECY ENVELOPE, TO PLACE THE SECRECY ENVELOPE IN THE POSTAGE PAID ENVELOPE, AND TO SIGN THE VOTER'S CERTIFICATE ON THE BACK OF THE POSTAGE-PAID RETURN ENVELOPE IN THE PRESENCE OF AN OFFICIAL LISTED IN THIS SUBSECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND SHALL DATE HIS OR HER SIGNATURE. IF NONE OF THE OFFICIALS LISTED IN THIS SUBSECTION ARE REASONABLY ACCESSIBLE, AN ABSENTEE VOTER SHALL HAVE THE BALLOT WITNESSED BY A PERSON OVER THE AGE OF EIGHTEEN (18) YEARS.

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

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

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

(ORDS. 2488-2010, 2556-2011)

6.05.180 VOTING—AUTHORIZED.

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

6.05.190 VOTING—BOARDS.

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

6.05.200 VOTING DEVICES AND MACHINES.

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

(B) THE ELECTION OFFICIAL SHALL DESIGNATE THE COMPUTERS TO BE USED IN COUNTING THE BALLOTS AND MAY NEGOTIATE AND CONTRACT WITH THE KENAI PENINSULA BOROUGH OR A PRIVATE COMPUTER SERVICE FOR THE NEEDED COMPUTER SERVICES.  
(ORDS. 881, 941, 1788-98)

6.05.210 VOTING—TESTS AND SECURITY.

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

6.05.220 RECOUNT OF VOTES—APPLICATION.

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

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

Ordinance No. 3224-2021

Page 11 of 45

QUESTION STATED IN THE APPLICATION, THE DEPOSIT SHALL BE REFUNDED; OTHERWISE, IT SHALL BE PLACED IN THE GENERAL FUND OF THE CITY.

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

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

6.05.230 APPEAL TO THE COURTS AFTER RECOUNT.

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

6.05.240 ELECTION CONTESTS.

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

6.05.250 RULES AND REGULATIONS.

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

6.05.260 CITY ELECTION TIME.

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

6.05.270 OFFENSES AND PENALTIES.

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

- (1) DIRECTLY OR INDIRECTLY USES OR THREATENS TO USE FORCE, COERCION, VIOLENCE, RESTRAINT, INFLICTS, OR THREATENS TO INFLICT DAMAGE, HARM, OR LOSS UPON OR AGAINST ANY PERSON TO INDUCE OR COMPEL THE PERSON TO



VOTE OR REFRAIN FROM VOTING FOR ANY CANDIDATE IN ANY ELECTION OR FOR ANY ELECTION PROPOSITION OR QUESTION.

(2) GIVES OR PROMISES TO GIVE, OR OFFERS ANY MONEY OR VALUABLE THING TO ANY PERSON, WITH THE INTENT TO INDUCE HIM OR HER TO VOTE FOR OR RESTRAIN HIM OR HER FROM VOTING FOR ANY CANDIDATE AT ANY ELECTION OR ANY ELECTION PROPOSITION OR QUESTION.

(3) KNOWINGLY PRINTS OR CIRCULATES, OR CAUSES TO BE WRITTEN, PRINTED, OR CIRCULATED, ANY LETTER, CIRCULAR, BILL, PLACARD, POSTER, OR OTHER PUBLICATION RELATING TO ANY ELECTION OR TO ANY CANDIDATE AT ANY ELECTION OR TO ANY ELECTION PROPOSITION OR QUESTION WITHOUT THE SAME BEARING ON ITS FACE THE NAME AND ADDRESS OF THE AUTHOR, PRINTER, AND PUBLISHER THEREOF.

(4) WRITES, PRINTS, OR CIRCULATES, OR WHO SHALL CAUSE TO BE WRITTEN, PRINTED, OR CIRCULATED, ANY LETTER, CIRCULAR, BILL, PLACARD, OR POSTER, OR WHO CAUSES ANY PAID ADVERTISEMENT TO BE PLACED IN A NEWSPAPER OR ANY OTHER PUBLICATION, OR WHO PAYS OR CONTRIBUTES TO THE PAYMENT FOR ANY SUCH ADVERTISEMENT, OR WHO MAKES ANY RADIO BROADCAST, WILLFULLY KNOWING THE LETTER, CIRCULAR, BILL, PLACARD, POSTER, PUBLICATION, PAID ADVERTISEMENT, OR RADIO BROADCAST TO CONTAIN ANY FALSE STATEMENT, CHARGE, OR COMMENT RELATING TO ANY CANDIDATE TO ANY ELECTION OR TO ANY ELECTION PROPOSITION OR QUESTION.

(5) HAS IN HIS OR HER POSSESSION OUTSIDE OF THE VOTING ROOM ANY OFFICIAL BALLOT, PROVIDED THAT THIS SHALL NOT APPLY TO ELECTION OFFICIALS OR OTHER PROPERLY AUTHORIZED PERSONS HAVING SUCH POSSESSION IN LINE OF DUTY.

(6) MAKES OR KNOWINGLY HAS IN HIS OR HER POSSESSION ANY COUNTERFEIT OF AN OFFICIAL BALLOT.

(7) REFUSES TO ALLOW AN EMPLOYEE REASONABLE TIME OFF FOR THE PURPOSE OF VOTING WHEN THE EMPLOYEE DOES NOT HAVE A REASONABLE AMOUNT OF TIME TO VOTE BEFORE OR AFTER WORK, OR WHO, AFTER ALLOWING THE TIME OFF, DEDUCTS THE TIME FROM THE COMPENSATION OF THE EMPLOYEE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.05.280 RECORD RETENTION.

(A) THE CERTIFICATE OF RETURNS OF THE CANVASSING BOARD SHALL BE MAINTAINED PERMANENTLY, AND DESCRIPTIONS OF ELECTION BOUNDARIES, PRECINCTS, AND POLLING PLACES SHALL BE MAINTAINED UNTIL THEY ARE REVISED.

(B) OTHER ELECTION RECORDS SHALL BE MAINTAINED FOR THE PERIOD SET FORTH BELOW:

FINANCIAL	SIX YEARS
DISCLOSURE FORM	

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

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

(ORDS. 2488-2010, 2556-2011)

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

(A) THE CITY CLERK MAY CONDUCT A SPECIAL ELECTION BY MAIL.

(B) WHEN THE CLERK CONDUCTS A SPECIAL ELECTION BY MAIL, THE CLERK SHALL SEND A BALLOT TO EACH PERSON WHOSE NAME APPEARS ON THE OFFICIAL VOTER REGISTRATION LIST PREPARED UNDER AS 15.07.125 FOR THAT ELECTION. THE CLERK SHALL SEND THE BALLOT TO THE ADDRESS STATED ON THE OFFICIAL REGISTRATION LIST UNLESS THE VOTER HAS NOTIFIED THE CLERK IN WRITING OF A DIFFERENT ADDRESS TO WHICH THE BALLOT SHOULD BE SENT. THE CLERK SHALL SEND BALLOTS BY FIRST CLASS, NONFORWARD-ABLE MAIL ON OR BEFORE THE TWENTY-SECOND (22ND) DAY BEFORE THE ELECTION.

(C) THE CLERK SHALL REVIEW BALLOTS VOTED UNDER THIS SECTION UNDER PROCEDURES ESTABLISHED FOR THE REVIEW OF ABSENTEE BALLOTS.

(D) THERE SHALL BE A SMALL BLANK ENVELOPE AND A POSTAGE-PAID RETURN ENVELOPE SUPPLIED TO EACH BY-MAIL VOTER. THE POSTAGE-PAID RETURN ENVELOPE SHALL HAVE PRINTED ON IT AN AFFIDAVIT BY WHICH THE VOTER SHALL DECLARE THE VOTER'S QUALIFICATION TO VOTE, FOLLOWED BY PROVISION FOR ATTESTATION BY ONE (1) ATTESTING WITNESS, WHO IS AT LEAST EIGHTEEN (18) YEARS OF AGE. SPECIFIC INSTRUCTIONS FOR VOTING A BY-MAIL BALLOT AND A LIST OF THE APPOINTED ABSENTEE VOTING OFFICIALS, THEIR HOURS AND LOCATIONS, SHALL BE MAILED TO EACH VOTER WITH THE BALLOT.

(ORDS. 1800-98, 2488-2010)

6.05.310 CASTING BALLOTS.

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

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

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

(ORD. 1800-98)

6.05.320 NOTICE OF ELECTION, ELECTION DATE, PUBLIC NOTICE.

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

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

(ORD. 1800-98)

6.05.330 ABSENTEE VOTING OFFICIAL AND DUTIES.

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

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

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

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

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

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

(5) DATE-STAMP ALL BALLOTS RECEIVED;

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

(ORD. 1800-98)

6.05.335 ABSENTEE VOTING—BY ELECTRONIC TRANSMISSION.

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

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

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

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

(2) BE ACCOMPANIED BY A STATEMENT EXECUTED UNDER OATH AS TO THE VOTER'S IDENTITY; THE STATEMENT UNDER OATH MUST BE WITNESSED BY ONE

(1) UNITED STATES CITIZEN WHO IS EIGHTEEN (18) YEARS OF AGE OR OLDER.

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

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

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

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

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

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

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

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

(G) AN ELECTRONICALLY-TRANSMITTED BALLOT SHALL BE COUNTED IN THE SAME MANNER AS OTHER ABSENTEE BALLOTS, EVEN THOUGH THIS PROCEDURE MAY REVEAL TO ONE (1) OR MORE ELECTION OFFICIALS THE MANNER IN WHICH A PARTICULAR ABSENTEE VOTER CAST HIS OR HER BALLOT. HOWEVER, IT SHALL BE UNLAWFUL TO DISPLAY AN ELECTRONIC BALLOT IN A MANNER REVEALING THE WAY IN WHICH A PARTICULAR VOTER CAST HIS OR HER BALLOT TO ANY PERSON OTHER THAN THE CITY CLERK, A MEMBER OF THE CLERK’S STAFF, AN INFORMATION TECHNOLOGIES TECHNICIAN RETAINED BY THE CITY, AN ELECTION OFFICIAL IN THE COURSE OF HIS OR HER DUTIES, OR AN ATTORNEY ADVISING THE CLERK ON LEGAL QUESTIONS CONCERNING THE BALLOT.

(ORDS. 2108-2005, 2556-2011)

6.05.340 STORING BALLOTS.

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

CHAPTER 6.10  
FILING FOR OFFICE

SECTIONS:

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

6.10.010 NOMINATING PETITIONS.

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

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

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

**NOMINATING PETITION**

WE, THE UNDERSIGNED TWENTY (20)  
ELECTORS OF THE CITY OF KENAI, HEREBY  
NOMINATE AND SPONSOR  
\_\_\_\_\_, WHOSE ADDRESS

IS \_\_\_\_\_, FOR THE OFFICE OF \_\_\_\_\_, TO BE VOTED FOR AT THE ELECTION TO BE HELD ON \_\_\_\_\_; AND WE INDIVIDUALLY CERTIFY THAT OUR NAMES PRESENTLY APPEAR ON THE ROLLS OF REGISTERED VOTERS OF THE CITY OF KENAI, AND THAT WE ARE QUALIFIED TO VOTE FOR A CANDIDATE FOR AN ELECTIVE MUNICIPAL OFFICE, AND THAT WE HAVE NOT SIGNED ANY OTHER NOMINATING PETITION FOR THE PARTICULAR OFFICE THIS CANDIDATE SEEKS. CHECK TERM OF OFFICE CANDIDATE IS SEEKING: \_\_\_\_\_ ONE YEAR; \_\_\_\_\_ TWO YEARS; THREE YEARS.

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

**ACCEPTANCE OF NOMINATION**

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

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

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

CITY CLERK \_\_\_\_\_ SIGNATURE OF CANDIDATE \_\_\_\_\_

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

6.10.020 SUFFICIENCY OF PETITION—NEW PETITION.  
WITHIN THREE (3) DAYS AFTER THE FILING OF THE STATEMENT OF CANDIDACY AND NOMINATING PETITION, THE CITY CLERK SHALL DETERMINE WHETHER THE NOMINATING PETITION IS SIGNED BY THE REQUIRED NUMBER OF REGISTERED VOTERS, AND SO NOTIFY THE CANDIDATE. IF INSUFFICIENT, THE CITY CLERK SHALL RETURN THE PETITION IMMEDIATELY TO THE CANDIDATE WITH A STATEMENT AS TO WHY THE PETITION IS INSUFFICIENT. WITHIN THE REGULAR TIME FOR FILING PETITIONS AND STATEMENTS OF CANDIDACY, A NEW PETITION AND STATEMENT OF CANDIDACY MAY BE FILED BY THE CANDIDATE. THE ABOVE NOTICE TO THE

CANDIDATE AND THE RETURN OF AN INSUFFICIENT PETITION MAY BE IN PERSON, BY DELIVERY BY POLICE, OR BY MAIL. (KC 6-34; ORD. 803)

6.10.030 WITHDRAWAL OF CANDIDACY.

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

6.10.040 PETITION AND STATEMENT TO BE PRESERVED.

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

CHAPTER 6.20  
INITIATIVE AND REFERENDUM

SECTIONS:

6.20.010 PROVISIONS OF CHARTER TO GOVERN.

6.20.010 PROVISIONS OF CHARTER TO GOVERN.

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

CHAPTER 6.30  
RECALL

SECTIONS:

6.30.010 PROCEDURES AND GROUNDS.

6.30.010 PROCEDURES AND GROUNDS.

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

**Chapter 6.05**  
**General Provisions**

**6.05.010 – Definitions**

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

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



Ordinance No. 3224-2021

Page 20 of 45

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

"Election" includes a regular or special City election.

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

"Election supervisor" means the City Clerk.

"Oath" includes affirmation on penalty of perjury.

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

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

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

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

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

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

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

"Signature" and "subscription" both include any mark intended as a signature or subscription.

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

"Swear" includes "Affirm".

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

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

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

#### **6.05.030 – Election Times.**

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

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

- (a) Each City office shall be filled by the candidate receiving the greatest number of votes as authorized by the City Charter, Section 10-4.
- (b) Tie votes. In case of a failure to elect because of a tie vote, the Council shall immediately order a recount of ballots pursuant to KMC 6.45.030. If there is still a failure to elect because of a tie after completion of the recount, the election shall be determined fairly by lot from among the candidates tying, in a meeting of the Council and under its direction, in accordance with the City Charter, Section 10-4.

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

- (a) The certificate of returns of the canvassing board shall be maintained permanently, and descriptions of election boundaries, precincts, and polling places shall be maintained until they are revised.
- (b) Financial disclosure forms shall be maintained for a period of six years and then may be destroyed.
- (c) Election registers, nominating petitions, declaration of candidacy, and rejected ballots shall be retained for one year after the certification of the election. These materials may be destroyed after their retention period has lapsed unless their destruction is stayed by an order of the court.

#### **6.05.060 – Election Expenses.**

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

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

- (a) The initiative and referendum process shall be governed by the City Charter, Sections 11-1 to 11-5. The provisions of this chapter of this Code shall govern elections at which initiated and referred proposals are submitted to the voters, as well as other elections, insofar as they are applicable.
- (b) As set forth by the City Charter, Section 11-6, all incumbents of elective offices of the City, including persons chosen to fill vacancies in such offices, shall be subject to recall from office by the qualified voters of the City. Procedures and grounds for recall shall be such as may be prescribed by law. The Council, by ordinance, may further regulate the recall insofar as such regulation is not in conflict with the State Constitution or law.

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

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

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

### **6.10.010 – Voter Qualifications**

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

- (1) is qualified to vote in state elections under AS 15.05.010;
- (2) has been a resident of the City for 30 days immediately preceding the election;
- (3) is registered to vote in state elections at a residence address within the City at least 30 days before the City election at which the person seeks to vote; and
- (4) is not disqualified under article V of the state constitution.

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

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

- (a) A person may not be considered to have gained a residence solely by reason of presence nor may a person lose it solely by reason of absence while in the civil or military service of this state or of the United States or by absence because of marriage to a person engaged in the civil or military service of this state or the United States, while a student at an institution of learning, while in an institution or asylum at public expense, while confined in public prison, while engaged in the navigation of waters of this state or the United States or of the high seas, while residing upon an Indian or military reservation, or while residing in the Alaska Pioneers' Home or the Alaska Veterans' Home.
- (b) The residence of a person is that place in which the person's habitation is fixed, and to which, whenever absent, the person has the intention to return. If a person resides in one

place, but does business in another, the former is the person's place of residence. Temporary work sites do not constitute a dwelling place.

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

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

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

### **Chapter 6.15** **Filing for Office**

#### **6.15.010 – Candidate Qualifications**

A candidate for elective City office:

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

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

- (a) Any qualified person may have their name placed on the ballot for the election as a candidate for Council or Mayor by filing with the Clerk, between August 1<sup>st</sup> and August 15<sup>th</sup>, 4:30 p.m., a nominating petition with sufficient signatures and a sworn statement of his or her candidacy, on a form or forms provided by the Clerk, accompanied by the public financial disclosure statement required by KMC 1.85.010(a). If August 15<sup>th</sup> is not a regular City workday, then candidates shall have until noon on the first workday following to file their candidacy paperwork.
- (b) A nominating petition shall include:
  1. The full name of the candidate the petitioners are sponsoring; and

2. The full residence address of the candidate; and
  3. The office for which the petitioners are nominating the candidate; and
  4. The length of the term of office for which the petitioners are nominating the candidate; and
  5. Certification that the petitioners' names appear on current voter registration rolls for the City of Kenai, are qualified to vote for a candidate for elective municipal office, and have not signed any other nominating petition for the particular office the named candidate seeks.
- (c) No voter shall sign more than one (1) petition except that a voter may sign as many nominating petitions for Councilmembers as there are vacancies to be filled; and if a voter signs more petitions than hereby authorized, his or her signature shall be void except as to the authorized number of petitions first filed.
- (d) A sworn statement of candidacy and certification of qualification shall include:
1. The office for which the candidate accepts nomination; and
  2. A statement that the candidate agrees to serve, if elected; and
  3. A statement that the candidate is qualified for the office as provided by law; and
  4. The date and signature of the candidate; and
  5. Attestation and date by the Clerk; and
- (e) A candidate shall provide any other information the Clerk reasonably requires to determine whether the candidate is qualified for the office as provided by law.
- (f) Within three (3) days after the filing of the declaration of candidacy and nominating petition, the Clerk shall determine whether the nominating petition is signed by the required number of registered voters, and so notify the candidate. If insufficient, the Clerk shall return the petition immediately to the candidate with a statement as to why the petition is insufficient. Within the regular time for filing petitions and declarations of candidacy, a new petition and declaration of candidacy may be filed by the candidate. The above notice to the candidate and the return of an insufficient petition may be in person or by mail.
- (g) Any candidate for office may withdraw their candidacy at any time before the expiration of the time when candidates may file statements of candidacy, by filing a written notice of withdrawal with the City Clerk.

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

- (a) In determining residence within the City, for the purposes of this chapter, the Clerk shall apply the following rules:
1. A person establishes residence within the City by:
    - (A) Actual physical presence at a specific location within the City; and
    - (B) Maintaining a habitation at the specific location;
  2. A person may maintain a place of residence at a specific location within the City while away from the location for purposes of employment, education, military service, medical treatment or vacation if the person does not establish residency at another location; and
  3. A qualified voter loses residence by voting in another City or borough or in another state's election.
- (b) The Clerk shall determine whether each candidate is qualified as provided by law. At any time before the election the Clerk may disqualify any candidate whom the Clerk finds is not qualified. A candidate who is disqualified may request a hearing before the Clerk. The hearing

- shall be held no later than 5 business days after the request unless the candidate agrees in writing to a later date.
- (c) Any person may question the eligibility of a candidate who has filed a declaration of candidacy by filing a complaint with the Clerk. A complaint regarding the eligibility of a candidate must be received by the Clerk not later than the close of business on the 10<sup>th</sup> calendar day after the filing deadline for the office for which the candidate seeks election.
- (d) The complaint must be in writing and include the name, mailing address, contact phone number, and signature of the person making the complaint, and a statement in 200 words or less specifying the grounds for the complaint, described in particular, on which the candidate's eligibility is being questioned.
- (e) The Clerk will review only those issues cited in the complaint related to candidate qualifications established by this chapter.
- (f) Upon receipt of a complaint, the Clerk will review any evidence relevant to the issues identified in the complaint which is in the custody of the municipal Clerk's office including evidence provided with the complaint, the candidate's registration record, declaration of candidacy, and, in the discretion of the Clerk, any other public record. Following review of all relevant evidence in the case, and within 20 days of receiving the complaint, the Clerk will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate. The process for issuing a final determination will be as follows:
1. The Clerk will send notification in writing to the candidate whose eligibility is being questioned that a complaint has been received. The notification will include a copy of the complaint, supporting relevant evidence, a statement as to whether a preponderance of evidence reviewed as of that notice supports or does not support the eligibility of the candidate, and a request that the candidate provide a sworn response statement along with any relevant supporting evidence.
  2. The Clerk must also notify the challenger that all relevant evidence must be submitted within 7 calendar days of the date of the Clerk's notice to the candidate that a complaint has been filed. If the Clerk receives additional evidence during this 7-day period, such evidence must be provided to the candidate with an opportunity to respond. Absent extraordinary circumstances, the Clerk shall not consider evidence received after the challenger's deadline to submit evidence.
  3. The candidate's response statement and any supporting evidence must be received within 10 calendar days of the date of the Clerk's notice to the candidate that a complaint has been filed. Absent extraordinary circumstances, the Clerk shall not consider evidence received after the candidate's deadline to submit evidence.
  4. For purposes of this section, "extraordinary circumstances" must be specified in writing, documenting a serious circumstance or event beyond the control of the individual providing the late evidence.
  5. Following review of all relevant evidence in the case, and within 20 days of receiving the complaint, the Clerk will issue a final determination based on a preponderance of evidence standard for review
  6. A final determination must be issued in writing within 20 days of the Clerk receiving the complaint.
- (g) The Clerk must send the final written decision to the person making the complaint and to the candidate. The Clerk's decision shall be sent by certified mail and by electronic mail (email), if an email address is known. The determination of the Clerk constitutes a final administrative decision. An appeal of the Clerk's decision shall be filed with the State of Alaska Superior Court at Kenai, Alaska in conformance with the Rules of Appellate Procedure of the State of Alaska, Part VI.

#### **6.15.040 – Campaign Reporting.**

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

**6.15.050 – Notice of Vacancy.**

At least ten (10) days before nominations are open for each regular or special election, the Clerk shall publish at least twice in a newspaper of general circulation, a notice of offices to be filled at the election and the procedure for filing a nomination petition and statement of candidacy for the offices.

**Chapter 6.20**  
**Administration of Elections**

**6.20.010 – Election Notices.**

- (a) Notice of Election. Before every City election, regular or special, the Clerk shall cause a notice of election to be published at least twice in a newspaper of general circulation. The Clerk shall also post a notice of election on the official City bulletin board and in two (2) other public places in the City limits. The posting and first publication shall occur at least 20-days before an election. Each notice of election shall include:
1. The type of election, whether regular or special;
  2. The date of the election;
  3. The location of the polling place(s) and the hours the polling place(s) shall be open;
  4. The offices to which candidates are to be elected;
  5. The subjects of propositions to be voted upon;
  6. Voter qualifications and instructions for registration; and
  7. Instructions for application for absentee voting.
- (b) Failure to publish such a notice of an election shall not affect the validity of the election or of the vote for any candidate or on any proposal; but, if caused by the Clerk, shall constitute failure to perform his or her official duties.
- (c) In addition to the above notice, the Clerk shall publish in full, every charter amendment, every ordinance, and every other question which is to be submitted at an election, except a referred ordinance which was published in full after passage, not more than four (4) weeks and at least two (2) weeks before the election in accordance with the City Charter, Sections 1-7(4) and 10-8.
- (d) Notice of Bonded Indebtedness. Before a general obligation bond issue election, the Clerk shall publish notice of total existing bonded indebtedness at least once a week for three consecutive weeks. The first notice shall be published at least 20-days before the date of the election. The notice must include:
1. The current total general obligation bonded indebtedness, including authorized but unsold bonds, of the City;
  2. The cost of the debt service on the current indebtedness; and
  3. The total assessed valuation within the City.

**6.20.020 – Election Officials.**

- (a) Before each election, the Clerk, subject to approval by the Council, shall appoint an election board of at least four judges in a precinct. A judge shall be a voter of the City. The Clerk shall designate one election judge from each precinct as the chairperson, who shall be primarily responsible for administering the election in the precinct. After Council approval, the Clerk may assign additional officials if deemed necessary for proper conduct of the election.
- (b) All City election personnel shall be appointed without regard to their membership in any political party.
- (c) If any appointed election official is not able or refuses to serve, the Clerk may appoint a replacement for that official.
- (d) All election officials, before entering upon their duties, must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the Clerk.
- (e) Candidates shall not serve as election officials. Certain familial relationships may not exist between a candidate and an election official in regular or special elections. Those familial relationships are:
  - 1. Mother, mother-in-law, stepmother;
  - 2. Father, father-in-law, stepfather;
  - 3. Sister, sister-in-law, stepsister;
  - 4. Brother, brother-in-law, stepbrother;
  - 5. Spouse; or
  - 6. Person sharing the same living quarters.
- (e). If the Clerk knows or learns that any of these relationships exist, the election official shall be notified and replaced.

#### **6.20.030 – Ballot Form.**

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



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

- (a) The Clerk shall have ballots printed for each election. The Clerk may contract for the preparation and printing of ballots without competitive bidding.
- (b) The Clerk shall possess the printed ballots at least 15 days before each regular election and at least 10 days before each special election. At that time, the ballots may be inspected by any candidate whose name is on the ballot, or by his or her authorized agent, and any discovered mistake shall be corrected immediately.
- (c) The Clerk shall arrange for delivery of ballots to each election board prior to or on the date of the election before the opening of the polls. The ballots shall be delivered in separate containers, with the number of ballots enclosed in each container clearly marked on the outside. A receipt for each package shall be taken from the election board to which it was delivered.
- (d) No ballots shall be taken from the precinct before the closing of the polls unless the Clerk for good cause directs that the ballots be removed. A record shall be kept by the election official of the ballots removed from the precinct.
- (e) The Clerk shall have sample ballots available to voters which are identical in form to the official ballot, and which are printed on colored paper and marked "sample." Sample ballots shall be made available at all absentee in person and polling locations.

#### **6.20.050 – Ballot Shortage**

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

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

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

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

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

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

- (b) During the hours the polls are open, no person who is in the polling place or within 200 feet of any entrance to the polling place may attempt to persuade a person to vote for or against a candidate, proposition or question. Nor may any person conduct other political activities that may pertain to any future election or potential ballot proposition. For the purposes of this section, the entrance to a polling place is the entrance to the building. The election board shall post warning notices in the form and manner prescribed by the Clerk.
- (c) No voter may exhibit a ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot, except as provided in KMC 6.25.080.
- (d) While the polls are open no election official may open any ballot received from a voter, mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked a ballot, or allow the same to be done by another person.
- (e) No person may leave the polling place with the official ballot that the person received to mark.

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

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

### **6.25.030 – Watchers.**

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

(e) The poll watcher may not:

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

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

**6.25.040 - Ballot Box Security.**

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

**6.25.050 - Voter Register.**

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

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

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

**6.25.060 - Voter Identification.**

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

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

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

**6.25.070 - Providing Ballot to Voter.**

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

**6.25.080 - Questioned Voting.**

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

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

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

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

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

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

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

#### **6.25.120 - Placing Ballots in Ballot Box.**

When the voter has marked the ballot, the voter shall inform the election official. The Clerk may require that the voter return the ballot to the election official temporarily so that any stub which may be part of the ballot may be removed by the election official. Any such requirement shall

protect the secrecy of the ballot. In all cases the ballot shall be deposited in the ballot box by the voter in the presence of the election official unless the voter requests the election official to deposit the ballot.

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

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

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

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

### **Chapter 6.30** **Absentee Voting**

#### **6.30.010 - Administration of Absentee Voting.**

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

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

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

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

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

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

- (a) A qualified voter may apply in person for an absentee ballot at the location designated for absentee voting by the Clerk during regular office hours.
- (b) On receipt of an application in person for an absentee ballot and exhibition of proof of identification as required in this title, the absentee voting official shall issue the ballot to the applicant.
- (c) The voter shall proceed to mark the ballot in secret, place the ballot in the secrecy sleeve and place the secrecy sleeve in the larger envelope in the presence of the election official who shall sign as attesting official and date of his/her signature. The election official shall then accept the ballot.
- (d) The election official may not accept a marked ballot that has been exhibited by an absentee voter with the intent to influence other voters. If the absentee voter improperly marks or otherwise damages the ballot, the voter may request, and the election official shall provide, him/her with another ballot up to a maximum of three. Exhibited, improperly marked or damaged ballots shall be destroyed. The number of ballots destroyed shall be noted on the ballot statement.
- (e) If the qualifications of the absentee voter is subject to question, the voter shall vote a questioned ballot as provided in KMC 6.25.070.
- (f) Each absentee voting official shall keep a record of the names and signatures of voters who cast absentee ballots before him/her and the dates on which the ballots were cast.

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

- (a) A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first of the year in which the election is to be held nor less than seven (7) days before an election. A voter may request their name be placed on permanent absentee by mail status. The application shall include the address to which the absentee ballot is to be returned, the applicant's full Alaska residence address, a voter identifier such as a voter number, social security number or date of birth, and the applicant's signature.
- (b) After receipt of an application for an absentee ballot by mail, the Clerk shall send the absentee ballot and other absentee voting material to the applicant by first class mail. The materials shall be sent as soon as they are ready for distribution. The postage paid return envelope sent with the materials shall be addressed to the Clerk.

- (c) Upon receipt of an absentee ballot by mail, the voter may proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certificate on the back of the larger envelope in the presence of an official who shall sign as attesting official and shall date their signature. Officials recognized to attest to the veracity of signatures listed in this subsection are: a notary public, a commissioned officer of the armed forces, including the National Guard, state court judge, state court clerk, United States postal official, or other person qualified to administer oaths. If none of the officials listed in this subsection are reasonably accessible, an absentee voter shall have the ballot witnessed by a person over the age of 18 years.
- (d) An absentee ballot must be marked and attested on or before the date of the election. If the voter returns the ballot by mail, they shall use the most expeditious mail service and mail the ballot not later than the day of the election to the Clerk. It must be postmarked on or before midnight of Election Day and received by the Clerk no later than noon on the seventh day following the election. Ballot envelopes received after that time shall not be opened but shall be marked "invalid", with the date of receipt noted thereon, and shall be preserved with other ballots of the election.
- (e) The Clerk shall, as soon as practicable, make a reasonable effort to contact each absentee by mail voter, whose absentee ballot would be rejected under KMC 6.40.030(a), explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.
- (f) The Clerk may require a voter casting an absentee ballot by mail to provide proof of identification or other information to aid in the establishment of their identity.
- (g) The Clerk shall maintain a record of the name of each voter to whom an absentee ballot is sent by mail. The record must list the date on which the ballot is mailed and the date on which the ballot is received by the Clerk and the dates on which the ballot was executed and postmarked.

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

- (a) A qualified voter may apply for an absentee ballot to be sent by electronic transmission. Such request must be made not less than the day immediately preceding the election. Absentee ballots will be electronically transmitted to the location designated in the application. If no location is designated, and if the request is received no later than seven (7) days prior to the election, the ballot will be mailed in the manner provided in KMC 6.30.050 for absentee ballots by mail. The Clerk will provide reasonable conditions for electronically transmitting absentee ballots.
- (b) A ballot electronically transmitted shall contain a copy of the ballot to be used at the election in a form suitable for transmission. A photocopy of the computerized ballot card to be used by persons voting in person at the polling place is acceptable.
- (c) An absentee ballot that is completed and returned by the voter by electronic transmission must:
1. Contain the following statement: "I understand that by using electronic transmission to return my marked ballot, I am voluntarily waiving a portion of my right to a secret ballot to the extent necessary to process my ballot, but expect that my vote will be held as confidential as possible.", followed by the voter's signature and date of signature; and



2. Be accompanied by a statement executed under oath as to the voter's identity; the statement under oath must be witnessed by one United States citizen who is 18 years of age or older.
- (d) The voter shall mark the ballot on or before the date of the election and may use a mail service at least equal to first class and mail the ballot not later than the day of the election to the Clerk. The ballot may not be counted unless it is received by noon on the seventh (7<sup>th</sup>) day after the election.
- (e) A voter who returns the absentee ballot by electronic transmission must comply with the same deadlines as for voting in person on or before the closing of the polls.
- (f) When a completed absentee ballot is received by electronic transmission, the Clerk will note the date of receipt on the absentee ballot application log and, if the ballot is received on Election Day, the time of receipt. The Clerk will then:
1. Remove the ballot portion of the transmission from the portion that identifies the voter;
  2. Place the ballot portion in a secrecy sleeve;
  3. Seal the secrecy sleeve in an outer envelope of the type used for absentee ballots returned by mail, and seal that envelope;
  4. Attach the voter identification portion to the outer envelope; and
  5. Forward the outer sealed envelope to the canvas board for review.
- (g) The Clerk shall, as soon as practicable, make a reasonable effort to contact each absentee by electronic transmission voter, whose absentee ballot would be rejected under KMC 6.40.030(a), explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.
- (h) An electronically transmitted ballot shall be counted in the same manner as other absentee ballots, even though this procedure may reveal to one or more election officials the manner in which a particular absentee voter cast his or her ballot. However, it shall be unlawful to display a telefax ballot in a manner revealing the way in which a particular voter cast his or her ballot to any person other than the Clerk, a member of the Clerk's staff, an election official in the course of his or her duties, or an attorney advising the Clerk on legal questions concerning the ballot.

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

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

### **6.30.080 – Prohibitions.**

- (a) During the hours that the absentee voting locations are open, no election official may discuss any political party, candidate or issue while on duty.
- (b) During the hours the absentee voting locations are open, no person who is in the absentee voting location or within 200 feet of any entrance to the absentee voting location may attempt to persuade a person to vote for or against a candidate, proposition or question. Nor may any person conduct other political activities that may pertain to any future election or potential ballot proposition. The election official shall post warning notices in the form and manner prescribed by the Clerk.

- (c) No voter may exhibit a ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot, except as provided in this chapter.
- (d) While the absentee voting locations are open no election official may open any ballot received from a voter, mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked a ballot, or allow the same to be done by another person.
- (e) No person may leave the absentee voting location with the official ballot that the person received to mark.

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The election supervisor may issue rules prescribing the manner in which the precinct ballot count is accomplished so as to assure accuracy in the count and to expedite the process. The election board shall account for all ballots by completing a ballot statement containing:
1. The number of official ballots received; and
  2. The number of official ballots voted; and
  3. The number of official ballots spoiled; and
  4. The number of official ballots unused and destroyed.
- (b) The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted and the numbers included in the certificate prescribed by the election supervisor.
- (c) When hand counting ballots, the election board shall count the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope may have a marking device in hand or remove a ballot from the immediate vicinity of the polls.
- (d) Ballots may not be counted before 8:00 p.m., local time, on the day of the election.

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

- (a) The election officials shall count hand marked ballots according to the following rules:
1. A voter may mark his or her ballot with a cross mark, "X" mark, diagonal, horizontal or vertical mark, solid mark, star, circle, asterisk, check or plus sign using the parking device provided at the polling place or with any black-inked marker. The marks will be counted only if they are clearly spaced in the square opposite the name of the candidate the voter desires to designate.
  2. A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
  3. If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
  4. If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.

5. The mark specified in subsection 1 of this section shall be counted only if it is substantially inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square marked.
  6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly marked.
  7. An erasure or correction invalidates only that section of the ballot in which it appears.
- (b) The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.

#### **6.35.040 – Write-in Votes.**

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

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

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

#### **6.35.060 – Tally of Votes.**

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

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

When the tally of hand counted ballots is completed, and in no event later than the day after the election, the election board shall make a certificate in duplicate of the results. The certificate includes the number of votes cast for each candidate, for and against each proposition, yes or no on each question, and any additional information prescribed by the election supervisor. The election board shall, immediately upon completion of the certificate or as soon thereafter as the local mail service permits, send in one sealed package to the election supervisor one copy of the certificate and the register. In addition, all ballots properly cast shall be mailed or hand delivered

to the election supervisor. The package shall clearly indicate the precinct from which it came. To assure adequate protection the election supervisor shall prescribe the manner in which the ballots, registers and all other election records and materials are thereafter preserved, transferred and destroyed.

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

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

## **Chapter 6.40** **Canvassing and Certification of Election Results.**

### **6.40.010 – Canvass Board.**

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

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

(2) The Canvassing Board shall consist of the City Clerk and up to five (5) additional judges selected from among the qualified voters of the City. In the event any such appointed member of the Board is absent from the City, ill, or otherwise unable to attend at the time set for canvassing the ballot, the City Clerk is hereby authorized to appoint another election judge from the same precinct to substitute for the appointed member.

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

### **6.40.020 – Canvass of Returns.**

(a) The canvassing board shall meet on the Tuesday following each election, the election canvass board shall meet in public session and canvass all election returns. In full view of those present, the election canvass board shall judge the applicability of by mail and absentee ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. The canvass of the ballot vote counted by the precinct election boards shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical error by comparing totals with the precinct's certificate of results. All obvious errors found by the election canvass in the transfer of totals from the precinct tally sheets to the precinct certificate of results shall be corrected by the canvass board. A mistake which has been made in precinct returns that is not clearly an error in the transfer of the results from the tallies to the certificate of results empowers the canvass board to recommend a recount of the results of the precinct or precincts for that portion of the returns in question. Upon completion of the canvass, the canvassing board shall prepare a final certificate of the results of votes cast by absentee ballot and of votes cast by mail

ballot, and shall prepare a written report of the results.

- (b) The Clerk, as chair of the canvassing board, shall report the results of the election to the Council at the next regular Council meeting following the meeting of the canvassing board.

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

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

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

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

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

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

### **Chapter 6.45** **Election Recount.**

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

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

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

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

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

- (a) If a recount of ballots is demanded, the Clerk shall appoint a recount board of four or more qualified voters to conduct the recount of ballots or those precincts cited in the application for recount.
- (b) In conducting the recount, the recount board shall review all ballots to determine which ballots or parts of ballots, were properly marked and which ballots are to be counted in the recount, and shall check the accuracy of the original count, the precinct certificate, and the review. For administrative convenience, the Clerk may join and include two or more applications in a single review and count of votes. The rules governing the counting of marked ballots shall be followed in the recount.
- (c) The ballots and other election materials shall remain in the custody of the Clerk during the recount and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within ten (10) days.

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



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

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

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

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

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

### **Chapter 6.50** **Contest of Election.**

#### **6.50.010 – Grounds for Election Contest.**

A candidate or any ten (10) qualified voters of the City may contest the election of any person or the approval or rejection of any question or proposition upon one or more of the following grounds:

- (a) Malconduct, fraud or corruption by an election official sufficient to change the result of the election;
- (b) The person elected is not qualified under law or ordinance; or
- (c) Existence of a corrupt election practice, as defined by the laws of the State of Alaska, sufficient to change the result of the election.

#### **6.50.020 – Contest Procedure.**

- (a) Notice of contest of an election shall be submitted in writing to the Clerk before five (5) o'clock p.m. on the day of the certification of the election or to the Council at its meeting to certify the election returns. The notice of contest shall specify the election being contested, the grounds of the contest, and shall bear the notarized signatures of the candidate or qualified voters bringing the contest. The notice shall be in substantially the following form:

#### **NOTICE OF ELECTION CONTEST**

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

Signature and date

(Notarization)

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

#### **6.50.030 – Appeal or Judicial Review.**

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

### **Chapter 6.55** **Special Elections.**

#### **6.55.010 – Voting by mail—Ballots—Ballot review—Ballot envelopes.**

- (a) The Clerk may conduct a special election by mail.
- (b) When the Clerk conducts a special election by mail, the Clerk shall send a ballot to each person whose name appears on the official voter registration list prepared under Alaska Statute 15.07.125 for that election. The ballot shall be sent to the address stated on the official registration list unless the voter has notified the Clerk in writing of a different address to which the ballot should be sent. The Clerk shall send ballots by first class, nonforwardable mail no less than 22 days before the election.
- (c) The Clerk shall review ballots voted under this section under procedures established for the review of absentee ballots.
- (d) There shall be a small blank envelope and a return envelope supplied to each by-mail voter. The return envelope shall have printed upon it an affidavit by which the voter shall declare his/her qualifications to vote, followed by provision for attestation by a person qualified to

administer oaths or one attesting witness who is at least 18 years of age. Specific instructions for voting a by-mail ballot and a list of the appointed absentee voting officials, their hours and locations, will be mailed to each voter with the ballot.

**6.55.020 - Casting ballots.**

- (a) Upon receipt of a mail-in ballot, the voter shall cast their ballot in the manner specified in KMC 6.30.050. If the ballot is cast in the Clerk's office, the Clerk shall retain it for delivery to the Canvassing Board. If the ballot is cast in another location, the voter shall return it by mail to the Clerk immediately for delivery to the Canvassing Board.
- (b) A voter who does not receive a mail-in ballot may cast their ballot in person as specified in KMC 6.30.040.
- (c) A voter may return the mail-in ballot to the City Clerk as provided in KMC 6.55.040.
- (d) The Clerk shall immediately make a reasonable effort to contact each voter, whose absentee ballot would be rejected under KMC 6.40.030, explain why the ballot would be rejected, and provide a reasonable opportunity, until 5:00 p.m. on the sixth day after Election Day, to cure the ballot.

**6.55.030 - Notice of election—Election date—Public notice.**

- (a) The notice of election calling for the election must state that the election is to be conducted by mail and that there will be no polling place open for regular in-person voting on election day. In a by-mail election, Election Day is the deadline by which a voter's ballot must be received by the Clerk.
- (b) For each election conducted by mail, the public notice posted in each precinct and the notice published in newspapers of general circulation in the area of the election jurisdiction will include the information specified in KMC 6.20.020.

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

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

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

5. Date-stamp all ballots received; and

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

**6.55.050 - Storing ballots.**

The Clerk shall provide for the secure storage of the mail-in ballots received from the voters and  
by-mail officials until the date set by the Clerk for counting of ballots.

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

**Section 3.** Effective Date: That this ordinance shall take effect on January 1, 2022.

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

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

ATTEST:

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

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



## MEMORANDUM

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

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

This ordinance also makes the following policy changes:

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

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

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

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

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

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

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

6.05.030 – Election Times. This section restates Charter.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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





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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

To the extent possible, all current sections of code were incorporated into this ordinance while retaining the ability to share resources with the borough and attempting to improve processes and provide clarity. Sections in current code that were not incorporated in some way were:

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



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

Your consideration is appreciated.





# KENAI

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

## MEMORANDUM

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

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

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

Thank you for your consideration.



Sponsored by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2021-53**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES FOR DESIGN, CONSTRUCTION AND MAINTENANCE OF THE KENAI BRIDGE ACCESS ROAD PATHWAY PROJECT.

WHEREAS, an Alaska Transportation Alternatives Program grant in the amount of \$2,971,354 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 was originally estimated to be \$216,560, but has increased to \$294,947 as the project progresses and the total cost of the project is estimated to be \$3,266,301; and,

WHEREAS, Ordinance 3137-2020, appropriated \$216,560 for the Bridge Access Road bike path utilizing proceeds from the Daubenspeck family donation to meet the City's initial estimated match and authorized the City Manager to execute an agreement with the Alaska Department of Transportation and Public Facilities (AKDOT&PF) to plan, design, and construct the path; and,

WHEREAS, the Fiscal Year 2022 Annual Budget included Supplemental Funding for the Bridge Access Bike Path in the amount of \$78,387 to meet the non-federal match of no more than 9.03%, \$294,947, of the current project cost estimate, which may increase or decrease as the project is developed and bid; and,

WHEREAS, a Memorandum of Agreement (MOU) provides the authority for the AKDOT&PF to plan, design, and construct the pathway using Federal funds and the City's match and the City agrees to maintain the project once constructed; and,

WHEREAS, the MOU allows work to begin on the project and is in the best interests of the City.

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

**Section 1.** That the City Manager is authorized to execute a Memorandum of Agreement with the Alaska Department of Transportation and Public Facilities for plan, design, and construction of improvements to create a paved bicycle and pedestrian pathway from Beaver Loop Road at Bridge Access Road towards the City of Kenai.

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

Resolution No. 2021-53  
Page 2 of 2

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 4th day of August, 2021.

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

ATTEST:

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

Approved by Finance:

  
\_\_\_\_\_

\_\_\_\_\_

**Memorandum of Agreement  
Between State of Alaska and  
The City of Kenai**

***Project Name: Kenai Bridge Access Road Pathway***

***Federal Project No.: [tba]***

***State Project No.: CFHWY00689***

The parties to this agreement are the State of Alaska acting through its Department of Transportation and Public Facilities (hereafter AKDOT&PF) and The City of Kenai, an incorporated city established under Alaska law (hereafter the City).

WHEREAS, the City agrees to maintain the project once constructed;

WHEREAS, AKDOT&PF has the authority to plan, design, and construct improvements to Create a paved bicycle and pedestrian pathway from Beaver Loop Road at Bridge Access Road towards the city of Kenai, (hereafter the project);

WHEREAS, the City by resolution desires that Federal funds be used, therefore DOT&PF will plan, design and construct the project; and

WHEREAS, the City by resolution agreed to maintain the project to local standards upon its completion; and

WHEREAS, Alaska Statute 19.05.040 provides that AKDOT&PF may enter into agreement with Municipalities relating to highways.

THEREFORE, the parties, in consideration of the mutual promises contained in this agreement, agree to the following:

**1. FINANCIAL PARTICIPATION**

The City hereby agrees to provide non-federal matching funds for the project including matching funds required for project contingencies.

The City's matching fund contributions shall be lump sum payments due prior to initiation of each phase authorization from the Federal Highway Administration. Contingency will be:

- an additional 50% of the cost estimate for all phases prior to Construction phase and Utilities Relocation phase.
- Contingency shall be revised downward from 50% to 15% of the, then current, cost estimate after completion of the final design and prior to Construction phase and Utilities Relocation phase.

Payment of Design Phase total matching funds in the amount of \$46,861 is due from the City by September 30, 2021. The schedule for all subsequent payments shall be based on the project development schedule developed by the AKDOT&PF Project Manager. Failure to provide matching funds consistent with the current project development schedule may be deemed a breach of this agreement and will result in project cessation and the City shall repay all



expenditures incurred by AKDOT&PF that are not federally reimbursable.

As the project design develops, cost estimates, and schedule for all project phases will be refined. Cost estimate and contingencies will be updated via project amendment as project progresses, but initial cost estimate and required matching funds are calculated as follows:

- Cost estimate non-federal match – City shall pay no more than 9.03% of the current cost estimate by phase as negotiated, plus the contingency match.
- Contingency match – In the event that the project cost is greater than the initial cost estimate AKDOT&PF shall provide federal funds for the additional costs up to an additional 50% above the initial cost estimate and the City shall pay the minimum 9.03% required non-federal match for cost estimate contingencies.

Design match	\$46,860
Construction match	\$237,209
Utility match	\$10,878
Total match	\$294,947

If the City ceases to fund match, the City hereby agrees to reimburse AKDOT&PF for all project costs incurred that are not Federally reimbursable.

Upon project completion and final project closeout, if the final cost is less than the Agreement cost, the local contribution will be recalculated and excess contribution will be refunded to the City.

**2. PROJECT RANKING**

DOT&PF shall, while ranking this project with other projects during the preparation of the Statewide Transportation Improvement Program (STIP) and capital budgeting process, recognize that the City has agreed to provide local matching funds and maintain the project.

**3. PLANNING, DESIGN, AND CONSTRUCTION**

DOT&PF shall plan, design, and construct the project within the approved scope and funding.

**4. MAINTENANCE AND OPERATIONS**

- a. The City agrees to maintain the project at its own expense consistent with 23 CFR 1.27 and DOT&PF’s Alaska Highway Maintenance and Operations Manual (AHMOM). In the event of conflict between 23 CFR 1.27 and AHMOM, the more stringent provisions set the minimum standards.
- b. The City shall perform its activities under this agreement at its sole cost and expense and without reimbursement from DOT&PF. These maintenance activities include, but are not limited to:
  - (1) planning, scheduling, administration, and logistics of maintenance activities, snow and ice control, including all plowing, sanding, culvert and storm sewer thawing, drift control, snow slide removal, and associated tasks as may be required for the safe and timely passage of the public consistent with Municipal standards;
  - (2) removal of debris, rubbish, and dead animals
- c. Maintenance staff may be employees of the City, another unit of government, or a contractor under agreement

with the City. All maintenance will be performed for efficient operation of the complete project improvements. The City's maintenance responsibilities commence the date of project substantiated completion.

- d. City agrees to perform property management and maintain and operate the project for the lifespan of the project, a period of not less than twenty years.

## 5. INDEMNIFICATION

The City shall hold the DOT&PF, its officers, employees, and agents harmless from and defend and indemnify the DOT&PF for liability, claims, or causes of action arising out of this Agreement.

Notwithstanding the foregoing, the City shall have no obligation to hold harmless and indemnify the DOT&PF to the extent the DOT&PF is determined to be liable for its own act or omissions, except that:

- A. To the maximum extent allowed by law, the City shall hold the DOT&PF harmless from and indemnify the DOT&PF for liability, claims, or causes of action arising from an alleged defect in the design or construction of facilities existing on the premises at the date of this Agreement or constructed or improved pursuant to this Agreement, regardless of negligence or other fault, if such liability, claim, or cause of action arises out of an incident that occurs more than six years after the City assumes maintenance duties.
- B. The City's duty to defend shall apply regardless of whether it is also alleged that the DOT&PF's acts or omissions contributed to the injury (including injury to personal property, real property or persons, including fatal injury).
- C. Neither liability, claims, or causes of action arising from injuries which occurred prior to the date of this transfer nor liabilities imposed by, or claims or causes of action arising from or asserted under AS 46.03.822 shall be governed by the paragraph.

## 6. 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 notice is given by the aggrieved party 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 with all appointments to occur in accordance with State Procurement code, AS 36.50. 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 and shall pay half of the cost of the proceedings and the third arbitrator.
- d. Except when the provisions of this paragraph provide otherwise, an arbitration under this paragraph is subject to AS 09.43.010 – 09.43.180, the Uniform Arbitration Act.

## 7. PENALTY FOR BREACH

- a. Any withdrawal of the City's promise to maintain and operate the project upon completion, including a withdrawal at any time after construction is completed, shall be considered a breach. If, prior to advertising for construction, the City withdraws its promise to maintain and operate the project upon completion, DOT&PF will reevaluate each project nominated by the City without consideration of Municipal maintenance. If the City withdraws its promise after the advertisement of a project for bid, the DOT&PF may proceed with construction of the project and seek recovery of maintenance costs from the City. In the evaluation of other projects in the City in

the succeeding six years after the breach, DOT&PF will not include consideration of Municipal contribution until the City has cured the breach to DOT&PF's satisfaction.

- b. If notified by DOT&PF in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the City shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the City shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the City to remedy, or to satisfactorily commence the remedy of, the default shall result in the termination of this Agreement by DOT&PF.
- c. If the City makes a written request for the cancellation of a federal-aid project, City shall bear 100 percent of all costs as of the date of cancellation. If DOT&PF was the sole cause of the cancellation, DOT&PF shall bear 100% of all costs incurred. After settlement of payments, DOT&PF shall deliver surveys, maps, field notes, and all other data to City.

## **8. CONTACTS**

The DOT&PF's contact is Alex Read, Design Project Manager. The City's contact is Paul Ostrander, or as may be redesignated in writing from time to time.

## **9. TERM OF THE AGREEMENT**

The agreement start date is the date of final signature executing this agreement.

This agreement will remain in force until such a time that AKDOT&PF and the CITY provide notice of termination. Notice will be given at least thirty (30) days in advance of the termination date. Termination of the agreement may result in project cessation and may require the CITY repay all expenditures incurred by AKDOT&PF that are not federally reimbursable if termination is the fault of the CITY.

## **10. AMENDMENT OF AGREEMENT**

This agreement may only be modified or amended by written agreement signed by the original signatories or their successors in office.

## **11. 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. This agreement may not be amended by the parties unless agreed to in writing with both parties signing through their authorized representatives.

**SIGNATURES**

Dated: \_\_\_\_\_

State of Alaska  
Department of Transportation and Public Facilities

\_\_\_\_\_  
Wolfgang Junge, P.E.  
Regional Director

Dated: \_\_\_\_\_

City of Kenai

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



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members  
**FROM:** Paul Ostrander, City Manager  
**DATE:** July 26, 2021  
**SUBJECT:** Resolution No. 2021-53 – Kenai Bridge Access Road Pathway Project

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On June 17, 2021, the City Council passed Ordinance 3137-2020, which appropriated matching funds needed for an Alaska Transportation Alternatives Program (ATAP) grant in the amount of \$2,971,354 that had 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 proposed pathway will be constructed by the Alaska Department of Transportation and Public Facilities (AKDOT&PF), and once complete, the City will be responsible for its maintenance.

The source of City funding for the initial estimated \$216,560 match are proceeds the City has received from land and subsurface mineral rights donated to the City by the Daubenspeck family. Last fall, AKDOT&PF provided an updated total current project cost estimate for plan, design, and construction of improvements to be \$3,266,301, with the City match of 9.03% being \$294,947. The additional \$78,387 of City funding was included in the FY22 Annual Budget Supplemental Funding to meet the remaining non-federal match of no more than 9.03% of the current project cost estimate, and an additional appropriation is not necessary at this time.

The construction of a pedestrian pathway will provide enhanced recreational opportunities for the citizens and visitors of Kenai. Resolution 2021-53 authorizes the City Manager to enter into a Memorandum of Agreement that provides the authority for the AKDOT&PF to begin work on the project.

Your consideration is appreciated.

**KENAI CITY COUNCIL – REGULAR MEETING  
JULY 7, 2021 – 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 July 7, 2021, 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  
Henry Knackstedt  
Jim Glendening  
Victoria Askin

Robert Molloy  
Tea Winger  
Glenese Pettey

A quorum was present.

Also in attendance were:

Terry Eubank, Acting City Manager  
Jamie Heinz, City Clerk

**3. Agenda Approval**

**MOTION:**

Mayor Gabriel noted the following revisions to the agenda and packet:

- |                 |   |
|-----------------|---|
| Add to item D.1 | <b>Ordinance No. 3217-2021</b> <ul style="list-style-type: none"> <li>• Amendment Memo</li> </ul>   |
| Add to item D.2 | <b>Ordinance No. 3219-2021</b> <ul style="list-style-type: none"> <li>• Amendment Memo</li> <li>• Supplemental Information</li> </ul>         |
| Add to item D.6 | <b>Resolution No. 2021-48</b> <ul style="list-style-type: none"> <li>• Substitute Resolution</li> <li>• Substitute Resolution Memo</li> </ul> |

- Add to item I                    **Report of the Mayor**
- Mayoral Letter Regarding FMP Regulations
- Add to item J.3                **City Clerk's Report**
- Board of Adjustment Hearing Memo
- Add to item O                 **Information Items**
- Fourth of July Parade Results

Vice Mayor Molloy **MOVED** to approve the agenda with the requested revisions and requested **UNANIMOUS CONSENT**. Council Member Glendening **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**. Council Member Glendening **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**

Marian Nelson reported that the Kenai Fine Art Center reopening had been a success, and thanked the members of Council who attended the event. She explained what is needed to finish the remodeling, and what has already been spent on the work that has been done so far. She referred to a quote from Polar North Construction detailing the remaining costs, and asked Council to consider her request for more funds.

Patty See thanked the Council for serving the community, and discussed two issues that concerned her. First, she requested an annual report of the safety of the City's drinking water be sent out. Second, she expressed concern about beetle kill trees as fire hazards, and her hope that the City has developed a plan for mitigation.

**D.    PUBLIC HEARINGS**

1. **Ordinance No. 3217-2021** - Conditionally Donating Certain City Owned Property Described as Two Approximate 1 1/4 Acre Parcels to be Subdivided from a Portion of the 72 Acre More or Less Portion of the SE 1/4 Lying East of Tract A Kenai Meadows (KPB Parcel No. 039 010 65) To Kenai Peninsula Housing Initiative for the Development of Restricted Income and Senior Housing. (Mayor Gabriel, Vice Mayor Molloy, Council Member Winger)  
*[Clerk's Note: At the June 16th Meeting, this Ordinance was Postponed to this Meeting; a Motion to Enact is On the Floor.]*

Mayor Gabriel opened the floor for public comment.

Steven Rouse, Executive Director of Kenai Peninsula Housing Initiative, thanked Council for considering his proposal.

There being no one wishing to be heard, the public comment period was closed.

**MOTION TO AMEND:**

Council Member Knackstedt **MOVED** to amend Ordinance No. 3217-2021 by adding the sixth whereas clause; "WHEREAS, the Planning and Zoning Commission recommended approval of the conditional land donation at their meeting on June 23, 2021; and". Council Member Glendening **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE ON AMENDMENT:** There being no objection; **SO ORDERED.**

**VOTE ON MAIN MOTION AS AMENDED:**

YEA: Gabriel, Pettey, Knackstedt, Glendening, Molloy, Winger, Askin  
 NAY:

**MOTION PASSED UNANIMOUSLY.**

2. **Ordinance No. 3219-2021** - Conditionally Donating Certain City Owned Property Described as One Approximate 2 Acre Parcel to be Subdivided from a Portion of the 6.8 Acre More or Less Portion of the East of Tract 4, Baron Park Subdivision (KPB Parcel No. 045 01 035) to Triumvirate Theatre for the Development of a Theatre Facility. (Administration)  
*[Clerk's Note: At the June 16th Meeting, this Ordinance was Postponed to this Meeting; a Motion to Enact is On the Floor.]*

Mayor Gabriel opened the floor for public comment.

Steven Rizzo thanked Council for considering this donation. He described how the presence of the theatre in Kenai could transform the community by nurturing youth and making an economic impact, and presented conceptual drawings and layouts included in the laydown.

**MOTION TO AMEND:**



Vice Mayor Molloy **MOVED** to amend the legal description of Ordinance No. 3219-2021 in both the Title and Section 2 to Tract 4A, Baron Park 2020 Replat. Council Member Winger **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE ON AMENDMENT:** There being no objection; **SO ORDERED.**

**MOTION TO AMEND:**

Vice Mayor Molloy **MOVED** to amend Ordinance 3219-2021 by adding the sixth whereas clause; "WHEREAS, the Planning and Zoning Commission recommended approval of the conditional land donation at their meeting on June 23, 2021; and". Council Member Winger **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE ON AMENDMENT:** There being no objection; **SO ORDERED.**

**VOTE ON MAIN MOTION AS AMENDED:**

YEA: Pettey, Knackstedt, Glendening, Molloy, Winger, Askin, Gabriel  
NAY:

**MOTION PASSED UNANIMOUSLY.**

3. **Ordinance No. 3225-2021** - Accepting and Appropriating a Go Further Fund Building Capacity Grant from Meals on Wheels America for the Kenai Senior Center's Ability to Meet the Increased Need Brought on by COVID-19, Expanding Comprehensive Services and Drive Innovation in the Areas of Nutrition and Socialization. (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:**

Vice Mayor Molloy **MOVED** to introduce Ordinance No. 3225-2021 and Council Member Askin **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE ON INTRODUCTION:** There being no objection; **SO ORDERED.**

**MOTION FOR SECOND READING:**

Vice Mayor Molloy **MOVED** to hold a second reading of Ordinance No. 3225-2021 and Council Member Askin **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

**VOTE SECOND READING:** There being no objection; **SO ORDERED.**

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

**MOTION FOR ENACTMENT:**

Vice Mayor Molloy **MOVED** to enact Ordinance No. 3225-2021 and Council Member Askin **SECONDED** the motion.

**VOTE ON MOTION TO ENACT:**

YEA: Knackstedt, Glendening, Molloy, Winger, Askin, Gabriel, Pettey

NAY:

**MOTION PASSED UNANIMOUSLY.**

4. **Resolution No. 2021-46** - Adopting Joint Resolution No. 2021-001 of the Assembly of the Kenai Peninsula Borough and Councils of the Cities of Homer, Kenai, Seldovia, Seward and Soldotna Respectively, for the Purpose of Intergovernmental Administration of Borough and City Elections. (City Clerk)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2021-46 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

Clarification was provided that this agreement makes official the collaboration between the Borough and the City which has been past practice in regards to elections, but using Borough equipment instead of State-owned equipment, allowing for voters to have a similar voting experience. It was noted that ADA equipment would be placed at each precinct, that the Borough would program the equipment, the Borough's Canvass Board tests the equipment, and the Borough would also be enacting ordinances regarding their policies for security and logic and accuracy testing.

There was discussion regarding the voting system that the Borough had purchased.

Clarification was provided that the new costs of this agreement were for ballot programming, logic and accuracy testing, and voter pamphlet pages; noted that the increases were not significant and had been budgeted for.

**VOTE:**

YEA: Glendening, Molloy, Winger, Askin, Gabriel, Pettey, Knackstedt

NAY:

**MOTION PASSED UNANIMOUSLY.**

5. **Resolution No. 2021-47** - Accepting Coronavirus State and Local Fiscal Recovery Funds Award to Non-Entitlement Units of Local Government from the State Of Alaska Department of Commerce, Community and Economic Development. (Administration)

**MOTION:**

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2021-47 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

Clarification was provided that this resolution was required by the State in order to meet the federal guidelines for receiving ARPA funds which gave the City the ability to negotiate the grant agreements. It was noted that once the final amount was known Administration would bring back an ordinance for appropriation of the funds.

A brief explanation was given for some of the differences between ARPA and CARES Act funds, noting the eligible expenditures were different.

**UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objection; **SO ORDERED.**

6. **Resolution No. 2021-48** - Authorizing a Service Agreement for the Personal Use Fishery Dumpsters and Portable Restrooms. (Administration)

**MOTION:**

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2021-48 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

**MOTION TO AMEND BY SUBSTITUTE:**

Vice Mayor Molloy **MOVED** to amend Resolution No. 2021-48 by Substitute. Council Member Knackstedt **SECONDED** and requested **UNANIMOUS CONSENT.**

**VOTE ON AMENDMENT:** There being no objection; **SO ORDERED.**

It was noted that Alaska Waste did not submit a bid.

**VOTE:**

YEA: Winger, Askin, Gabriel, Pettey, Knackstedt, Glendening, Molloy  
NAY:

**MOTION PASSED UNANIMOUSLY.**

7. **Resolution No. 2021-49** - Authorizing A Contract Award to Supply Operational Chemicals for the City's Water Treatment and Wastewater Treatment Facilities. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2021-49 and Council Member Askin **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

**UNANIMOUS CONSENT** was requested.

**VOTE:** There being no objection; **SO ORDERED.**

- 8. Resolution No. 2021-50** - Authorizing a Service Contract Extension to Provide Refueling Services for City Facility Fuel Tanks. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to adopt Resolution No. 2021-50 and Council Member Askin **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

**UNANIMOUS CONSENT** was requested.

Clarification was provided that the largest use for this contract was for airport snow removal; also provided fuel for backup generators at all City facilities.

**VOTE:** There being no objection; **SO ORDERED.**

- 9. Resolution No. 2021-51** - Amending the Schedule of Rates, Charges, and Fees to Incorporate Changes to Facility Rental Gym Fees at the Kenai Recreation Center. (Administration)

**MOTION:**

Council Member Askin **MOVED** to adopt Resolution No. 2021-51 and Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

Clarification was provided that the biggest user group was the Boys & Girls Club indoor soccer and basketball; other frequent users included Kenai Little League, Kenai Central High School basketball, and Kenai Middle School. All of the groups noted qualified as non-profit youth athletic programs that could use the facilities for free.

**UNANIMOUS CONSENT** was requested.

It was noted that City employees and anyone under the age of 18 could use the gym for free.

**VOTE:** There being no objection; **SO ORDERED.**

**10. Resolution No. 2021-52** - Opposing Amendment 14 to the Fishery Management Plan for Salmon Fisheries in the EEZ Off Alaska. (Mayor Gabriel and All Council Members)

**MOTION:**

Vice Mayor Molloy **MOVED** to adopt Resolution No. 2021-52 and Council Member Pettey **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

Council and Administration were thanked for putting together a strong resolution that provides a succinct message on the City's stance on this issue. Support was expressed for the resolution, and it was noted that the loss of the fisheries would also be harmful to many citizens. Clarification was provided on how this resolution will be submitted as public comment.

**VOTE:**

YEA: Molloy, Winger, Askin, Gabriel, Pettey, Knackstedt, Glendening

NAY:

**MOTION PASSED UNANIMOUSLY.**

**E. MINUTES**

1. \*Regular Meeting of June 16, 2021. (City Clerk)

Approved by the consent agenda.

**F. UNFINISHED BUSINESS**

**G. NEW BUSINESS**

1. \***Action/Approval** - Bills to be Ratified. (Administration)

Approved by the consent agenda.

2. \***Action/Approval** - Purchase Orders Over \$15,000. (Administration)

Approved by the consent agenda.

3. \***Ordinance No. 3221-2021** - Determining that Real Property Described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, According to Plan No. 2014-21, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals, an Alaska Partnership. (Administration)

Introduced by the consent agenda and Public Hearing set for August 4, 2021.

4. **\*Ordinance No. 3222-2021** - Determining that Real Property Described as Lot 1A, Block 1, Dshka Subdivision, According to Plat No. K-1577, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals (2016), LLC. (Administration)

Introduced by the consent agenda and Public Hearing set for August 4, 2021.

5. **\*Ordinance No. 3223-2021** - Increasing Fiscal Year 2021 Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting a Grant from the US Department of Transportation Passed through the State of Alaska Department of Transportation and Public Facilities for Traffic Enforcement Overtime Expenditures. (Administration)

Introduced by the consent agenda and Public Hearing set for August 4, 2021.

6. **\*Ordinance No. 3224-2021** - Repealing and Reenacting Kenai Municipal Code Title 6 - Elections, to Provide Clarity, Housekeeping, and Process Improvements. (Vice Mayor Molloy and City Clerk)

Introduced by the consent agenda and Public Hearing set for August 4, 2021.

7. **Action/Approval** - Resume Normal Seating in Council Chambers for All Council and Commission Meetings. (City Clerk)

Clarification was provided that a poll was taken among Council members who unanimously agreed to return to dais seating. It was noted that the City of Soldotna had recently returned to normal pre-COVID seating for the public, and the Council agreed without objection to do the same.

8. **Action/Approval** - Public Participation by Zoom for Council and Commission Meetings. (City Clerk)

Clarification was provided that the Cities of Soldotna and Seward chose not to continue Zoom for public meetings. It was noted that City of Kenai Council and Planning & Zoning Commission meetings are livestreamed through YouTube, which makes it viewable to the public but does not allow for remote participation.

The Council discussed removing Zoom from public meetings, and it was noted that Zoom allows for more access to meetings for people who cannot come in person. Preference was expressed for in-person participation, especially for adjudicatory meetings. Discussion included the possibility for a remote participation of Scheduled Public Comment presenters through Zoom, and other options for people to submit public comment or view meetings.

#### **MOTION:**

Vice Mayor Molloy **MOVED** to approve public participation by Zoom for Council and Commission meetings, excluding adjudicatory meetings, until the City's contract with Zoom expires in March 2022. Council Member Winger **SECONDED** the motion.

The topic of transparency and whether or not Zoom affected it was considered.

**VOTE:**

YEA: Winger, Askin, Gabriel, Pettey, Glendening, Molloy  
 NAY: Knackstedt

**MOTION PASSED.**

- 9. Discussion** - Introduction of Kenai Waterfront Revitalization and Economic Development Incentives and Request to Schedule a Work Session. (Administration)

Clarification was provided that the memo in the packet explained Administration's development of different economic programs in the City and tools identified as potentially useful for those programs. It specifically addressed ideas about Kenai waterfront revitalization and requested a work session to discuss it with the intent to commission a feasibility study. It was suggested to get input from commissions and committees. Administration clarified that they intended to involve the general public and private waterfront property owners in the discussion about development in this area to receive their feedback as well.

Council agreed to schedule a work session on August 4, 2021 prior to the regular meeting of the City Council.

**H. COMMISSION / COMMITTEE REPORTS**

1. Council on Aging – No report. Next meeting July 8, 2021.
2. Airport Commission – No report. Next meeting August 12, 2021.
3. Harbor Commission – No report. Next meeting August 9, 2021.
4. Parks and Recreation Commission – Council Member Winger noted the installation of boot brushes at trails around the city. Next meeting August 5, 2021.
5. Planning and Zoning Commission – Council Member Glendening reported on the work session and meeting of June 23, 2021. Next meeting July 14, 2021.
6. Beautification Committee – Council Member Askin noted that the committee has scheduled their garden tour for Tuesday, August 10, 2021. Next meeting September 14, 2021.
7. Mini-Grant Steering Committee – No report.

**I. REPORT OF THE MAYOR**

Mayor Gabriel reported on the following:

- Thanked Vice Mayor Molloy for filling in for him while he was on vacation;
- Attended the 4<sup>th</sup> of July parade, and noted that he regretted that the event had been cancelled in 2020 due to COVID-19. Appreciated the turnout from the public and felt pride in seeing that our community celebrate;

- Thanked Patty See for her public testimony.

## **J. ADMINISTRATION REPORTS**

1. City Manager – Acting City Manager Eubank reported on the following:
  - Saturday is first day of the 2021 personal use fishery, and preparations are underway.
2. City Attorney – No report.
3. City Clerk – City Clerk Heinz reported on the following:
  - All memorial plaque spaces at the Leif Hanson Memorial Park have been sold as sales have significantly increased from previous years;
  - The cemetery currently has only eight casket plots available;
  - Public Records requests have also increased significantly;
  - City Council Candidate filing begins August 1<sup>st</sup>;
  - August 4, 2021 is the last date for approving legislation putting propositions on the ballot;
  - A Board of Adjustment appeal has been filed for a Planning & Zoning Commission decision to approve a Conditional Use Permit for a firewood bundling business.

Council agreed to schedule the Board of Adjustment hearing for August 16, 2021 at 6:00 PM.

## **K. ADDITIONAL PUBLIC COMMENT**

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

Council Member Askin noted that she listened to the Planning & Zoning work session on June 23<sup>rd</sup> and learned a lot. Attended the 4<sup>th</sup> of July parade and got to be a judge for the parade, and noted that it was great to see so many people out and about. She stated that with her Council seat expiring this year, she intends to run for re-election.

Council Member Glendening stated that he also attended 4<sup>th</sup> of July parade, and noted that the dog park group had an excellent display and the park will be a great destination in our City for pet owners.

Council Member Pettey said she is thankful for Art Center reopening and looks forward to seeing their first show, and mentioned the upcoming September Harvest Art Auction. She participated in the 4<sup>th</sup> of July parade, and noted that it was wonderful to see the community participating and celebrating our freedoms.

Council Member Winger shared that she recently toured the state with her family and received feedback tourists about their views of the Kenai area, which revealed some of Kenai's strengths and weaknesses. She noted that in many towns there were not booklets for the Kenai Peninsula, and that we should try to place more promotional materials around the state.



Vice Mayor Molloy noted that he attended the Fine Arts Center reopening event, and they did fantastic job. He was a parade judge on the 4<sup>th</sup> of July, and reported on the award winners. He discussed the Title VI ordinance that was introduced, noting that the effective date is January 1, 2022 so it would not be in effect for the upcoming October election. Stated that he intends to bring forward two resolutions at the next Council meeting related to ballot propositions. He announced that he does not intend to run for re-election of his Council seat this year.

Council Member Knackstedt noted that he also went to the Kenai Fine Arts Center reopening event and got a tour of the building, and also participated as a judge in 4<sup>th</sup> of July parade. He stated that Council Member Molloy will be missed and his contributions have been valuable on the Council, and he is glad to hear that Council Member Askin is re-running for her Council seat this fall.

**L. EXECUTIVE SESSION**

**M. PENDING ITEMS** – None.

**N. ADJOURNMENT**

**O. INFORMATION ITEMS**

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

There being no further business before the Council, the meeting was adjourned at 8:26 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of July 7, 2021.

---

Jamie Heinz, MMC  
City Clerk

**PAYMENTS OVER \$15,000.00 WHICH NEED COUNCIL RATIFICATION  
COUNCIL MEETING OF: AUGUST 4, 2021**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>DEPARTMENT</b>	<b>ACCOUNT</b>	<b>AMOUNT</b>
PERS	PERS	VARIOUS	LIABILITY	99,848.74
REBORN AGAIN JANITORIAL	JUNE SERVICES	AIRPORT	REPAIR & MAINTENANCE	4,231.25
HOMER ELECTRIC	ELECTRIC USAGE	VARIOUS	UTILITIES	99,020.95

**INVESTMENTS**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>MATURITY DATE</b>	<b>AMOUNT</b>	<b>Effect Int.</b>
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**PURCHASE ORDERS OVER \$15,000.00 WHICH NEED COUNCIL APPROVAL  
COUNCIL MEETING OF: AUGUST 4, 2021**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>DEPT.</b>	<b>ACCOUNT</b>	<b>AMOUNT</b>
DIVINING POINT, LLC	FY22 MARKETING PROFESSIONAL SERVICES	MANAGER	PROFESSIONAL SERVICES	98,050.00
TECH LOGIC	RFID CONVERSION PROJECT	LIBRARY	REPAIR & MAINT. SUPPLIES	20,618.00

**INCREASE OF EXISTING PURCHASE ORDER**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>P.O. # - DEPT.</b>	<b>REASON</b>	<b>AMOUNT</b>	<b>TOTAL PO AMT</b>
KENAI PENINSULA BOROUGH	FY21 SLUDGE DISPOSAL	120968 - WWTP	OVER-REDUCED PO	2,696.15	29,696.15
ALASKA SAFETY	NEW POLICE VEHICLE EQUIPMENT	121869 - FLEET REPLACEMENT	ADDITIONAL EQUIPMENT	3,750.00	33,798.00



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Christine Cunningham, Assistant to City Manager  
**DATE:** July 23, 2021  
**SUBJECT:** Purchase Order Exceeding \$15,000 – Divining Point, LLC

---

Resolution 2019-46 authorized a term agreement with Divining Point, LLC beginning July 1, 2019 with the option to extend for two successive one-year terms by mutual consent of the parties and with each project negotiated separately with Divining Point within budgeted amounts.

The amount of \$98,050 was authorized by the FY22 Budget for marketing services, and this purchase order would cover marketing services for July 1, 2021 through June 30, 2022 within the amount budgeted, including video and photo production, I Love Kenai website maintenance and upgrades, Best Place to Alaska campaign advertising, City of Kenai event promotions, direct to business marketing, and travel.

Your consideration is appreciated.



# KENAI

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

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Katja Wolfe, Library Director  
**DATE:** July 28, 2021  
**SUBJECT:** Purchase Order Over \$15,000

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The purpose of this memo is to request authorization of a purchase order to purchase the components for the library’s Radio Frequency Identification (RFID) conversion project, including tags and tag readers, computer hardware, as well as RFID-specific software. This is a planned and budgeted purchase.

The implementation of RFID technology in libraries has shown to increase the speed and accuracy of circulation processes, allow for more efficient and ergonomic collection management procedures, and improve customer service and staff and user experience without adding personnel.

Library staff competitively quoted three different vendor offerings. Tech Logic was determined to provide the greatest value and lowest annual costs. Additionally, Tech Logic is known to have outstanding customer service and reliable technical support.

Total cost of the RFID system components is \$20,618.

Council’s approval is respectfully requested.



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Scott Curtin, Director of Public Works  
**DATE:** July 29, 2021  
**SUBJECT:** Purchase Order – Kenai Peninsula Borough

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The purpose of this memo is to request approval of an increase to Purchase Order 120968 to the Kenai Peninsula Borough’s Central Peninsula Landfill for disposal of sludge from the City’s Waste Water Treatment Plant. The Purchase Order was originally opened for \$27,000 and with this increase of \$2,696.15 will now total \$29,696.15. The department has continued to strive to reduce operational costs at the facility, Purchase Orders for the facility for the last five fiscal years were opened for \$35,000 for this same service. I was a little over aggressive in our attempted reductions.

Account information:

010-467-4531 WWTP – Professional Services

Council’s support is respectfully requested.





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** David Ross – Police Chief  
**DATE:** July 13, 2021  
**SUBJECT:** Modification of Purchase Order Exceeding \$15,000 – Alaska Safety, Inc.

---

The purpose of this memo is to request support for modifying an approved purchase order (#121869) in the amount of \$30,048 for the purchase and installation of police equipment into three new police vehicles. This purchase order was authorized by Council in January and includes items such as window barriers, passenger compartment partitions, gun locks, siren speakers, push bumpers, computer mounts, siren controllers, power distribution systems, light bars, map lights, consoles, truck bed boxes, etc.

This purchase order was to cover the cost of associated police equipment in three F150 pickups. This is the first year that we are outfitting this model vehicle as a patrol vehicle, and this is the first year Alaska Safety is installing the peripheral equipment, with all that work being done in-house in the past. In the process we have identified additional work that needs to be completed by Alaska Safety for the rear prisoner seat area. The additional cost will be \$1,250 per vehicle and a new total purchase order amount of \$33,798. This cost is still within the amount budgeted for these vehicles.

Your consideration is appreciated.



## MEMORANDUM

**TO:** Mayor Gabriel and Kenai Council Members  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** July 28, 2021  
**SUBJECT:** **Marijuana License Renewals**

---

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

Applicant: Red Run Cannabis Company, LLC  
Owners: Marc Theiler & Roger Boyd  
D/B/A: Red Run Cannabis Company, LLC  
License: Retail Marijuana Store

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

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

Your consideration is appreciated.



- Submit** by Jamie Heinz 6/30/2021 4:59:22 PM (Form Submission)
- Approve** by Jeremy Hamilton 7/14/2021 10:56:17 AM (Fire Marshall Review)
- The task was assigned to Jeremy Hamilton. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:59 PM
- Approve** by Scott Curtin 7/6/2021 2:53:47 PM (Building Official Review)
- The task was assigned to Scott Curtin. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:59 PM
- Approve** by Ben Langham 6/30/2021 5:08:31 PM (Police Department Review)
- The task was assigned to Ben Langham. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:59 PM
- Approve** by Tina Williamson 7/1/2021 10:26:55 AM (Finance Asst Review)
- The task was assigned to Tina Williamson. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:59 PM
- Approve** by Cindy Herr 7/6/2021 10:54:13 AM (Legal Asst Review)
- *There are no monies owed in restitution or traffic fines.*
  - The task was assigned to Cindy Herr. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:59 PM
- Approve** by Wilma Anderson 7/6/2021 5:45:58 PM (Lands Review)
- The task was assigned to Wilma Anderson. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:59 PM
- Approve** by Terry Eubank 7/7/2021 11:14:09 AM (Finance Review)
- The task was assigned to Terry Eubank. The due date is: July 15, 2021 5:00 PM 7/6/2021 5:45 PM
- Approve** by Scott Bloom 7/7/2021 9:05:29 AM (Legal Review)
- The task was assigned to Scott Bloom. The due date is: July 15, 2021 5:00 PM 7/6/2021 5:46 PM
- Approve** by Ryan Foster 7/12/2021 2:25:08 PM (P&Z Department Review)
- The task was assigned to Ryan Foster. The due date is: July 15, 2021 5:00 PM 7/6/2021 5:46 PM

**Date**

6/30/2021

**Establishment Information**

---

**License Type**

Marijuana Retail Store

**Licensee**

Red Run Cannabis Company, LLC

**Doing Business As**

Red Run Cannabis Company, LLC

**Premises Address**

5455 Kenai Spur Highway

**City, State**

Kenai, AK

**Contact Information**

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**Contact Licensee**

Marc Theiler

**Contact Phone No.**

907-953-9453

**Contact Email**

marc@redruncannabiscompany.com

**Additional Contact Information**

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**Name**

**Phone No.**

**Email**

**Documents**

---

**File Upload**

10056 City & Borough of Kenai Renewal Local Government Notice.pdf 575.02KB

10056 Renewal LGB Packet.pdf 1.6MB



THE STATE of ALASKA GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

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

June 29, 2021

City of Kenai

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

Kenai Peninsula Borough

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

Table with 2 columns: Field Name and Value. Fields include License Number (10056), License Type (Retail Marijuana Store), Licensee (RED RUN CANNABIS COMPANY, LLC), Doing Business As (RED RUN CANNABIS COMPANY, LLC), Physical Address (5455 Kenai Spur Highway Ste B Kenai, AK 99611), Designated Licensee (Marc Theiler), Phone Number (907-953-9453), and Email Address (marc@redruncannabiscompany.com).

[X] License Renewal Application [ ] Endorsement Renewal Application

AMCO has received a complete renewal application and/or endorsement renewal application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.035(c)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director and the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant.

3 AAC 306.060 states that the board will uphold a local government protest and deny an application for a marijuana establishment license unless the board finds that a protest by a local government is arbitrary, capricious, and unreasonable. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license renewal, but require the applicant to show to the

board's satisfaction that the requirements of the local government have been met before the director issues the license.

At the May 15, 2017, Marijuana Control Board meeting, the board delegated to me the authority to approve renewal applications with no protests, objections, or notices of violation. However, if a timely protest or objection is filed for this application, or if any notices of violation have been issued for this license, the board will consider the application. In those situations, a temporary license will be issued pending board consideration.

If you have any questions, please email [amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Klinkhart". The signature is written in a cursive style with a large initial "G" and "K".

Glen Klinkhart, Director



Alaska Marijuana Control Board

# Form MJ-20: Renewal Application Certifications

### What is this form?

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

**This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.**

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Company, LLC	License Number:	10056		
License Type:	Retail Marijuana Store				
Doing Business As:	RED RUN CANNABIS COMPANY, LLC				
Premises Address:	5455 Kenai Spur Highway, STE B				
City:	Kenai	State:	AK	ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Roger Boyd
Title:	General Partner

## Section 3 – Violations & Charges

Read each line below, and then sign your initials in the box to the right of any applicable statements:

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

Sign your initials to the following statement only if you are unable to certify one or more of the above statements:

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).





Section 4 - Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement: Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued. [Signature Box]

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application. [Signature Box]

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state. [Signature Box]

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board. [Signature Box]

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees. [Signature Box]

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board. [Signature Box]

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued. [Signature Box]

Roger Boyd, I, \_\_\_\_\_, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license. [Signature Box]

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

[Signature] Signature of licensee

[Signature] Notary Public in and for the State of Alaska

Roger Boyd Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 7th day of May, 2021.





Alaska Marijuana Control Board

# Form MJ-20: Renewal Application Certifications

## What is this form?

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

**This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.**

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Company, LLC	License Number:	10056		
License Type:	Retail Marijuana Store				
Doing Business As:	RED RUN CANNABIS COMPANY, LLC				
Premises Address:	5455 Kenai Spur Highway, STE B				
City:	Kenai	State:	AK	ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Marc Theiler
Title:	Managing Partner (President)

## Section 3 – Violations & Charges

Read each line below, and then sign your initials in the box to the right of any applicable statements:

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

MT

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

MT

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

MT

**Sign your initials to the following statement only if you are unable to certify one or more of the above statements:**

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).





# Form MJ-20: Renewal Application Certifications

## Section 4 – Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

MT

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

MT

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

MT

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

MT

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

MT

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

MT

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

MT

I, Marc Theiler, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

MT

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

Marc Theiler  
Signature of licensee

Marc Theiler  
Printed name of licensee



Tammy Sutton  
Notary Public in and for the State of Alaska

My commission expires: 9/10/2023

Subscribed and sworn to before me this 27 day of April, 2021.





Alaska Marijuana Control Board

Form MJ-20a: Residency Exception Affidavit (if applicable)

What is this form?

This residency exception affidavit may be submitted with a marijuana establishment renewal application for each licensee whose residency status has changed so that the licensee is no longer considered a resident of the state as defined at 3 AAC 306.015(e)(2).

Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Company	License Number:	10056		
License Type:	Retail Marijuana Store				
Doing Business As:	RED RUN CANNABIS COMPANY, LLC				
Premises Address:	5455 Kenai Spur Highway, STE B				
City:	Kenai	State:	AK	ZIP:	99611

Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Roger Boyd
Title:	General Partner

Section 3 – Changes to Residency

Read each line below, and then sign your initials in the box to the right of all statements:

Initials

I certify that my primary residence is in Alaska.

I certify that I have good cause, as stated below, for not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2).

I certify that the cause of not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015.(e)(2) is temporary.

I anticipate being able to meet the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2) at the following time:



Section 4 - Certifications

Read the statement below, and then sign your initials in the box to the right:

Initials

I certify that I understand that providing a false statement on this form or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.



As a marijuana establishment licensee, I declare under penalty of unsworn falsification that this form is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this form and understand that failure to do so by any deadline given to me by AMCO staff may result in action upon the license by the Board.

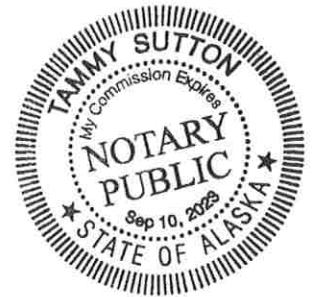
[Signature]  
Signature of licensee

[Signature]  
Notary Public in and for the State of Alaska

Roger Boyd  
Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 7<sup>th</sup> day of May, 2021.





## MEMORANDUM

**TO:** Mayor Gabriel and Kenai Council Members  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** July 28, 2021  
**SUBJECT:** **Marijuana License Renewals**

---

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

Applicant: Red Run Cannabis Cultivators, LLC  
Owners: Marc Theiler & Roger Boyd  
D/B/A: Red Run Cannabis Cultivators, LLC  
Licenses: Cultivation Facility and Product Manufacturing Facility

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

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

Your consideration is appreciated.

- Submit** by Jamie Heinz 6/30/2021 4:56:53 PM (Form Submission)
- Approve** by Jeremy Hamilton 7/14/2021 10:56:23 AM (Fire Marshall Review)
- The task was assigned to Jeremy Hamilton. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:56 PM
- Approve** by Scott Curtin 7/6/2021 2:52:42 PM (Building Official Review)
- Jamie Heinz reassigned the task to Scott Curtin 6/30/2021 5:01 PM
  - The task was assigned to Jamie Heinz. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:56 PM
- Approve** by Ben Langham 6/30/2021 5:06:16 PM (Police Department Review)
- The task was assigned to Ben Langham. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:56 PM
- Approve** by Tina Williamson 7/1/2021 10:26:41 AM (Finance Asst Review)
- The task was assigned to Tina Williamson. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:56 PM
- Approve** by Cindy Herr 7/6/2021 10:53:44 AM (Legal Asst Review)
- **There are no monies owed in restitution or traffic fines.**
  - The task was assigned to Cindy Herr. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:56 PM
- Approve** by Wilma Anderson 7/6/2021 4:49:16 PM (Lands Review)
- The task was assigned to Wilma Anderson. The due date is: July 9, 2021 5:00 PM 6/30/2021 4:56 PM
- Approve** by Terry Eubank 7/6/2021 5:02:32 PM (Finance Review)
- The task was assigned to Terry Eubank. The due date is: July 15, 2021 5:00 PM 7/6/2021 4:49 PM
- Approve** by Scott Bloom 7/7/2021 9:05:48 AM (Legal Review)
- The task was assigned to Scott Bloom. The due date is: July 15, 2021 5:00 PM 7/6/2021 4:49 PM
- Approve** by Ryan Foster 7/12/2021 2:24:23 PM (P&Z Department Review)
- The task was assigned to Ryan Foster. The due date is: July 15, 2021 5:00 PM 7/6/2021 4:49 PM

**Date**

6/30/2021

**Establishment Information**

---

**License Type**

Marijuana Standard Cultivation

**Licensee**

Red Run Cannabis Cultivators, LLC

**Doing Business As**

Red Run Cannabis Cultivators, LLC

**Premises Address**

5455 Kenai Spur Highway

**City, State**

Kenai, AK

**Contact Information**

---

**Contact Licensee**

Marc Theiler

**Contact Phone No.**

907-953-9453

**Contact Email**

marc@redruncannabiscompany.com

**Additional Contact Information**

---

**Name**

**Phone No.**

**Email**

**Documents**

---

**File Upload**

10052 City & Borough Of Kenai Renewal Local Government Notice.pdf 574.4KB

10052 Renewal LGB packet.pdf 2.05MB



THE STATE of ALASKA GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

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

June 29, 2021

City of Kenai

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

Kenai Peninsula Borough

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

Table with 2 columns: Field Name and Value. Fields include License Number (10052), License Type (Standard Marijuana Cultivation Facility), Licensee (Red Run Cannabis Cultivators, LLC), Doing Business As (RED RUN CANNABIS CULTIVATORS, LLC), Physical Address (5455 Kenai Spur Highway Kenai, AK 99611), Designated Licensee (Marc Theiler), Phone Number (907-953-9453), and Email Address (marc@redruncannabiscompany.com).

[X] License Renewal Application [ ] Endorsement Renewal Application

AMCO has received a complete renewal application and/or endorsement renewal application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.035(c)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director and the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant.

3 AAC 306.060 states that the board will uphold a local government protest and deny an application for a marijuana establishment license unless the board finds that a protest by a local government is arbitrary, capricious, and unreasonable. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license renewal, but require the applicant to show to the

board's satisfaction that the requirements of the local government have been met before the director issues the license.

At the May 15, 2017, Marijuana Control Board meeting, the board delegated to me the authority to approve renewal applications with no protests, objections, or notices of violation. However, if a timely protest or objection is filed for this application, or if any notices of violation have been issued for this license, the board will consider the application. In those situations, a temporary license will be issued pending board consideration.

If you have any questions, please email [amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Klinkhart". The signature is cursive and somewhat stylized, with a large initial "G" and "K".

Glen Klinkhart, Director





Alaska Marijuana Control Board

# Form MJ-20: Renewal Application Certifications

## What is this form?

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

**This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.**

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Cultivators , LLC	License Number:	10052		
License Type:	Standard Cultivation Facility				
Doing Business As:	RED RUN CANNABIS CULTIVATORS, LLC				
Premises Address:	5455 Kenai Spur Highway				
City:	Kenai	State:	AK	ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Roger Boyd				
Title:	General Partner				

## Section 3 – Violations & Charges

**Read each line below, and then sign your initials in the box to the right of any applicable statements:**

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

**Sign your initials to the following statement only if you are unable to certify one or more of the above statements:**

Initials

**I have attached a written explanation** for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).





Section 4 – Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

RB

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

RB

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

RB

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

RB

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

RB

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

RB

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

RB

I, Roger Boyd, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

RB

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

Signature of licensee

Notary Public in and for the State of Alaska

Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 7 day of May, 2021.





Alaska Marijuana Control Board

# Form MJ-20: Renewal Application Certifications

**What is this form?**

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

**This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.**

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Cultivators, LLC	License Number:	10052		
License Type:	Standard Cultivation Facility				
Doing Business As:	RED RUN CANNABIS CULTIVATORS, LLC				
Premises Address:	5455 Kenai Spur Highway, STE B				
City:	Kenai	State:	AK	ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Marc Theiler
Title:	Managing Partner (President)

## Section 3 – Violations & Charges

**Read each line below, and then sign your initials in the box to the right of any applicable statements:**

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

**Sign your initials to the following statement only if you are unable to certify one or more of the above statements:**

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).





Section 4 - Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

MT

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

MT

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

MT

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

MT

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

MT

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

MT

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

MT

I, Marc Theiler, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

MT

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

[Signature]
Signature of licensee

[Signature]
Notary Public in and for the State of Alaska

Marc Theiler
Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 11 day of May, 2021.





**Alaska Marijuana Control Board**  
**Form MJ-20a: Residency Exception Affidavit (if applicable)**

**What is this form?**

This residency exception affidavit may be submitted with a marijuana establishment renewal application for each licensee whose residency status has changed so that the licensee is no longer considered a resident of the state as defined at 3 AAC 306.015(e)(2).

**Section 1 – Establishment Information**

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Cultivators, LLC	License Number:	10052
License Type:	Standard Cultivation Facility		
Doing Business As:	RED RUN CANNABIS CULTIVATORS, LLC		
Premises Address:	5455 Kenai Spur Highway		
City:	Kenai	State:	AK
		ZIP:	99611

**Section 2 – Individual Information**

Enter information for the individual licensee who is completing this form.

Name:	Roger Boyd
Title:	General Partner

**Section 3 – Changes to Residency**

Read each line below, and then sign your initials in the box to the right of all statements:

Initials

I certify that my primary residence is in Alaska.

I certify that I have good cause, as stated below, for not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2).

I certify that the cause of not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015.(e)(2) is temporary.

I anticipate being able to meet the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2) at the following time:



# Form MJ-20a: Residency Exception Affidavit

## Section 4 – Certifications

Read the statement below, and then sign your initials in the box to the right:

Initials

I certify that I understand that providing a false statement on this form or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.



As a marijuana establishment licensee, I declare under penalty of unsworn falsification that this form is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this form and understand that failure to do so by any deadline given to me by AMCO staff may result in action upon the license by the Board.

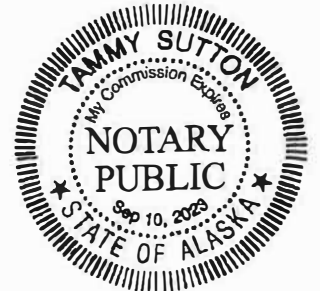
Roger Boyd  
Signature of licensee

Tammy Sutton  
Notary Public in and for the State of Alaska



Roger Boyd  
Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 7<sup>th</sup> day of May, 2021.





- Submit** by Jamie Heinz 6/30/2021 5:01:36 PM (Form Submission)
- Approve** by Jeremy Hamilton 7/14/2021 10:56:10 AM (Fire Marshall Review)
- The task was assigned to Jeremy Hamilton. The due date is: July 9, 2021 5:00 PM 6/30/2021 5:01 PM
- Approve** by Scott Curtin 7/6/2021 2:53:41 PM (Building Official Review)
- The task was assigned to Scott Curtin. The due date is: July 9, 2021 5:00 PM 6/30/2021 5:01 PM
- Approve** by Ben Langham 6/30/2021 5:07:40 PM (Police Department Review)
- The task was assigned to Ben Langham. The due date is: July 9, 2021 5:00 PM 6/30/2021 5:01 PM
- Approve** by Tina Williamson 7/1/2021 10:27:06 AM (Finance Asst Review)
- The task was assigned to Tina Williamson. The due date is: July 9, 2021 5:00 PM 6/30/2021 5:01 PM
- Approve** by Cindy Herr 7/6/2021 10:55:45 AM (Legal Asst Review)
-  *There are no monies owed in restitution or traffic fines.*
  - The task was assigned to Cindy Herr. The due date is: July 9, 2021 5:00 PM 6/30/2021 5:01 PM
- Approve** by Wilma Anderson 7/6/2021 5:45:30 PM (Lands Review)
-  *The marijuana product manufacturing facility is located at 12516 Kenai Spur Highway and not the physical address shown above (5455 Kenai Spur Highway). The information is correct on the applicant's renewal application; however, it is incorrect on the letter to the Kenai Peninsula Borough and the City of Kenai dated June 29, 2021.*
  - The task was assigned to Wilma Anderson. The due date is: July 9, 2021 5:00 PM 6/30/2021 5:01 PM
- Approve** by Terry Eubank 7/7/2021 11:14:27 AM (Finance Review)
- The task was assigned to Terry Eubank. The due date is: July 15, 2021 5:00 PM 7/6/2021 5:45 PM
- Approve** by Scott Bloom 7/7/2021 9:05:42 AM (Legal Review)
- The task was assigned to Scott Bloom. The due date is: July 15, 2021 5:00 PM 7/6/2021 5:45 PM
- Approve** by Ryan Foster 7/12/2021 2:25:28 PM (P&Z Department Review)
- The task was assigned to Ryan Foster. The due date is: July 15, 2021 5:00 PM 7/6/2021 5:45 PM

**Date**

6/30/2021

**Establishment Information**

---

**License Type**

Marijuana Product Manufacturing Facility

**Licensee**

Red Run Cannabis Cultivators, LLC

**Doing Business As**

Red Run Cannabis Cultivators, LLC

**Premises Address**

5455 Kenai Spur Highway

**City, State**

Kenai, AK

**Contact Information**

---

**Contact Licensee**

Marc Theiler

**Contact Phone No.**

907-953-9453

**Contact Email**

marc@redruncannabiscompany.com

**Additional Contact Information**

---

**Name**

**Phone No.**

**Email**

**Documents**

---

**File Upload**

19372 City & Borough of Kenai Renewal Local Government Notice.pdf 575.16KB

19372 Renewal LGB Packet.pdf 1.57MB



THE STATE of ALASKA GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

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

June 29, 2021

City of Kenai

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

Kenai Peninsula Borough

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

Table with 2 columns: Field Name and Value. Fields include License Number (19372), License Type (Marijuana Product Manufacturing Facility), Licensee (Red Run Cannabis Cultivators, LLC), Doing Business As (RED RUN CANNABIS CULTIVATORS, LLC), Physical Address (5455 Kenai Spur Highway Kenai, AK 99611), Designated Licensee (Marc Theiler), Phone Number (907-953-9453), and Email Address (marc@redruncannabiscompany.com).

[X] License Renewal Application [ ] Endorsement Renewal Application

AMCO has received a complete renewal application and/or endorsement renewal application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.035(c)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director and the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant.

3 AAC 306.060 states that the board will uphold a local government protest and deny an application for a marijuana establishment license unless the board finds that a protest by a local government is arbitrary, capricious, and unreasonable. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license renewal, but require the applicant to show to the



board's satisfaction that the requirements of the local government have been met before the director issues the license.

At the May 15, 2017, Marijuana Control Board meeting, the board delegated to me the authority to approve renewal applications with no protests, objections, or notices of violation. However, if a timely protest or objection is filed for this application, or if any notices of violation have been issued for this license, the board will consider the application. In those situations, a temporary license will be issued pending board consideration.

If you have any questions, please email [amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Klinkhart". The signature is written in a cursive style with a large initial "G" and a long horizontal stroke.

Glen Klinkhart, Director



Alaska Marijuana Control Board

# Form MJ-20: Renewal Application Certifications

### What is this form?

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

**This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.**

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Cultivators, LLC	License Number:	19372		
License Type:	Marijuana Product Manufacturing Facility				
Doing Business As:	RED RUN CANNABIS CULTIVATORS, LLC				
Premises Address:	12516 Kenai Spur Hwy, Suite A				
City:	Kenai	State:	AK	ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Marc Theiler
Title:	Managing Partner (President)

## Section 3 – Violations & Charges

Read each line below, and then sign your initials in the box to the right of any applicable statements:

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

Sign your initials to the following statement only if you are unable to certify one or more of the above statements:

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).



Section 4 – Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

MT

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

MT

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

MT

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

MT

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

MT

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

MT

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

MT

I, Marc Theiler, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

MT

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

[Signature]
Signature of licensee

[Signature]
Notary Public in and for the State of Alaska

Marc Theiler
Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 11 day of May, 2021.







Alaska Marijuana Control Board

# Form MJ-20: Renewal Application Certifications

### What is this form?

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

**This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.**

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Cultivators , LLC	License Number:	19372		
License Type:	Product Manufacturing				
Doing Business As:	RED RUN CANNABIS CULTIVATORS, LLC				
Premises Address:	12516 Kenai Spur Highway				
City:	Kenai	State:	AK	ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Roger Boyd
Title:	General Partner

## Section 3 – Violations & Charges

**Read each line below, and then sign your initials in the box to the right of any applicable statements:**

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

RB

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

RB

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

RB

**Sign your initials to the following statement only if you are unable to certify one or more of the above statements:**

Initials

**I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).**



Section 4 – Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

RB

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

RB

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

RB

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

RB

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

RB

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

RB

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

RB

I, Roger Boyd, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

RB

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

[Signature]
Signature of licensee

[Signature]
Notary Public in and for the State of Alaska

Roger Boyd
Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 7th day of May, 2021.







Alaska Marijuana Control Board

# Form MJ-20a: Residency Exception Affidavit (if applicable)

### What is this form?

This residency exception affidavit may be submitted with a marijuana establishment renewal application for each licensee whose residency status has changed so that the licensee is no longer considered a resident of the state as defined at 3 AAC 306.015(e)(2).

## Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Red Run Cannabis Cultivators	License Number:	19372
License Type:	Product Manufacturing		
Doing Business As:	RED RUN CANNABIS CULTIVATORS, LLC		
Premises Address:	12516 Kenai Spur Highway		
City:	Kenai	State:	AK
		ZIP:	99611

## Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Roger Boyd
Title:	General Partner

## Section 3 – Changes to Residency

Read each line below, and then sign your initials in the box to the right of all statements:

Initials

I certify that my primary residence is in Alaska.

I certify that I have good cause, as stated below, for not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2).

I certify that the cause of not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015.(e)(2) is temporary.

I anticipate being able to meet the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2) at the following time:



Section 4 - Certifications

Read the statement below, and then sign your initials in the box to the right:

Initials

I certify that I understand that providing a false statement on this form or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.



As a marijuana establishment licensee, I declare under penalty of unsworn falsification that this form is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this form and understand that failure to do so by any deadline given to me by AMCO staff may result in action upon the license by the Board.

[Handwritten Signature]  
Signature of licensee

[Handwritten Signature]  
Notary Public in and for the State of Alaska

Roger Boyd  
Printed name of licensee

My commission expires: 9/10/2023

Subscribed and sworn to before me this 7<sup>th</sup> day of May, 2021.





## MEMORANDUM

**TO:** Mayor Gabriel and Kenai Council Members  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** July 28, 2021  
**SUBJECT:** **Marijuana License Renewals**

---

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



Applicant: Cook Inlet Cannabis Company  
Owners: Ryan Tunseth  
D/B/A: East Rip  
Licenses: Retail Marijuana Store

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

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

Your consideration is appreciated.



- Submit** by Jamie Heinz 7/8/2021 4:05:26 PM (Form Submission)
- Approve** by Jeremy Hamilton 7/14/2021 10:55:50 AM (Fire Marshall Review)
- The task was assigned to Jeremy Hamilton. The due date is: July 19, 2021 5:00 PM 7/8/2021 4:05 PM
- Approve** by Scott Curtin 7/19/2021 4:55:10 PM (Building Official Review)
- The task was assigned to Scott Curtin. The due date is: July 19, 2021 5:00 PM 7/8/2021 4:05 PM
- Approve** by Dave Ross 7/12/2021 11:23:01 AM (Police Department Review)
- The task was assigned to Dave Ross. The due date is: July 19, 2021 5:00 PM 7/8/2021 4:05 PM
- Approve** by Tina Williamson 7/8/2021 4:46:08 PM (Finance Asst Review)
- The task was assigned to Tina Williamson. The due date is: July 19, 2021 5:00 PM 7/8/2021 4:05 PM
- Approve** by Cindy Herr 7/8/2021 4:52:37 PM (Legal Asst Review)
-  *No monies owed in restitution or traffic citations.*
  - The task was assigned to Cindy Herr. The due date is: July 19, 2021 5:00 PM 7/8/2021 4:05 PM
- Approve** by Wilma Anderson 7/12/2021 9:10:54 AM (Lands Review)
-  *No land issues*
  - The task was assigned to Wilma Anderson. The due date is: July 19, 2021 5:00 PM 7/8/2021 4:05 PM
- Approve** by Terry Eubank 7/12/2021 10:19:08 AM (Finance Review)
- The task was assigned to Terry Eubank. The due date is: July 21, 2021 5:00 PM 7/12/2021 9:11 AM
- Approve** by Scott Bloom 7/19/2021 10:18:51 AM (Legal Review)
- The task was assigned to Scott Bloom. The due date is: July 21, 2021 5:00 PM 7/12/2021 9:11 AM
- Approve** by Ryan Foster 7/12/2021 2:28:03 PM (P&Z Department Review)
- The task was assigned to Ryan Foster. The due date is: July 21, 2021 5:00 PM 7/12/2021 9:11 AM

**Date**

7/8/2021

**Establishment Information**

---

**License Type**

Marijuana Retail

**Licensee**

Cook Inlet Cannabis Co.

**Doing Business As**

East Rip

**Premises Address**

10767 Kenai Spur Highway, Ste. D	<b>City, State</b> Kenai, AK
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**Contact Information**

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**Contact Licensee**

Ryan Tunseth

**Contact Phone No.**

398-1233

**Contact Email**

ryan@east-rip.com

**Additional Contact Information**

---

**Name**

**Phone No.**

**Email**

**Documents**

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**File Upload**

13382 Entity Documents East Rip.pdf	4.49MB
13382 Kenai City-Borough Renewal Local Government Notice.pdf	574.4KB
13382 MJ-20 Retail.pdf	1.62MB
13382 Online Application Original_Redacted.pdf	150.13KB
13382 POPPP East Rip.pdf	4.42MB



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,  
and Economic Development

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

July 7, 2021

**City of Kenai**

Attn: Jamie Heinz

VIA Email: [jheinz@kenai.city](mailto:jheinz@kenai.city)

**Kenai Peninsula Borough**

Attn: Borough Clerk

Via Email: [jblankenship@kpb.us](mailto:jblankenship@kpb.us)

CC: [micheleturner@kpb.us](mailto:micheleturner@kpb.us)

[tshassetz@kpb.us](mailto:tshassetz@kpb.us)

[ssness@kpb.us](mailto:ssness@kpb.us)

[mjenkins@kpb.us](mailto:mjenkins@kpb.us)

[btaylor@kpb.us](mailto:btaylor@kpb.us)

[MBerg@kpb.us](mailto:MBerg@kpb.us)

<b>License Number:</b>	13382
<b>License Type:</b>	Retail Marijuana Store
<b>Licensee:</b>	Cook Inlet Cannabis Co.
<b>Doing Business As:</b>	EAST RIP
<b>Physical Address:</b>	10767 KENAI SPUR HWY SUITE D KENAI, AK 99611
<b>Designated Licensee:</b>	Ryan Tunseth
<b>Phone Number:</b>	907-398-1233
<b>Email Address:</b>	ryan@east-rip.com

**License Renewal Application**

**Endorsement Renewal Application**

AMCO has received a complete renewal application and/or endorsement renewal application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.035(c)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant.

3 AAC 306.060 states that the board will uphold a local government protest and deny an application for a marijuana establishment license unless the board finds that a protest by a local government is arbitrary, capricious, and unreasonable. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license renewal, but require the applicant to show to the

board's satisfaction that the requirements of the local government have been met before the director issues the license.

At the May 15, 2017, Marijuana Control Board meeting, the board delegated to me the authority to approve renewal applications with no protests, objections, or notices of violation. However, if a timely protest or objection is filed for this application, or if any notices of violation have been issued for this license, the board will consider the application. In those situations, a temporary license will be issued pending board consideration.

If you have any questions, please email [amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Klinkhart". The signature is written in a cursive style with a large initial "G" and a long horizontal stroke.

Glen Klinkhart, Director



Alaska Marijuana Control Board

**Form MJ-20: Renewal Application Certifications**

**What is this form?**

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.

**Section 1 – Establishment Information**

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Cook Inlet Cannabis Co.	License Number:	13382
License Type:	Retail Marijuana Store		
Doing Business As:	East Rip		
Premises Address:	10767 Kenai Spur Hwy, Suite D		
City:	Kenai	State:	Alaska
		ZIP:	99611

**Section 2 – Individual Information**

Enter information for the individual licensee who is completing this form.

Name:	Ryan Tunseth
Title:	Director, President, Secretary, Shareholder, Treasurer

**Section 3 – Violations & Charges**

Read each line below, and then sign your initials in the box to the right of any applicable statements:

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

Sign your initials to the following statement **only if you are unable to certify one or more of the above statements**:

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).





# Form MJ-20: Renewal Application Certifications

## Section 4 – Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

RT

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

RT

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

RT

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

RT

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

RT

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

RT

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

RT

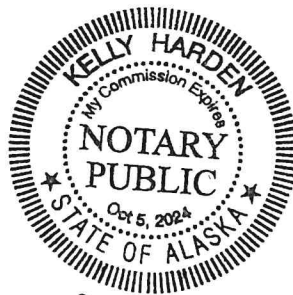
I, Ryan Tunseth, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

RT

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

Ryan Tunseth  
Signature of licensee

Ryan Tunseth  
Printed name of licensee



[Signature]  
Notary Public in and for the State of Alaska

My commission expires: 10/5/24

Subscribed and sworn to before me this 20th day of May, 2021.



# Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC  
Borough Clerk

July 20, 2021

**Sent via email: [jheinz@kenai.city](mailto:jheinz@kenai.city)**

City of Kenai  
Kenai City Hall

RE: Renewal Application for Retail Marijuana Store

Business Name : East Rip  
License Location : Kenai/10767 Kenai Spur Highway Suite D, Kenai, AK 99611  
License No. : 13382

Dear Ms. Heinz,

This serves to advise that the Kenai Peninsula Borough (KPB) has reviewed the above referenced application and has no objection to the issuance of the license.

Should you have any questions, or need additional information, please do not hesitate to let us know.

Sincerely,

Johni Blankenship, MMC  
Borough Clerk

cc: [ryan@east-rip.com](mailto:ryan@east-rip.com)



## MEMORANDUM

**TO:** Planning and Zoning Commission

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** July 27, 2021

**SUBJECT:** **Special Use Permit to Kenai Chamber of Commerce and Visitor Center for the Moosemeat John Cabin**

---

The Kenai Chamber of Commerce and Visitor Center has requested a Special Use Permit to use and operate the Moosemeat John Cabin located on approximately 10,000 square feet (100 feet x 100 feet) of Lot 1, Gustly Subdivision No. 8, a City-owned parcel upon which the Kenai Visitor and Cultural Center is also located. Since 2013, the Kenai Chamber of Commerce and Visitor Center has allowed the use of the Moosemeat John Cabin during the summer months by the Kenai Historical Society in conjunction with its operations in Old Town Kenai. The Kenai Chamber of Commerce operated on the premises from 1977 until 2012. In 2012, the Kenai Chamber of Commerce merged with the Kenai Convention and Visitor's Bureau to form the new entity, "Kenai Chamber of Commerce and Visitor Center".

A Special Use Permit was granted for the use of the Moosemeat John Cabin for twelve months between July 31, 2020 and July 30, 2021. The Kenai Chamber of Commerce and Visitor Center would like a Special Use Permit for the same use of the Moosemeat John Cabin from July 31, 2021 to July 30, 2022. The Kenai Chamber of Commerce and Visitor Center complied with the terms of the Special Use Permit for the Moosemeat John Cabin for previous years of issuance.

At their regular meeting on July 14, 2021, the Planning and Zoning Commission recommended approval of the special use permit.

If the City Council approves the attached Special Use Permit with the Kenai Chamber of Commerce and Visitor Center for the Moosemeat John Cabin, the City Manager will sign the Special Use Permit granting the continued use of the cabin by the Kenai Chamber on behalf of the City.

Thank you for your consideration.

### Attachments

- A. Special Use Permit Application
- B. Aerial map
- C. Special Use Permit for Moosemeat John Cabin





**City of Kenai  
Special Use Permit  
Application**

Application Date: \_\_\_\_\_

**Applicant Information**

Name of Applicant:	Kenai Chamber of Commerce and Visitor's Center						
Mailing Address:	11471 Kenai Spur Hwy.	City:	Kenai	State:	AK	Zip Code:	99611
Phone Number(s):	Home Phone: ( )		Work/ Message Phone: ( )907-283-1991				
E-mail: (Optional)	info@kenaichamber.org						
Name to Appear on Permit:	Kenai Chamber of Commerce and Visitor's Center						
Mailing Address:	11471 Kenai Spur Hwy.	City:	Kenai	State:	AK	Zip Code:	99611
Phone Number(s):	Home Phone: ( )		Work/ Message Phone: ( )907-283-1991				
E-mail: (Optional)	info@kenaichamber.org						
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**

Legal or physical description of the property:  
Southeast 100ft. x 100ft. portion of Lot 1, Gusty Subdivision, Addition No. 8

Description of the proposed business or activity intended:  
Moosemeat John Cabin

Is the area to be used in front of or immediately adjacent to any established business offering the same or similar products or services upon a fixed location?     YES     NO

Would the use under this permit interfere with other businesses through excessive noise, odor, or other nuisances?     YES     NO

If you answered yes to any of the above questions, please explain:

What is the term requested (not to exceed one year)? July 30, 2021 - July 31, 2022

Requested Starting Date: August 1, 2021

Signature:		Date:	June 17, 2021
Print Name:	Brittany Brown	Title:	Executive Director

For City Use Only:	Date Application Fee Received:	6/17/2021
<input type="checkbox"/> General Fund <input type="checkbox"/> Airport Reserve Land	City Council Action/Resolution:	_____
<input type="checkbox"/> Airport Fund <input type="checkbox"/> Outside Airport Reserve	Account Number:	_____



**Moosemeat John Cabin  
Special Use Permit**

**Southeast 100 ft x 100 ft  
portion of  
Lot 1, Gusty Subd,  
Addition No. 8**



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.

## SPECIAL USE PERMIT

The CITY OF KENAI (City), for the consideration, and pursuant to the conditions set out below, hereby grants the Kenai Chamber of Commerce and Visitor Center (PERMITTEE) the right to use the Premises, identified on the attached Exhibit A to this Permit, and described as:

The southeast 100 foot x 100 foot portion of Lot 1, Gusto Subdivision, Addition No. 8, Kenai Recording District, according to Plat No. 91-9, to use and operate the "Moosemeat John" Cabin.

1. **Use/Term.** Permittee shall have use of the Premises on the 31st day of July 2021 through the 30th day of July 2022.
2. **Fee.** The Permittee shall not be charged a fee for the use or privilege specified herein.
3. **No Exclusivity.** The use by the Permittee of the Premises is limited to the purposes specified herein and is not intended to grant any exclusive use to the described Premises except as otherwise provided herein. This use is also subject to City, Borough, and State laws and regulations and the reasonable administrative actions of the City for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities.
4. **Improvements.** Permittee shall not make any permanent improvements to the Premises.
5. **Preparation of Premises.** It is Permittee's responsibility to prepare the Premises and to assure itself to its own satisfaction that the Premises are safe for its purposes. The City does not make any warranty or guaranty of the suitability of the Premises for Permittee's intended purposes.
6. **Trash and Debris.** The Premises must be returned to its original condition at the end of each use. Clean up and/or repair charges beyond normal wear and tear will be billed to Permittee based upon cost of repair. Debris and trash shall be collected and removed from the Premises by Permittee. Permittee shall alert City (Parks and Recreation Department) of unsightly, unsanitary, dirty or other conditions on the Premises which exist prior to Permittee's use.
7. **No Alcohol or Illegal Substances.** No possession or consumption of alcoholic beverages, marijuana or illegal substances is permitted on the Premises.
8. **No Joint Venture.** The City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises.
9. **Personalty.** Any or all personal property placed or used upon lands or in facilities may be removed and/or impounded by the City, 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 its invitees to the Premises.

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 Premises. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on the Premises and its exercise of the privileges granted in this Permit.
11. **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.
12. **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 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. All insurance required must meet the following additional requirements:
    - i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
    - ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.
    - iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
    - iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
    - v. Evidence of insurance coverage must be submitted to City prior to any use.

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.

- 13. **No Discrimination.** Permittee will not discriminate on the grounds of race, color, religion, national origin, ancestry, age, or sex against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or State law. Permittee recognizes the right of the City to take any action necessary to enforce this requirement.
- 14. **Contact Information.** The Contact information for the Permittee, and the person in responsible charge for Permittee during the term of the Permit, for purposes of notice and all communications from City to Permittee is:

Brittany Brown  
 Executive Director  
 Kenai Chamber of Commerce & Visitor Center  
 11471 Kenai Spur Hwy.  
 Kenai, AK 99611

- 15. **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. This shall be a continuing obligation and shall remain in effect after termination of this Permit.
- 16. **Authority.** By signing this Permit, Permittee represents that it has read this agreement and it agrees to be bound by the terms and conditions herein and that the person signing this Permit is duly authorized by the organization to bind the organization hereunder.

**CITY OF KENAI**

**KENAI CHAMBER OF COMMERCE & VISITOR CENTER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Paul Ostrander  
City Manager

Date

\_\_\_\_\_(Title)

Date

ACKNOWLEDGMENTS

STATE OF ALASKA

) ss

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this \_\_\_ day of \_\_\_\_\_, 2021, the foregoing instrument was acknowledged before me by Paul Ostrander, City Manager of the City of Kenai, Alaska, an Alaska home rule municipality, on behalf of the City.

\_\_\_\_\_  
Notary Public for Alaska

My Commission Expires: \_\_\_\_\_

STATE OF ALASKA

) ss

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this \_\_\_ day of \_\_\_\_\_, 2021, the foregoing instrument was acknowledged before me by Title) on behalf of

\_\_\_\_\_

\_\_\_\_\_  
Notary Public for Alaska

My Commission Expires: \_\_\_\_\_

ATTEST:

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

SEAL:

APPROVED AS TO FORM:

\_\_\_\_\_  
Scott M. Bloom, City Attorney





Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3226-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING FISCAL YEAR 2021 ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND – POLICE DEPARTMENT AND ACCEPTING A GRANT FROM THE ALASKA HIGH INTENSITY DRUG TRAFFICKING AREA FOR DRUG INVESTIGATION OVERTIME EXPENDITURES.

WHEREAS, the Kenai Police Department assists the regional drug task force on initiatives with funding availability through the Alaska High Intensity Drug Traffic Area (AK HIDTA), which is funded through a Federal Government Appropriation; and,

WHEREAS, funding through AK HIDTA is available to reimburse certain overtime expenditures for the Kenai Police Officers that assist the regional drug task force or directly participate in the task force on those HIDTA initiatives; and,

WHEREAS, the overtime expense that was eligible for reimbursement from March through June, 2021 was \$4,039.29; and,

WHEREAS, overtime for these additional expenditures for drug investigation was not budgeted and the Department is requesting appropriation into the FY21 overtime budget equal to the amount of the AK HIDTA funding.

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

**Section 1.** That the City Manager is authorized to accept these funds from the AK HIDTA in the amount of \$4,039.29 and to expend those funds to fulfill the purpose and intent of this ordinance.

**Section 2.** That FY 2021 estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues – Federal Grants - Police	<u>\$4,039.29</u>
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Increase Appropriations – Police - Overtime	<u>\$4,039.29</u>
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**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

Ordinance No. 3226-2021  
Page 2 of 2

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 18<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Approved by Finance: 

Introduced: August 4, 2021  
Enacted: August 18, 2021  
Effective: August 18, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** David Ross – Police Chief

**DATE:** July 13, 2021

**SUBJECT:** **Ordinance No. 3226-2021, Accepting HIDTA Grant Funds**

---

The Kenai Police Department participates in the regional drug task force. Between March and June of 2021 certain overtime worked in conjunction with the regional drug task force was eligible for reimbursement through the Alaska High Intensity Drug Trafficking Area (AK HIDTA), which receives its funding through Federal appropriation. The Police Department requested reimbursement for \$4039.29 in overtime expenditures.

I am respectfully requesting consideration of the ordinance accepting and appropriating the grant funds into the FY21 budget for the purpose they were intended.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3227-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING A GRANT FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY PASSED THROUGH THE STATE OF ALASKA DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND - FIRE DEPARTMENT, AND AUTHORIZING THE SOLE SOURCE PURCHASE OF PORTABLE RADIOS AND ACCESSORIES FOR THE FIRE DEPARTMENT.

WHEREAS, the City was notified of additional funds available from the 2018 State Homeland Security Program grant and the Fire Department applied for 13 portable radios and accessories to complete the replacement of public safety portable radios; and,

WHEREAS, the City was notified by the Alaska Division of Homeland Security and Emergency Management of an award of \$61,330.15, enough to purchase 11 portable radios; and,

WHEREAS, an additional \$9,669.74 is needed to replace the remaining 2 portable radios and complete this project bringing the total project cost to \$70,999.89; and,

WHEREAS, previous grants to replace police and fire portables have been sole sourced to Motorola for purchasing and it is in the best interest of safety and operations to purchase identical radios; and,

WHEREAS, sole-source approval was requested and approved by the granting agency to purchase Motorola radios for this project; and,

WHEREAS, it is in the best interest of the City to accept the grant funds and approve a sole-source purchase for 13 portable radios to complete the portable radio replacement project.

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 U.S. Department of Homeland Security passed through the State of Alaska Department of Military and Veterans Affairs in the amount of \$61,330.15 and to expend those funds in compliance with the grant's requirements and this Ordinance.

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

General Fund:

Increase Estimated Revenues –	
Appropriation of Fund Balance	\$ 9,669.74
Federal Grants - Fire	<u>61,330.15</u>

\$70,999.89

Increase Appropriations – Fire Department  
Machinery and Equipment

\$70,999.89

**Section 3.** That the City Manager is authorized to issue a sole-source purchase order in the amount of \$70,999.89 to ProComm Alaska for the purchase of portable radios and accessories.

**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 18<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Approved by Finance: 

Introduced: August 4, 2021  
Enacted: August 18, 2021  
Effective: August 18, 2021



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Tony Prior, Fire Chief

**DATE:** July 22, 2021

**SUBJECT:** **Ordinance 3227-2021 Accepting Reallocated 2018 SHSP Funds**

---

The City was contacted by the State of Alaska Department of Military and Veterans Affairs to advise us of reallocated funds from the 2018 State Homeland Security Program Grant that were available to reapply for. Police and Fire have successfully worked through multiple grants to replace most of the aging portable radios as the first phase of replacing all portable and mobile radios. Kenai Police Department was able to completely replace all of their portables and the Fire Department has replaced 6 of their 19 to date. We applied for funding to replace the remaining 13 portable radios needed to complete phase one for the Fire Department and were awarded \$61,330.15. The total needed to complete the replacement of the 13 radios is \$70,999.89. We are respectfully requesting the additional \$9,669.74 be approved to complete this phase of our radio replacements. These radios will be replacing radios that are no longer supported by the manufacturer.

This will also require a sole-source approval to Motorola Solutions to purchase the same brand of radio that we have purchased to date for both Police and Fire. We have requested and have been approved from the granting agency to sole-source purchase this equipment and are requesting the same from City Council. Maintenance, operations, programming, parts and warranty are key to our communications/radio program within Public Safety.

Thank you for your consideration of this Ordinance.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3228-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE AIRPORT FUND, TERMINAL REPAIR AND MAINTENANCE DEPARTMENT FOR EXPENDITURES IN EXCESS OF BUDGETED AMOUNTS RELATED TO DAMAGE TO TERMINAL BUILDING SIDING AND AUTHORIZING A PURCHASE ORDER TO BLAZY CONSTRUCTION INC.

WHEREAS, Blazy Construction Inc. submitted a proposal of \$23,105 to repair damaged siding that was hit with a loader, owned by the airport and operated by airport personnel, near the restaurant location at the Kenai Airport; and,

WHEREAS, the City of Kenai general liability insurance deductible exceeds the cost of repair, and,

WHEREAS, this expense was not budgeted, requiring supplemental funding of \$ 23,105.

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 Fund:

Increase Estimated Revenues –	
Appropriation of Fund Balance	<u>\$23,105</u>
Increase Appropriations –	
Terminal	
Repair & Maintenance	<u>\$23,105</u>

**Section 2.** Issuance of a purchase order in the amount of \$23,105 to Blazy Construction Inc. is authorized.

**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.



Ordinance No. 3228-2021  
Page 2 of 2

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 18<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Approved by Finance:



Introduced: August 4, 2021  
Enacted: August 18, 2021  
Effective: August 18, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Eland Conway, Airport Manager

**DATE:** July 22, 2021

**SUBJECT:** **Ordinance 3228 - 2021 - Airport Funds Appropriation**

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As a result of an incident during the 2020-2021 winter season, it is necessary to repair damaged siding at the Kenai Airport Terminal building. Blazy Construction Inc. submitted a proposal of \$23,105 to repair damaged siding that was hit with an airport owned and operated loader.

Based on the complexity of the repair, materials cost, and experience of the general contractor for the terminal rehabilitation project—Blazy Construction Inc., it is in the best interest of the Kenai Municipal Airport and the City of Kenai to complete this repair as a sole source.

Supplemental funding is necessary to fund the unexpected and unbudgeted costs associated with this repair.

Thank you for your consideration.



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3229-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING A GRANT FROM THE FEDERAL AVIATION ADMINISTRATION AND INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE AIRPORT SNOW REMOVAL EQUIPMENT CAPITAL PROJECT FUND.

WHEREAS, the City received a grant from the Federal Aviation Administration for the replacement of a runway snow blower and broom; and,

WHEREAS, to expedite the purchase, \$800,000 was previously appropriated from the Airport Special Revenue Fund by Ordinance 3201-2021; and,

WHEREAS, upon receipt and acceptance of this grant, the previously appropriated \$800,000, less the grant's required local share estimated to be \$47,706, will be returned to the Airport Special Revenue; and,

WHEREAS, acceptance and appropriation of this grant is in the best interest of the City and its residents.

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

**Section 1.** That the City Manager is authorized to accept and expend a grant in the amount of \$715,586 from the Federal Aviation Administration for the purchase of a replacement snow blower/broom for winter maintenance of the airfield in compliance with grant conditions and this ordinance.

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

Airport Snow Removal Equipment Capital Project Fund:	
Increase Estimated Revenues –	
Federal Grants	<u>\$715,586</u>
Increase Appropriations –	
Equipment	<u>\$715,586</u>

**Section 3.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances.

Ordinance No. 3229-2021  
Page 2 of 2

The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


**Section 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 18<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Approved by Finance: 

Introduced: August 4, 2021  
Enacted: August 18, 2021  
Effective: August 18, 2021

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Scott Curtin, Public Works Director  
**DATE:** July 27, 2021  
**SUBJECT:** Ordinance No. 3229-2021

---

The purpose of this memo is to request Council’s approval to accept grant funding from the Federal Aviation Administration (FAA) for the replacement purchase of a new airfield snow blower and broom. As council may recall, Ordinance 3201-2021 was approved to allow the Administration to expedite the purchase due to the long lead times anticipated with the delivery. This Ordinance will finalize the grant offer that was originally discussed with our FAA counterparts in support of the purchase.

Resolution 2021-32 previously authorized the purchase utilizing the State of Alaska Cooperative Fleet Purchasing agreement, LaRue shown in the photo below is the approximate unit being purchased. This piece of equipment is integral to Airport Operations. Council’s approval to accept these grant funds will replenish the Airport Special Revenue Fund in support of future operations. Acceptance of this grant is in the best interest of the City.

Council’s support is respectfully requested.



New Unit



Old Unit



Sponsored by: Administration

**CITY OF KENAI**

**ORDINANCE NO. 3230-2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND - FIRE DEPARTMENT FOR THE PURCHASE OF EXTRICATION EQUIPMENT NEEDED TO PROVIDE EMERGENCY RESPONSE TO MOTOR VEHICLE ACCIDENTS.

WHEREAS, the Fire Department recently took its Hurst Jaws of Life Cutter and Spreader out of service due to hose failures; and,

WHEREAS, this equipment is critical to performing extrication of entrapped people involved in vehicle accidents; and,

WHEREAS, the purchase of this equipment allows the Fire Department to maintain life saving capability with new battery-operated units providing additional safety benefit for firefighters using them, as well as interoperability with mutual aid departments; and,

WHEREAS, due to unexpected equipment failure and the immediate need to replace this critical life-saving equipment, a supplemental appropriation is appropriately requested along with sole-source approval to purchase equipment from the only authorized vendor in the State, LN Curtis and Sons.

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>\$25,709</u>
Increase Appropriations – Fire Department	
Machinery and Equipment	<u>\$25,709</u>

**Section 2.** That the City Manager is authorized to issue a sole-source purchase order in the amount of \$25,709 to LN Curtis and Sons to purchase extrication equipment.

**Section 3.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances.

Ordinance No. 3230-2021  
Page 2 of 2

The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


**Section 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 18<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Approved by Finance: 

Introduced: August 4, 2021  
Enacted: August 18, 2021  
Effective: August 18, 2021





## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Tony Prior, Fire Chief

**DATE:** July 27<sup>th</sup> 2021

**SUBJECT:** Ordinance 3230-2021 Purchase of Extrication Equipment

---

We have used Hurst Jaws of Life for our extrication equipment for well over 40 years now, saving many lives with them. We have trusted and relied on them to perform in any condition and they have proven to be invaluable in our emergency response to vehicle accidents. Our current set was purchased prior to 2009 which is 2 years past the manufacturers recommended service life of 10 years. On the 17<sup>th</sup> of July we had a hose failure on one of the units which resulted in both hose reels supplying our cutter and spreader to be taken out of service. We made an emergency call to our local vendor to get replacement units here as quickly as possible to maintain our level of service, which they were graciously able to accommodate us with.

We have tried in the past to look for regional grants to replace these aging units along with Nikiski Fire Department and Central Emergency Services but have been unsuccessful. Interoperability with this equipment in the event of a major car accident/aircraft crash is important to our operations as it would require responses from our Auto Aid/Mutual Aid departments. Due to our unsuccessful grant efforts, our neighboring departments have begun replacing their extrication equipment with newer Hurst battery-operated units in their budget process and have trained their personnel in the operations of them. The new Hurst eDraulic units no longer have pumps and hoses supplying them which makes on scene operations safer, minimizing tripping hazards or potential for pump failure or hose rupture/failure. Using the same equipment allows personnel from our neighboring departments to arrive on scene and assist us with operations wherever they are needed, using equipment that is familiar to them.

A supplemental appropriation of \$25,709.00 is requested to purchase a Hurst eDraulic Cutter and Spreader to replace our 2 units that were recently taken out of service. We respectfully request your consideration of this Ordinance.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3231-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING FISCAL YEAR 2021 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.

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 health pandemic 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 FY2021 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 related to COVID-19 quarantines, primarily driven by shift adjustments that minimized staff exposure to each other, and also due to some staff being quarantined or unable to return to work for shift due to COVID-19.

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 \$23,500 from the United State Treasury passed through the State of Alaska Department of Public Safety.

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

COVID-19 Cares Act Recovery Fund:		
Increase Estimated Revenues –		
Federal Grants		<u>\$23,500</u>
Increase Appropriations –		
First Responder & Incident Management Team Payroll –		
Overtime		\$18,818
PERS		4,140
Medicare		273
Workers’ Compensation		<u>269</u>
		<u>\$23,500</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 18<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Approved by Finance: 

Introduced: August 4, 2021  
Enacted: August 18, 2021  
Effective: August 18, 2021



## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** David Ross – Police Chief

**DATE:** July 26, 2021

**SUBJECT:** **Ordinance No. 3231-2021 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 health pandemic 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 was awarded \$23,500 in cost reimbursement for overtime related to the Police, Fire, and Dispatch Departments. This covers costs incurred during the time period of May 18, 2020 to February 24, 2021.

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. 3232-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND AND KENAI FINE ARTS CENTER CAPITAL PROJECT FUNDS AND AMENDING THE LEASE FOR A PORTION OF LOT 3, BLOCK 17, ORIGINAL TOWNSITE OF KENAI FOR THE KENAI FINE ARTS CENTER TO PROVIDE ADDITIONAL FUNDING FOR IMPROVEMENTS AND MODIFICATIONS.

WHEREAS, on May 23, 1995, the City entered into a lease with the Kenai Arts & Humanities Council for City-owned lands identified as A portion of Lot 3, Block 17, Original Townsite of Kenai and the building known as the Fine Arts Center (the Lease); and,

WHEREAS, since May 23, 1995, the rights under the Lease have been assigned to the Peninsula Arts Guild and the Lease has been amended over the years to require the Lessee to submit to the City Council, for approval, any proposed construction plans for the property; and,

WHEREAS, the premises under the Lease are leased at less than fair market value at a rate of \$1 per year to provide a City-owned building to house the Fine Arts Center for the benefit of the local community on an "as is, where is" basis and requires the Lessee, at its own cost and expense to keep the leased premises, all improvements in good condition and repair during the term of the lease; and,

WHEREAS, the Peninsula Art Guild completed numerous improvements to the facility at its sole expense, and Council approved two extensions to the term of the Lease to allow the Guild to justify future building maintenance and repair expenditures, satisfy multi-year grant funding requirements, and pursue future funding opportunities, and the Lease currently expires on December 31, 2035; and,

WHEREAS, on August 16, 2017, the City Council passed Resolution 2017-58, authorizing a donation in the amount of \$4,000 to the Peninsula Art Guild, Inc. for completion of preliminary design to renovate and remodel the Kenai Fine Arts Center for the purpose of soliciting grants for construction; and,

WHEREAS, on August 5, 2020, the Council enacted Ordinance 3146-2020, appropriating \$120,000 for the Kenai Fine Arts Center Improvement Capital Project Fund, restricted to the following:

- 1) If the engineer's estimate for the project exceeds \$150,000, the appropriation should be brought back to the City Council for re-consideration.
- 2) The \$120,000 appropriation must be committed or encumbered by November 10, 2021.
- 3) The \$120,000 may only be used for construction at the Kenai Fine Arts Center.

WHEREAS, the Peninsula Arts Guild has provided information showing that \$XX funds have been donated and XX volunteer hours have been contributed toward improvements to the Kenai Fine Arts Center, and the Guild is pursuing grant funding for additional necessary improvements to the Center; and,

WHEREAS, on July 5, 2021, the Peninsula Arts Guild requested an additional \$24,862.55 in funding to complete the remaining scope of work for the improvements to the Kenai Fine Arts Center; and,

WHEREAS, an amendment to the Lease clarifying the maintenance and capital improvement responsibilities of the Peninsula Arts Guild as Lessee of the premises is necessary to clarify who is responsible for the funding of any projects in the future; and,

WHEREAS, appropriation of additional funds and an amendment to the Lease to the Peninsula Arts Guild are in the best interest of the City and its residents.

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

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

General Fund:	
Increase Estimated Revenues –	
Appropriation of Fund Balance	<u>\$24,862.55</u>
Increase Appropriations –	
Transfer to Other Funds	<u>\$24,862.55</u>
Kenai Fine Arts Center Improvement Capital Project Fund:	
Increase Estimated Revenues –	
Transfer from General Fund	<u>\$24,862.55</u>
Increase Appropriations –	
Construction	<u>\$24,862.55</u>

**Section 2.** That section 18 of the Lease is amended as follows:

CARE OF PREMISES:  
Lessee, at its own cost and expense shall keep the leased premises, all improvements which at any time during the term of this Lease may be situated thereon, and any and all appurtenances thereunto belonging, in good condition and repair during the entire term of this lease. The City is under no obligation to expend funds to improve or maintain the building. Lessee is permitted to improve and alter improvements on the lease property in accordance with a scope of work approved by the City Manager and prepared by a qualified engineer licensed to work in Alaska if required by the City Manager prior to the work being performed. Any changes to the scope of work must be provided to the City and accepted prior to work being performed. Lessee is responsible for all necessary licenses and/or permits required for making any alterations.

**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 18<sup>th</sup> day of August, 2021.

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

ATTEST:

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

Approved by Finance: 

Introduced: August 4, 2021  
Enacted: August 18, 2021  
Effective: August 18, 2021



#### FOURTH AMENDMENT TO LEASE

**THIS Second Amendment to Lease** is made as of the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the CITY OF KENAI (City), a municipal corporation whose address is 210 Fidalgo Avenue, Kenai, Alaska 99611, and PENINSULA ART GUILD, INC. (Lessee), whose address is P.O. Box 703, Kenai, Alaska 99611-0703.

#### WITNESSETH

**WHEREAS**, on May 23, 1995, the City entered into a lease with the Kenai Arts & Humanities Council for City-owned lands identified as A portion of Lot 3, Block 17, Original Townsite of Kenai and the building known as the Fine Arts Center, which lease was recorded at Book 464 Pages 768-776 on June 13, 1995, in the Kenai Recording District, Third Judicial District, State of Alaska (the Lease); and,

**WHEREAS**, since May 23, 1995, the rights under the Lease have been assigned to the Peninsula Arts Guild; and,

**WHEREAS**, an Amendment to Lease recorded at Book 486 Pages 465-466 on June 13, 1996 extended the term of the Lease to June 30, 2015 and required the Lessee to submit to the City Council, for approval, any proposed construction plans for the property; and,

**WHEREAS**, a Second Amendment to Lease recorded on December 26, 2013, under Document Number 2013-012032-0, extended the term of the Lease until December 31, 2020 and to amend the purpose to provide a building to house the Fine Arts Center for the benefit of the local community; and,

**WHEREAS**, a Third Amendment to Lease recorded on January 30, 2017, under Document Number 2017-000659-0, extended the term of the Lease until December 31, 2035 to justify future building maintenance and repair expenditures, satisfy multi-year grant funding requirements, and pursue future funding opportunities; and,

**WHEREAS**, the parties have agreed to amend the Lease to to clarify who is responsible for the funding of any projects in the future

**NOW THEREFORE**, the parties agree as follows:

- 1. Section 18 of the Lease is amended as follows:

**CARE OF PREMISES:**

Lessee, at its own cost and expense shall keep the leased premises, all improvements which at any time during the term of this Lease may be situated thereon, and any and all appurtenances thereunto belonging, in good condition and repair during the entire term of this lease. The City is under no obligation to expend funds to improve or maintain the building. Lessee is permitted to improve and alter the lease property in accordance with a scope of work prepared by a qualified engineer licensed to work in Alaska and accepted by the City Manager prior to the work being performed. Any changes to the scope of work must be provided to the City and accepted prior to work being performed. Lessee is responsible for all necessary licenses and/or permits required for making any alterations.

- 2. Except as expressly modified or stated herein, all other terms and conditions of the Lease (as amended) remain in full force and effect.

**CITY OF KENAI**

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

**PENINSULA ART GUILD**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Scott Bloom  
City Attorney

State of Alaska )  
 ) ss  
Third Judicial District )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021,  
by Paul Ostrander, City Manager for the City of Kenai.

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

State of Alaska )  
 ) ss  
Third Judicial District )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021,  
by \_\_\_\_\_(Name), \_\_\_\_\_(Title), on behalf of  
PENINSULA ART GUILD, INC, a Alaska Corporation, on behalf of the Corporation.

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

RETURN TO:

CITY OF KENAI  
210 Fidalgo Avenue  
Kenai, AK 99611-7794



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**FROM:** Paul Ostrander, City Manager

**DATE:** July 27, 2021

**SUBJECT:** **Ordinance 3232-2021 – Peninsula Art Guild Appropriation and Lease Amendment**

At the August 5, 2020 meeting Council enacted Ordinance 3146-2020, appropriating \$120,000 for the Kenai Fine Arts Center Improvement Capital Project Fund to remodel the Kenai Fine Arts Center. At the July 7, 2021 Council Meeting, Marion Nelson of the Peninsula Arts Guild asked for additional funds of \$24,862.55 to pay for items that were not in their original contract with Polar North Construction to complete their remodeling efforts at the Kenai Fine Arts Center.

Administration was tasked by Council with identifying a funding source to fulfill the request. This ordinance would appropriate the full amount from the General Fund, fund balance to complete the remodeling of the Center. The General Fund is the most appropriate source for this appropriation and the City will still be in conformance with our Fund Balance Policy.

This ordinance also amends the lease to clarify that the Lessee is responsible for the funding of any projects in the future. From the inception of the lease on the property in 1995 until 2017, Section 18 of the lease was interpreted by the City to mean that the Lessee was responsible for all costs associated with alteration or improvement of the premises.

The current Section 18 “Care of Premises” reads: “Lessee, at its own cost and expense shall keep the leased premises, all improvements which at any time during the term of this Lease may be situated thereon, and any and all appurtenances thereunto belonging, in good condition and repair during the entire term of this lease.”

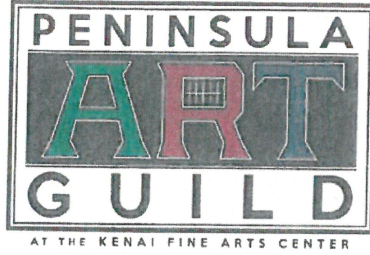
The following list of actions taken by the City between 1995 and January of 2021 provides a historical context of how this lease has been managed.

- 5/23/1995 25-year lease entered into between Kenai Arts & Humanities Council for Lot 3 Block 17, Original Townsite of Kenai and the building known as the Kenai Fine Arts Center. All rights under the lease were later assigned to the Peninsula Art Guild.
- 2003 Lessee requested City funding for boiler replacement at the facility. Request was denied by City Manager Snow citing Section 18 of the lease.

- 2009 Lessee requested City funding for roof repairs to prevent condensation. The request was denied, once again citing Section 18 of the lease.
- 2013 Peninsula Art Guild completed numerous improvements to the facility, at their sole expense, and requested a 5-year extension to the lease in order to solicit grants for additional facility improvements.
- 2016 Peninsula Art Guild requested a lease extension until 12/31/2035 in order to pursue possible grants for repair and renovation of the facility. Extension was executed.
- 2017 Resolution 2017-58 provided \$4,000 to the Peninsula Art Guild to assist in preliminary design costs for the purpose of identifying the scope of renovation and remodel and to provide cost estimates for the purpose of soliciting grants for construction.
- 2020 Ordinance 3146-2020 was amended by Council Member Navarre to include \$100,000, later amended to \$120,000, for upgrading the facility's bathroom, increasing the functionality of the back portion of the building, installation of new lighting and new windows. The maker of the amendment stated, "This amendment would commit \$100,000 in City funds to the project with the intent of the Kenai Fine Arts Center being responsible for the remainder of costs."  
  
The Ordinance was subsequently amended to require encumbrance of the funds by 11/10/21, use of funds was limited to construction at the Kenai Fine Arts Center, and required if estimated costs were to exceed \$150,000, the appropriation should be brought back to the City Council for re-consideration.
- 1/20/21 A Council discussion item providing a remodel update was held. The original cost estimate exceeded \$150,000. Council was provided a reduced scope of work to keep the project within the \$120,000 appropriation and no additional funding was requested.

Modifying Section 18 to clarify that the Lessee is responsible for all costs associated with the building will provide assurance that the Lease will be managed consistently going forward. This preserves what appears to be the original intent of Section 18 and will likely put the Peninsula Arts Guild, or future lessees in a more favorable position to receive grants for improvements to the facility.





*Handwritten signature*

**RECEIVED**

JUL 23 2021

Kenai City Clerk's Office

City of Kenai  
Scott Curtin  
Public Works Director  
907 283-8240  
210 Fidalgo Ave.  
Kenai Alaska, 99611

Dear Scott,

Please see invoice # 2103-1 for the renovation work in the Kenai Fine Art Center, by Polar North Construction, totaling \$120,000. City Council vote to award on 8/5 2020.

We appreciate the City of Kenai's support of the goals and programs of the Kenai Fine Art Center. We also appreciate the excellent work by Polar North Construction.

Sincerely,

*Handwritten signature of Marion K Nelson*

Marion K Nelson, President  
Lestie Morton, Vice President  
Abbey Ulen, Secretary  
Karen Fogarty, Treasurer  
Rachel Grossl  
Mick Wykis  
Susan Baraniecki



Polar North Construction, LLC  
PO Box 3926  
Soldotna, AK 99669  
Cell (907) 398-0473  
Email: alex@pncalaska.com  
stephanie@pncalaska.com

# Contract Invoice

Invoice#: 2103-1

Date: 07/12/2021

License: 38007

**Billed To:** Kenai Fine Art Center  
816 Cook Avenue  
Kenai, AK 99611

**Project:** Kenai Fine Art Center  
816 Cook Avenue  
Kenai, AK 99611

**Due Date:** 08/11/2021

**Terms:** 30DY

**Order#**

Descrip	Amount
100% Complete	120,000.00

*A service charge of 18.00% per annum will be charged on all amounts overdue on regular statement dates.*

*Thank you for your prompt payment!*

Non-Taxable Amount:	0.00
Taxable Amount:	120,000.00
Sales Tax:	0.00
<b>Amount Due</b>	<b>120,000.00</b>





## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Ryan Foster, Planning Director

**DATE:** July 27, 2021

**SUBJECT:** **Assignment and Assumption of Lease Agreement, Tract A-1, Kenai Spur-Airport Lease Property City Gate Addition**

---

Hilcorp Alaska, LLC, a Delaware Limited Liability Company, has submitted an application and application fee for an Assignment and Assumption of Lease Agreement from Hilcorp Alaska, LLC, Assignor to Kenai Beluga Pipeline, LLC, Assignee.

The original Lease of Airport Lands was executed by the City of Kenai, Lessor, and Kenai Nikiski Pipeline, LLC, Lessee, on November 12, 2010, and recorded in the Kenai Recording District, Third Judicial District on December 6, 2010, under document number 2010-010858-0, and affecting an approximately 26,636 square feet portion of Tract A, Kenai Spur-Airport Lease Property, according to Plat No. 78-111. The subject Lease of Airport Lands is for a term of 20 years, and expires on June 31, 2028. The Lessee improvements include an existing pipeline valve in a concrete vault, blowdown valves, concrete pad for antenna tower and small building. Hilcorp Alaska, LLC has maintained and made upgrades to the facility since the execution of the Lease of Airport Lands.

A First Amendment to Lease was executed on November 14, 2011 by the City of Kenai, and Kenai Nikiski Pipeline, LLC, and recorded on November 15, 2011, under document number 2011-010992-0. Said amendment amended the lease payment provision and the legal description was amended to read as follows:

An Approximately 13,037 square foot area as depicted on Tract A-1, Replat Tract "A", Kenai Spur-Airport Lease Property, NE ¼, Section 5, Township 5 North, Range 11 West, Seward Meridian, City of Kenai, Kenai Recording District, Kenai Peninsula Borough, Alaska.

Kenai Nikiski Pipeline, LLC subsequently assigned their interest in the Lease of Airport Lands to Hilcorp Alaska, LLC, by Assignment and Assumption of Lease Agreement, recorded on February 22, 2013, under document number 2013-001634-0.

Section D, paragraph 3 of the Lease of Airport Lands stipulates that “Lessee with City’s prior written consent, which will not be unreasonably denied, may assign or sublet, in whole or in part, its rights as Lessee hereunder.”

The Lessee is in compliance with the terms and conditions of the lease. The City Attorney has reviewed and approved the Assignment and Assumption of Lease Agreement that was submitted by the Lessee. If City Council approves the attached Assignment and Assumption of Lease Agreement the City Manager will be authorized to sign the Consent to Assignment.

Thank you for your consideration.

Attachments

- A. Application
- B. Assignment and Assumption of Lease Agreement





3800 Centerpoint Dr., Suite 1400  
Anchorage, AK 99503

Phone: (907) 777-8381  
Email: krissell.crandall@harvestmidstream.com

Via certified mail and email

June 15, 2021

Willie Anderson  
Planning Assistant  
City of Kenai  
210 Fildalga Avenue  
Kenai, AK 99611

**RE: Assignment from Hilcorp Alaska, LLC to Kenai Beluga Pipeline, LLC of Tract A-1, Kenai Spur-Airport Lease Property City Gate Addn.**

Dear Willie:

Per our earlier discussions, Hilcorp Alaska, LLC assigned Tract A-1 to Kenai Beluga Pipeline, LLC. The application for approval of the assignment, proof of payment of the application fee and the original assignment are enclosed. I'm aware that page 3 of the assignment has no substantive text and am submitting the document as it was executed.

Please let me know if you need further information for the Airport Commission, Planning Commission or City Council meetings. Thank you for your assistance with the form of the documents.

Sincerely,

A handwritten signature in cursive script that reads "Krissell Crandall".

Krissell Crandall  
Sr. Landman

Enc: As stated

cc: Kevin Tabler, Land Manager, Hilcorp



## City of Kenai Land Lease Application

Application for:  New Lease  
 Amendment  Extension  
 Assignment  Renewal

Application Date: \_\_\_\_\_

### Applicant Information

Name of Applicant:	Hilcorp Alaska, LLC						
Mailing Address:	3800 Centerpoint Dr., Suite 1400	City:	Anchorage	State:	AK	Zip Code:	99503
Phone Number(s):	Home Phone:		Work/ Message Phone:		(907) 777-8379		
E-mail: (Optional)	ktabler@hilcorp.com [Kevin Tabler, Land Manager for Assignor]						
Name to Appear on Lease:	Kenai Beluga Pipeline, LLC						
Mailing Address:	3800 Centerpoint Dr., Suite 1400	City:	Anchorage	State:	AK	Zip Code:	99503
Phone Number(s):	Home Phone:		Work/ Message Phone:		(907) 777-8381		
E-mail: (Optional)	krissell.crandall@harvestmidstream.com [Krissell Crandall, Landman for Assignee]						
Type of Applicant:	<input type="checkbox"/> Individual (at least 18 years of age) <input type="checkbox"/> Partnership      Corporation      Government <input checked="" 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):	
An approximately 13,065 square foot area depicted as Tract A-1, Kenai Spur-Airport Lease Property City Gate Addn., NE 1/4, Section 4, Township 05 North, Range 11 West, Seward Meridian, City of Kenai, Kenai Recording District	
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 _____
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>KAT</u>
It is the responsibility of the applicant to cover recording costs associated with lease.	Initials <u>KAT</u>
Do you have or have you ever had a Lease with the City? (if Yes, answer next question)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
1. Legal or brief description of property leased:	
KBPL is successor in interest to pipeline right-of-ways granted by the City of Kenai, but does not have other active leases with the City.	
Request a Lease with an Option to Purchase once development requirements are met?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Requested term for Initial Lease or Renewal (based on Term Table, not to exceed 45 years):	
Requested term for Lease Extension (based on Term Table, not to exceed a total of 45 Years):	
Requested Starting Date: June 10, 2021	

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?

3. What is the estimated value of the improvement?

4. What is the nature and type of improvement?

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

Estimated Start Date:

Estimated Completion Date:

Describe the proposed business or activity intended:

Existing pipeline valve in a concrete vault, blowdown valves, concrete pad for antenna tower and small building

How does the proposed lease support a thriving business, residential, recreational, or cultural community?

Supports continued operation of Kenai Nikiski Pipeline (20" gas pipeline), owned by Kenai Beluga Pipeline, LLC.

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

Kenai Beluga Pipeline, LLC

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:

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>Kevin A. Tabler</i>	Date:	6/14/2021
Print Name:	KEVIN A. TABLER	Title:	Land Manager, Hiicorp Alaska, LLC

For City Use Only:	Date Application Fee Received:
<input type="checkbox"/> General Fund	Date Application Determined Complete:
<input type="checkbox"/> Airport Fund	30-Day Notice Publication Date:
Account Number:	City Council Action/Resolution:
<input type="checkbox"/> Airport Reserve Land	
<input type="checkbox"/> Outside Airport Reserve	

## ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

**Hilcorp Alaska, LLC**, a Delaware limited liability company (hereinafter called "Lessee/Assignor"), whose address is 3800 Centerpoint Drive, Suite 1400, Anchorage, Alaska 99503, and who is Lessee under that Lease of Airport Lands dated November 12, 2010, which lease has been amended through the First Amendment to Lease dated November 14, 2011 (collectively, the "Lease"), assigns all of its respective rights, title, and interests in the Lease to **Kenai Beluga Pipeline, LLC**, a Delaware limited liability company (hereinafter called "Lessee/Assignee"), whose address is 3800 Centerpoint Drive, Suite 1400, Anchorage, Alaska 99503, subject to all the conditions and terms contained in the Lease.

The Lease covers property located in the City of Kenai described as:

an approximately 13,065 square foot area as depicted on Tract A-1, Kenai Spur-Airport Lease Property City Gate Addn., according to the official plat thereof, filed under Plat Number 2012-61, filed in the Kenai Recording District, Third Judicial District, State of Alaska., NE 1/4, Section 5, Township 05 North, Range 11 West, Seward Meridian, City of Kenai, Kenai Recording District, Kenai Peninsula Borough, Alaska,

and further depicted in Exhibit A attached to this Assignment. The Lease is recorded in the Kenai Recording District at Serial Nos. 2010-010858-0 and 2011-010992-0. The assignment from the original grantee to Hilcorp Alaska, LLC is recorded at Serial No. 2013-001634-0.

Assignee hereby assumes and agrees to perform all duties and obligations required of Lessee by the Lease and to pay all outstanding liabilities and outstanding obligations that may be due and owing, or may have been due and owing, prior to the effective date of this Assignment and Assumption of Lease Agreement.



This Assignment and Assumption of Lease shall be governed by and construed in accordance with the laws of the State of Alaska.

**ASSIGNOR:  
HILCORP ALASKA, LLC**

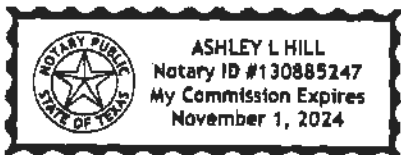
BY: *Greg Lalicker*  
NAME: Greg Lalicker  
TITLE: CEO

**ASSIGNEE:  
KENAI BELUGA PIPELINE, LLC**

BY: *Sean Kolassa*  
NAME: Sean Kolassa  
TITLE: President

State of Texas )  
                          ) ss  
County of Harris )

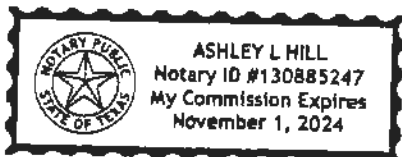
The foregoing instrument was acknowledged before me this 10<sup>TH</sup> day of JUNE, 2021, by GREG LALICKER, (Name), CEO (Title) of Hilcorp Alaska, LLC, a Delaware limited liability company, on behalf of the company.



*Ashley L Hill*  
Notary Public of Texas  
My Commission Expires: 11/1/2024

State of Texas )  
                          ) ss  
County of Harris )

The foregoing instrument was acknowledged before me this 10<sup>TH</sup> day of JUNE, 2021, by SEAN KOLASSA, (Name), PRESIDENT (Title) of Kenai Beluga Pipeline, LLC, a Delaware limited liability company, on behalf of the company.



*Ashley L Hill*  
Notary Public of Texas  
My Commission Expires: 11/1/2024





**CONSENT TO ASSIGNMENT**

The City of Kenai hereby consents to the assignment of the above-referenced Lease from Hilcorp Alaska, LLC to Kenai Beluga Pipeline, LLC. The City's consent to assignment shall not be deemed to be a consent to any further or subsequent sublease or assignment. This Consent is given without waiving any right or action, or releasing the Assignor from any liability or responsibility under the above-referenced Lease.

**CITY OF KENAI**

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

State of Alaska        )  
                                  ) ss  
Third Judicial District )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Paul Ostrander, City Manager of the City of Kenai, an Alaska municipal corporation.

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

Approved as to form:

\_\_\_\_\_  
City Attorney

**PLEASE RECORD IN THE  
KENAI RECORDING DISTRICT  
AND RETURN TO:**

City of Kenai  
210 Fidalgo Avenue  
Kenai, AK 99611

EXHIBIT A

**WASTEWATER DISPOSAL**  
Plans for wastewater disposal shall be prepared only in accordance with a permit approval of 18 AAC 70.010 and 18 AAC 02.010. The permittee shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies.

**CERTIFICATE OF OWNERSHIP AND DEDICATION**  
We hereby certify that we are the owners of the land hereby shown and that we hereby grant the plan of subdivision and all other rights and interests therein to the public for public use and grant of easements to the City of Kenai.

**MAYOR'S ACKNOWLEDGEMENT**  
I, TRICK KOCH, Mayor of the City of Kenai, Alaska, do hereby certify that the above described land is being dedicated to the public use and grant of easements to the City of Kenai, Alaska, and that the same is being dedicated to the public use and grant of easements to the City of Kenai, Alaska, and that the same is being dedicated to the public use and grant of easements to the City of Kenai, Alaska.

**NOTARY PUBLIC FOR THE STATE OF ALASKA**  
I, TRICK KOCH, Mayor of the City of Kenai, Alaska, do hereby certify that the above described land is being dedicated to the public use and grant of easements to the City of Kenai, Alaska, and that the same is being dedicated to the public use and grant of easements to the City of Kenai, Alaska, and that the same is being dedicated to the public use and grant of easements to the City of Kenai, Alaska.

**NOTES**  
1) Water supply and sewage disposal systems shall be prepared only in accordance with a permit approval of 18 AAC 70.010 and 18 AAC 02.010. The permittee shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies.  
2) The permittee shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies.  
3) The permittee shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies.  
4) The permittee shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies.  
5) The permittee shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies.

**LEGEND**  

- ( ) Record Data NR 75-111 ; Sample data NR 75-111
- Found primary monument 3 1/4" diam. clear cap
- Found 3/4" clear found
- 541 5/8" x 30" clear. near 1/2" diam. clear. cap 4820-6

**SCALE**  
1" = 200'  
0 100 200 FEET

**CURVE TABLE**

CURVE	LENGTH	BEARING	DELTA	TANGENT	CHORD	BEARING	CHORD
C1	408.37	113.36	70	172.73	305.67	602.69	602.69
C2	28.41	30.00	73.28	53.43	602.00	24.33	24.33
C3	35.38	30.00	91.21	70.26	50.72	41.1	30.84
C4	131.87	1.80	20	67.83	76.06	162.24	161.90
C5	79.80	1.80	20	23.03	38.50	45.27	45.27
C6	79.80	1.80	20	23.03	38.50	45.27	45.27
C7	140.00	1.80	20	80.00	33.01	166.00	166.00
C8	108.00	1.80	20	60.00	33.01	126.00	126.00

**PROPERTY MAP**  
Scale 1" = 1/4 Mile

**2012-61**  
Plan N  
10-23  
Nov 11, 2011

**SEAL OF THE CITY OF KENAI, ALASKA**

**KENAI SPUR-AIRPORT LEASE**  
PROPERTY CITY GATE ADDN.  
LA RECALY OF KENAI SPUR AIRPORT  
LEASE PROPERTY TRACT A KV 75-111

**CITY OF KENAI**  
KENAI, ALASKA  
LOCATION  
1.034 AC. M/A. SITUATED WITHIN A PORTION OF GOVT. LOT 2, SECTIONS 8, 9, 10, WITH CAL. AC. THE CITY OF KENAI AND THE BEING FEDERAL BOROUGH IN THE NORTH

**PLAT APPROVAL**  
This plat was approved by the KENAI PLANNING BOARD at the meeting of January 27, 2011.  
KENAI FEDERAL BOROUGH by  
Authorized Official

**APPROVED**  
APPROVED: [Signature]  
DATE: 1/27/2011

**APPROVED**  
APPROVED: [Signature]  
DATE: 1/27/2011

**Krissell Crandall**

---

**From:** noreply@xpressbillpay.com  
**Sent:** Monday, May 10, 2021 11:47 AM  
**To:** Krissell Crandall  
**Subject:** [EXTERNAL] Your Xpress Bill Pay payment confirmation

# xpress BILL PAY

## SUCCESS

Your payment has been submitted.

5/10/2021 1:47 PM

Krissell Crandall

**Confirmation Number: 99115982**

Item	Amount
<a href="#">City of Kenai AP - Misc. Revenue</a> Transaction Number: 148125092PT Hilcorp Alaska Airport Lease/App Assignment Fee	\$100.00
<a href="#">City of Kenai AP - Sales Tax</a> Transaction Number: 148125092PT	\$6.00
<b>Total</b>	<b>\$106.00</b>

**KENAI PLANNING & ZONING COMMISSION  
REGULAR MEETING  
JULY 14, 2021 – 7:00 P.M.  
KENAI CITY COUNCIL CHAMBERS  
210 FIDALGO AVENUE, KENAI, ALASKA  
CHAIR JEFF TWAIT, PRESIDING**

**MINUTES**

**A. CALL TO ORDER**

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

**1. Pledge of Allegiance**

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

**2. Roll Call**

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

Commissioners absent: G. Greenberg

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

A quorum was present.

**3. Agenda Approval**

**MOTION:**

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

**4. Consent Agenda**

**MOTION:**

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

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

**5. \*Excused absences – None.**

**B. APPROVAL OF MINUTES**

1. \*Regular Meeting of June 23, 2021

The minutes were approved by the Consent Agenda.

**C. SCHEDULED PUBLIC COMMENT – None.****D. UNSCHEDULED PUBLIC COMMENT – None.****E. CONSIDERATION OF PLATS – None.****F. PUBLIC HEARINGS**

1. **Resolution PZ2021-26** - Application for a Variance Permit to Allow for a Rear Yard Setback of Five Feet where a Twenty-Foot Setback is Required and Height Restriction of Twelve Feet for a One-Story Accessory Building on Property Described as Lot 5, Block 3, Deepwood Park Subdivision Amended, and Located at 110 Deepwood Ct., Kenai, AK 99611. The Application was Submitted by Brad Nyquist, P.O. Box 1821, Kenai AK 99611.

**MOTION:**

Vice Chair Fikes **MOVED** to approve Resolution No. PZ2021-26 and Commissioner Woodard **SECONDED** the motion.

Planning Director Foster presented his staff report with information provided in packet explaining that the applicant wishes to construct an approximately 320 square foot deck on his property and a storage building on top of the deck, and the application was for a variance of rear yard setback and building height. It was noted the application met the criteria and City staff recommends approval subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. Prior to commencement of construction of the deck, the owner shall obtain a Building Permit from the Building Official for the City of Kenai.
3. Prior to commencement of construction of the accessory structure (shed), the owner shall obtain a Building Permit from the Building Official for the City of Kenai.

Chair Twait opened for public hearing.

Brad Nyquist clarified that this would be a storage shed and a workshop. He stated that he intends to use trees he cut down as lumber to create a timber frame structure, and has not received any negative feedback from neighbors about the proposed structure. The applicant clarified the details of the structure's foundation, which a contractor helped him to engineer and he built himself.

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

Clarification was provided that the deck and structure combined would be larger than 200 square feet which required a building permit.

**VOTE:**

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

**MOTION PASSED UNANIMOUSLY.**

Commission Chair Twait noted the 15-day appeal period.

**G. UNFINISHED BUSINESS – None.**

**H. NEW BUSINESS**

- 1. **Action/Approval** - Special Use Permit to Kenai Chamber of Commerce and Visitor Center for the Moosemeat John Cabin.

**MOTION:**

Commissioner Halstead **MOVED** to recommend approval of a Special Use Permit to Kenai Chamber of Commerce and Visitor Center for the Moosemeat John Cabin and Vice Chair Fikes **SECONDED** the motion.

Clarification was provided that this Special Use Permit has been provided on an annual basis for several years, and this is a continuation without any major changes. The Commission discussed why this is an annual SUP instead of a lease, and it was noted that a SUP can allow for more flexibility and may be a better option for the Chamber.

**VOTE:**

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

**MOTION PASSED UNANIMOUSLY.**

- 2. **Action/Approval** - Recommendation for Ordinance No. 3222-2021 - Determining that Real Property Described as Lot 1A, Block 1, Deshka Subdivision, City-Owned Airport Land Located Outside the Airport Reserve, is not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals (2016), LLC.

**MOTION:**

Vice Chair Fikes **MOVED** to recommend approval of Ordinance No. 3222-2021 and Commissioner Woodard **SECONDED** the motion.

It was noted that the property is currently leased as a jewelry store. An explanation was given for the City's Policy for Sale of Specific Airport Leased Lands, approved by Resolution No.



2018-12, which provides a lessee the opportunity to purchase City-owned leased land outside the Airport Reserve with substantial constructed leasehold improvements. Certain conditions need to be met for this type of land sale, such as the appraised valuation of property which is the option this lessee has chosen. It was noted that a recent appraisal valued the raw land at \$250,000. The applicant wishes to make \$62,500 in improvements over a three-year time period, and a scope of work and receipts would be provided. Resolution No. 2018-12 allows the lessee to purchase the land at 100% of the raw land value with these improvements.

Discussion from the Commission included the coffee shop on the property and whether it would impact the appraisal value or permits, potential improvements, and the status of the building ownership. It was noted that Schilling Rentals, LLC have been lessees on the property since 2017 when they took over a 55 year lease that expires in 2030.

**VOTE:**

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

**MOTION PASSED UNANIMOUSLY.**

- 3. **Action/Approval** - Recommendation for Ordinance No. 3221-2021- Determining that real property described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, city-owned airport land located outside the airport reserve, is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals, an Alaska Partnership.

**MOTION:**

Vice Chair Fikes **MOVED** to recommend approval of Ordinance No. 3221-2021 and Commissioner Springer **SECONDED** the motion.

It was noted that, as with Ordinance No. 3222-2021, the lessee intends to purchase the City-owned land they currently lease. However, here they are requesting on the value of improvements they've already made over their current lease term, and this option requires completed improvements to be at least four times the value of the land. A recent appraisal valued the raw land at \$300,000, and the lessee has shown to have added over \$2 million in improvements which exceeds the required amount.

Clarification was provided that the appraisal of the raw land value came from a third-party source.

**VOTE:**

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

**MOTION PASSED UNANIMOUSLY.**

- I. **PENDING ITEMS** – None.

**J. REPORTS**

1. **City Council** – Council Member Glendening reported on the actions from the July 7, 2021 City Council meeting.
2. **Borough Planning** – Vice Chair Fikes reported on the actions from the July 12 Borough Planning meeting.
3. **City Administration** – Planning Director Foster reported on the following:
  - Zoning map has been put in Chambers for reference during meetings;
  - Upcoming meeting on July 28, 2021 is anticipated to include a rezoning application and an application for development incentives;
  - The Conditional Use Permit for firewood bundling approved at the June 23, 2021 meeting received an appeal application, but the applicant has withdrawn their CUP application so there won't be a hearing.

**K. ADDITIONAL PUBLIC COMMENT** – None.

**L. INFORMATIONAL ITEMS**

**M. NEXT MEETING ATTENDANCE NOTIFICATION**

1. July 28, 2021

**N. COMMISSION COMMENTS & QUESTIONS** – None.

**O. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 8:24 p.m.

Minutes prepared and submitted by:



Meghan Thibodeau  
Deputy City Clerk





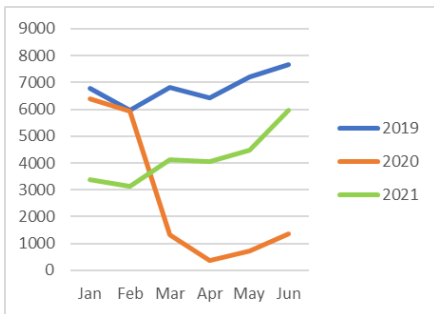
# MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Eland Conway, Airport Manager  
**DATE:** July 2021  
**SUBJECT:** Kenai Municipal Airport (ENA) Mid-Month Report

## Enplanements

2021 ENA passenger enplanements are rebounding after 2020 travel season hampered by COVID and the bankruptcy of the previous Ravn Alaska operator.

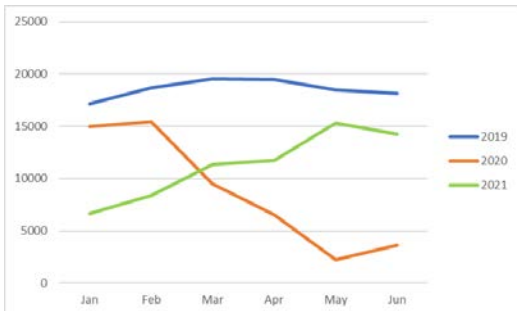
June enplanements are down 22% from 2019, YTD enplanements are down 39% compared to the same period in 2019.



	2019	2020	2021
Jan	6785	6390	3389
Feb	5957	5930	3112
Mar	6808	1317	4127
Apr	6441	359	4035
May	7198	702	4464
Jun	7656	1367	5953
<b>Grand Total</b>	<b>40845</b>	<b>16065</b>	<b>25080</b>

## Parking Revenue

Parking revenue is also rebounding from 2019 levels. June revenue is down 21% from 2019, YTD revenue is down 39% compared to the same period in 2019.



	2019	2020	2021
Jan	17,143	14,966	6,626
Feb	18,660	15,445	8,373
Mar	19,540	9,523	11,315
Apr	19,444	6,503	11,757
May	18,460	2,226	15,309
Jun	18,112	3,590	14,236
<b>Grand Total</b>	<b>111,359</b>	<b>52,253</b>	<b>67,615</b>

### **Runway 2L/20R Replacement**

Nightly runway closures will begin the evening of August 4. Geotechnical coring will assess the runway, taxiway interlinks, and taxiway A subbase. Coring is expected to last ten (10) consecutive days.

### **FAA Airport Inspection**

The FAA conducts an annual airport certification inspection ensuring airport safety and compliance. On July 6, 7, and 8 the completed an inspection of ENA, and issued a letter of correction identifying two (2) airport discrepancies:

1. Runway vehicle access road – missing signage
2. Runway surface painted hold short sign – old surface markings show through faded markings

### **Terminal Rehabilitation – Ribbon Cutting Ceremony**

ENA is commemorating the terminal rehabilitation project on Friday, August 6 at the terminal.

Ceremony begins at noon followed by a ceremonial ribbon cutting, refreshments, and a self-guided tour.





## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Terry Eubank, Finance Director

**DATE:** July 27, 2021

**SUBJECT:** **Finance Department Mid-Month Report July 2021**

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In preparation for the 2021 Personal Use Fishery, the department assured all shacks were online and ready to process transactions, software enhancements were complete, the Dipnet App was updated, and City Hall was prepared for daily reconciling activities. The department successfully recruited for shack operators. Fee shacks this year were again cashless. Intercoms were available to shack workers if they chose to utilize them.

With the completion of the budget, the department's focus has switched to closing of FY21 and completion of the City's Comprehensive Annual Financial Report. This process includes the closing of the FY21 financial records, fiscal year-end grant reporting, and finally, financial statement preparation. The annual audit is scheduled for the week of October 4<sup>th</sup>.

The Department successfully recruited its Desktop Support Technician with the employee beginning work on July 19<sup>th</sup>. This position will provide increased capacity in the department.

Employee open enrollment has been completed for FY2021 for employee health care and in conjunction with Human Resources and the City's broker, the process to analyze the City's health, dental, vision, life and supplemental insurances is underway. Currently any recommended plan or provider changes are scheduled to be implemented by January 1, 2022.



# KENAI

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

## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Tony Prior, Fire Chief

**DATE:** July 12, 2021

**SUBJECT:** Fire Department Mid-Month Report – June

Calls for service in June were up, resulting in the busiest June on record for us. Here is the breakdown for calls for service.

Year	2020	2021	% change
June total	100	127	27.0%
EMS	69	95	37.7%
All Other	31	32	3.2%
Year total	634	669	5.5%

Project work continues with the Vaccination program as we move towards the last clinics for Pacific Star Seafoods, as well as continuing efforts with Public Health at the Wednesday Markets which are slated to go through July and August. We are also working on updating our ISO information for review with the organization, and we are moving forward with the updates to the Emergency Operations Plan.

We worked to close out FY20-21 PO's and other items needing closed prior to the end of the fiscal year, however, a few items still remain in our SHSP grant projects to complete as we continue to move forward.





Stephen Turkington and Cory Lehl attended firefighter tactics training in Valdez where they learned new techniques for victim rescues, search tactics, and fire attack techniques. Pete Coots completed adult/child/infant CPR skills check off for 19 PD personnel in preparation for Dipnet season, while boat training continued throughout June, also in preparation for Dipnet season. Mike Oden successfully completed his Fire Inspector I, passing his final exam. And finally, Mac Lee completed his probationary year to again have all fire personnel in the Regular Employee category.



## MEMORANDUM

**TO:** Mayor Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Katja Wolfe, Library Director  
**DATE:** July 13, 2021  
**SUBJECT:** Library Mid-Month Report June 2021

### June 2021 at a Glance

<b>Items Borrowed</b>		<b>Jun-20</b>	<b>Jun-21</b>	<b>2021 YTD</b>
Physical		2,524	6,457	29,117
Digital		1,458	1,719	9,974
<b>Visits and Services</b>				
Number of Curbside Pickups		202	56	815
New Memberships		14	33	187
Room Use		n/a	42	102
<b>Programs</b>				
Number of Programs		18	16	100
People Reached (e.g., DIY Kits)		n/a	155	919
People Reached Virtually		n/a	612	4,793
<b>Technology Sessions</b>				
Computer sessions		252	368	1,688
WiFi Sessions		2,716	4,390	22,240
Early Literacy Station Sessions		n/a	122	185



### June 2021 programming highlights

- Virtual programs via Facebook, YouTube, and Zoom
  - DIY Wasp Catcher (119 views)
  - Biweekly Lego® challenge (55 views)
  - Biweekly Maker Mondays (113 views)
  - Virtual story times (9 participants)
  - Let's Draw! Belugas (136 views)
  - Cast Iron Cooking-Vegetables (56 views)
- DIY kits and giveaways
  - Treasure hunt around the library (40)
- Summer Reading 2021
  - Kick-off party (in person, 39 attendees)
  - Jr. Art Club (124 views)
  - Mini Books DIY kits for teens and adults (55)
  - Embroidery Cards for teens and adults (60)

### June 2021 library services highlights

- Summer Reading Program 2021 is in full swing. As of June 30, 337 children, 41 teens, and 99 adults have signed up to participate. For more information, go to <https://www.kenai.city/library/page/summer-reading-2021>
- We gave out 520 meals to children 18 and under during our Summer Food Service hours in June
- Transits:
  - We sent 495 items to Alaska Library Catalog member libraries.
  - We borrowed 567 items from Alaska Library Catalog member libraries.





## MEMORANDUM

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

**THROUGH:** Paul Ostrander, City Manager

**FROM:** Robert J. Frates, Parks & Recreation Director

**DATE:** July 27, 2021

**SUBJECT:** Mid-month Report – June 2021

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Preparation for the Personal Use Fishery started the end of June, beginning with installation of signage and followed with fencing (dune protection) and delivery of traffic cones utilized in a variety of areas. Kenai Little League successfully hosted the District 1 Minor Baseball Tournament July 10 through July 17. There were a total of 5 teams that participated, including Abbot-O-Rabbit, Diamond West, Palmer, Soldotna and Kenai.

The department assumed management of the Kenai Recreation Center July 1.

The department assisted with the Chamber's 4<sup>th</sup> July activities. Activities included assisting volunteers set up tents, setting up the beer garden, delivering electrical pedestals, extra turf mowing and trimming along parade route and handling trash and cleaning of bathrooms throughout the day of the festivities.

The Kenai Softball Association held their annual Firecracker Tournament July 3 & 4. The department teamed up with the league and got the fields prepared in advance of the tournament and volunteers provided routine maintenance services throughout the day Saturday and Sunday.

The Kenai Wolfpack Rugby organization held their annual tournament July 17 & 18 located at Millennium Square. There were a total of 9 teams, many traveling from throughout the state.

The department teamed up with the Street Department and removed about 64 trees from around city hall, library and public safety buildings. Additionally, some dirt work, stump removal and seeding occurred. Some replacement trees will be installed in the near future.



## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Ryan Foster, Planning Director  
**DATE:** July 12, 2021  
**SUBJECT:** **Planning and Zoning June 2021 Report**

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### Planning and Zoning Commission Agenda Items and Resolutions

- On June 9, 2021 the Planning and Zoning Commission recommended approval of the following preliminary plats and special use permits:
  - **Resolution PZ2021-22** – Preliminary Subdivision Plat of Kenai Landing Subdivision 2021 Addition, submitted by Edge Survey and Design, P. O. Box 208, Kasilof, AK 99610, on behalf of Kenai Landing, Inc., 4786 Homer Spit Rd., Homer, AK 99603
  - **Resolution PZ2021-23** – Preliminary Subdivision Plat of Triple C Subdivision, submitted by Ability Surveys, 152 Dehel Ave., Homer, AK 99603, on behalf of Mark Holmes, 4493 Lakewood Blvd., Naples, FL 34112
  - **Action/Approval** – Special Use Permit to State of Alaska, Division of Forestry for Air Tanker Reload Base
  - **Action/Approval** – Special Use Permit to Weaver Brothers, Inc. for Truck Trailer Storage
  
- On June 23, 2021 the Planning and Zoning Commission held a Work Session before their regular meeting to receive Commissioner training from the Planning Director.
  
- On June 23, 2021 the Planning and Zoning Commission recommended approval of the following conditional use permit and land donation requests:
  - **Resolution PZ2021-24** – Application for a Conditional Use Permit for a firewood bundling business (storage yard) in the Rural Residential zone, on Lot 24, Block 3, VIP Ranch Estates Subd. Part 6, and located at 2825 Bowpicker Lane. The application was submitted by Tracey Hedlund-Smith, 2740 Set Net Ct., Kenai, AK 99611.

- **Action/Approval** – Conditionally Donating Certain City Owned Property Described as Two Approximate 1 1/4 Acre Parcels to be Subdivided from a Portion of the 72 Acre More or Less Portion of the SE 1/4 Lying East of Tract A Kenai Meadows (KPB Parcel No. 039 010 65) To Kenai Peninsula Housing Initiative for the Development of Restricted Income and Senior Housing.
- **Action/Approval** – Conditionally Donating Certain City Owned Property Described as One Approximate 2 Acre Parcel to be Subdivided from a Portion of the 6.8 Acre More or Less Portion of the East of Tract 4, Baron Park Subdivision (KPB Parcel No. 045 010 35) to Triumvirate Theatre for the Development of a Theatre Facility.

#### Building Permit and Site Plan Reviews

Planning and Zoning staff reviews all Building Permits for compliance with the zoning code. The Department conducted five Building Permit reviews in June, 2021.

#### Code Enforcement

There were three code enforcement cases opened in June, 2021.

#### Lands

- On June 2, 2021, Kenai City Council approved the amendments to the lease for Soar International Ministries for Tract A-2, General Aviation Apron Subdivision No. 7. The amendment allows the office component be completed within four years instead of two years.
- On June 16, 2021, Kenai City Council approved a special use permit application for the Alaska Division of Forestry use of that portion of Lot 4, FBO Subdivision No.7 for use as an air tanker reload base.
- On June 16, 2021, Kenai City Council approved a special use permit application for Weaver Brothers, Inc. for storage of truck trailer storage on City-owned parcels along Coral Street and two portions of additional City owned land.

The City did not receive any applications for new Leases during June 2021.





## MEMORANDUM

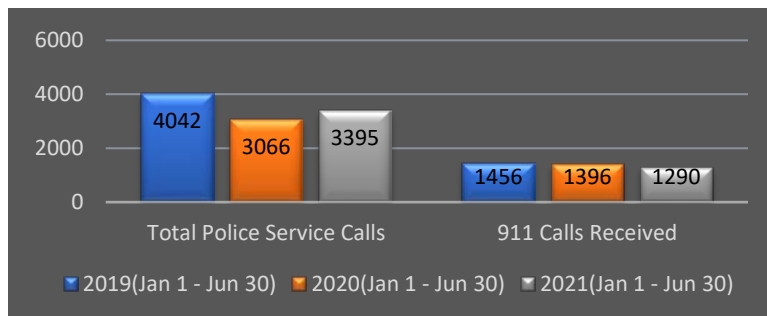
**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** David Ross, Police Chief  
**DATE:** July 15, 2021  
**SUBJECT:** Police & Communications Department Activity – June 2021

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Police handled 680 calls for service in June. Dispatch received an estimated 210 9-1-1 calls; however, we are still awaiting the exact final number for June. Officers made 43 arrests. Traffic enforcement resulted in 346 traffic contacts and 76 traffic citations. There were 2 DUI arrests. Officers investigated only one motor vehicle collision in June. There were no collisions involving a moose. There were no collisions involving drugs or alcohol.

The police call volume is trending higher than last year with an increase of about 11%, but still lower than call volumes from prior years.

The KPD officer on the regional SERT team attended two days of training with the team. The KPD officer participating in the regional drug task force attended a four day interdiction training in California. Two officers attended a four day interview training class in Anchorage. Two supervisors attended a two day training in Anchorage on supervising critical patrol incidents. KPD officers and supervisors spent a week training temporary employment officers to assist in the personal use fishery. All officers were provided CPR and AED refresher training.





## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**THROUGH:** Dave Ross, Police Chief  
**FROM:** Jessica “JJ” Hendrickson, Animal Control Chief  
**DATE:** July 1, 2021  
**SUBJECT:** June 2021 Monthly Report

This month the Kenai Animal Shelter took in **51** animals. Animal intake and disposition:

DOGS:				
	INTAKE	34	DISPOSITION	25
	Waiver	10	Adopted	9
	Stray	15	Euthanized	2
	Impound	2	Claimed	14
	Protective Custody	0	Field Release	0
	Quarantine	0	Transferred	0
	Microchips	6	Other Dispositions	0
	Other Intakes	1		
CATS:				
	INTAKE	17	DISPOSITION	12
	Waiver	12	Adopted	11
	Stray	4	Euthanized	1
	Impound	0	Claimed	0
	Protective Custody	0	Field Release	0
	Quarantine	1	Transferred	0

Microchips	0	Other Dispositions	0
Other Intakes	0		0
OTHER ANIMALS:			
INTAKE	0	DISPOSITION	0
Chicken	0	Chicken	0
Rabbit	0	Rabbit	0
Other	0	Guinea Pig	0
DOA:	6	OTHER STATISTICS:	
Dog	3	Licenses (City of Kenai Dog Licenses)	19
Cat	3		
Bird	0		

- 2 Animal dropped with After Hours (days we are closed but cleaning and with KPD)
- 22 Animals are *known* borough animals
- 34 Animals are *known* City of Kenai
- 6 Animals are *known* City of Soldotna
- 2 Animals from unknown location
- 56 Field Investigations & patrols
- 0 Volunteer Hours Logged
- 2 Citations
- 0 Educational Outreach

Statistical Data:

- 438 2019 YTD Intakes
- 414 2020 YTD Intakes
- 308 2021 YTD Intakes

Additional Information:

The Kenai Animal Shelter staffed hosted a volunteer orientation on June 16<sup>th</sup>, 2021 at the Kenai Library. Potential volunteers are in the process of completing training and should start volunteering at the shelter in early July.







## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Scott Curtin, Public Works Director  
**DATE:** July 2021  
**SUBJECT:** **Mid-Month Report; Public Works / Capital Projects**

- Alaska Regional Fire Training Facility Aircraft Rescue Fire Fighting (ARFF) Vehicles – The new trucks have now arrived, training with manufacturer’s representatives with our Shop, Fire Department and Alaska Regional Fire Training staff is taking place the week of July 26<sup>th</sup>. Units are in good working order and will be a tremendous asset to the training facility.



- Kenai Municipal Airport Sand Storage Facility – The City executed a design agreement to HDL Engineering on April 17, 2020 for a new Sand Storage Facility. On August 7, 2020 Final Design Documents were received and a Formal Invitation to Bid was released on August 10<sup>th</sup> with Bids due on August 31<sup>st</sup>, 2020. Orion Construction was the successful bidder with a low bid of \$2,289,000. The City successfully executed a grant with the FAA on September 25, 2020 in the amount of \$1,954,101, a second grant is anticipated for next Spring, May 2021, to cover the remaining costs on a total project cost of \$2,835,263. A Notice to Proceed for Construction was issued for October 14, 2020. Update June 2021: This project is now anticipated to experience significant delays. Contractor has been experiencing supply chain issues and building will likely not start construction until next spring. Most of the issues stem from the Steel Pre-Manufactured Building Suppliers. Formal shop drawings for the building have yet to be approved and production times run 16 weeks in normal times. With the scheduled start looking to be in early winter best case scenario staff and the engineering team are considering holding off the building start until May 2022. There have been no cost impacts



submitted to the City at this time, only considerations due to project timeline. Council will continue to be kept apprised of the situation. *Nothing new to report.*

- Kenai Municipal Airport Airfield Drainage – Ordinance 3166-2020 Authorized HDL Engineering to begin an assessment on both the existing runway as well as some ongoing drainage issues. On December 14, 2020 an agreement was executed to begin investigations on the Airfield Drainage project. The initial agreement in the amount of \$37,230 will provide for CCTV camera inspections of several thousand feet of storm main near the runway. On January 8, 2021 we received a report from HDL with the condition assessment of the drainage lines that were inspected prior to the Holidays. Based on this information HDL has provided a proposal to complete Construction Documents for the replacement of approximately 500 LF of the most deteriorated pipe, with other sections to wait and be completed along with the future Runway Rehabilitation Project. Ordinance 3185-2021 was approved at the February 17, 2021 Council Meeting and appropriated additional funds for a total anticipated project cost of \$300,000. *Update: Approval to Advertise was received from the FAA on 7/23/21, project will be released in papers on 7/28/21 with Bids due on August 19, 2021. Council should anticipate seeing legislation at the September 1, 2021 meeting with bid results.*
- Kenai Municipal Airport (KMA) Tractor & Mower – Invitations to Bid were released on November 20, 2020 with Bids Due on December 8, 2020. This project is in support of Airfield Maintenance Operations and is identified as Project No. 5 for the Airport Fund in the City's current Capital Improvement Plan. Council can expect to see legislation in December in relation to this Project. Ordinance 3176-2020 was approved at the January 6<sup>th</sup>, 2021 Council Meeting with an Award to Craig Taylor Equipment in the amount of \$151,736. Formal Notice of Award was issued on January 12<sup>th</sup>, contract was formally executed on January 21, 2021 and the equipment is now on order. *Update: The equipment has arrived at Craig Taylor Equipment on K Beach, installation some minor equipment like LED lights is taking place the week of 7/26/21. Tractor and mower are expected to be in service by August 9<sup>th</sup>.*
- Kenai Municipal Airport Snow Removal Equipment (SRE) – Resolution 2021-32 was approved at the 5/19/21 council meeting; a future Ordinance appropriating funds from the FAA will be forthcoming once grant amounts are confirmed. Overall cost of equipment with freight is anticipated to be \$773,150. *Ordinance 3229-2021 is being introduced 8/4/21 for appropriation of grant funds for this purchase.*



- Kenai Municipal Airport Runway Rehabilitation Project – This project known as Task 4 within HDL Engineering Consultants LLC term service agreement with the City shall provide an initial assessment of the current condition of the airport runway. This will include geotech work, coring numerous locations of the runway. This work will provide the necessary information to



coordinate with the FAA to seek grant funding for an overall runway rehabilitation project which will ultimately include the runway, taxiways, drainage, lighting, markings, etc. Once the conditions report is received, which fiscal year the project will likely need to take place will be determinable. This initial assessment and corresponding design work to an anticipated 35% level of completion has been contracted at a total cost of \$250,000 and is expected to be completed by the end of the calendar year.

- Dock repair – An Invitation to Bid was released on May 29, 2020 with Bids due on June 19, 2020. No bids were received. On July 10, 2020 the project was re-advertised for bids with bids due on July 27, 2020. The City received one Bid from Endries Company in the amount of \$298,365. Ordinance 3154-2020 was introduced on August 5, 2020 *and approved on August 19, 2020*. Formal contract was executed with Endries Company on August 31, 2020 with a formal Notice to Proceed provided on the same day. Work associated with the Cathodic Protection is now complete. *Update: This project is now 98% complete with only final commissioning remaining to be completed which is scheduled for August 2nd.*
- Waste Water Treatment Plant Master Plan – Resolution 2020-48 was approved at the June 17, 2020 Council meeting allowing this work to proceed. On July 2, 2020 HDL staff and consultants spent the day on the property going through all systems of the plant. On August 31, 2020 the first draft assessment was received. Staff continues to work with HDL to develop plans for the facility in preparation of updates to the Capital Plan. *Update: With the assessments now complete a Rate Study will begin this fall to evaluate and determine best practices for long term maintenance of the facility.*
- Water & Sewer Master Plan – Resolution 2021-19 is set for Council approval March 17, 2021 awarding \$82,175 to HDL Engineering Consultants to begin assessments of Water & Sewer facilities. A formal report is anticipated within ninety days of their Notice to Proceed. HDL was on site April 13-15 conducting site inspections, photo documenting facility conditions. Work remains on schedule. *Update: With the assessments now complete a Rate Study will begin this fall to evaluate and determine best practices for long term maintenance of the facility.*
- Waste Water Treatment Plant Replacement Sludge Press – Resolution 2020-95 approved at the December 16, 2020 Council meeting authorized HDL Engineering to begin the Design Phase of the WWTP Replacement Sludge Press. Contract Documents were executed on January 6, 2021 with a Notice to Proceed issued on January 11, 2021. First step will be to request proposals from various press manufacturers and make a selection to move through design phases with. Presses of this type typically take six months to manufacturer, goal will be to have an operational new press around late November 2021. On February 3, 2021 HDL staff was on site taking measurements and further detailing the new press location and associated appurtenances. A Request for Proposals from press manufactures was released on April 27, 2021 with proposals due on May 25<sup>th</sup>, 2021. Resolution 2021-42 to award an equipment purchase agreement to Andritz Corp in the amount of \$285,000 was approved by Council at the June 16, 2021 meeting. *Update: Equipment is now on order. Final plans will be drafted and an Invitation to Bid for Construction will be released this fall with equipment arrival anticipated for January/February 2022.*



- Kenai Well house Relocation – Project was released for Invitations to Bid on March 8, 2021 with bids due on April 1, 2021. Project consists of relocating a small prefabricated steel structure, approximately 20'x28' that suffered foundation damages during the November 2018 earthquake. This project was approved under Ordinance 3194-2021 at the March 3<sup>rd</sup>, 2021 council meeting. Ordinance 3215-2021 was approved June 2, 2021 to award the project to Polar North Construction and to accept insurance proceeds for project to move forward. Contract documents are in the process of being executed. Work is anticipated to start in August 2021 and will likely carry into spring 2022 for completion as the weather allows.
- SCADA Integration – Resolution 2021-10 approved at the March 3, 2021 Council meeting has authorized a \$125,000 purchase order to HDL Engineering for assessments and repairs to both the Water & Sewer and Wastewater facilities relating to SCADA. Borealis Controls as sub-consultant to HDL Engineering has provided a revised SCADA network diagram, and is working on replacing primary equipment at the public safety building. *Update: Late June 2021 all primary equipment at the Public Safety Building was replaced with new, contractor has been working on programming remotely with the next site visit anticipated for early August.*
- USACE Bluff Erosion – See City Manager's report. Director's Report from the Army Corp of Engineers was signed April 10, 2019. On June 17, 2020 Council authorized the City Manager to sign the MOU received from the Corp. PED Agreement arrived on September 2, 2020. The City mailed a check in the amount of \$350,000 on September 18, 2020 to cover the City's initial share of PED costs. Meetings have begun with the City Manager and Public Works Director with the ACOE. Draft RFP Docs were sent to ACOE Staff for comment on December 8, 2020 during phone conference with ACOE, City Manager and PWD. Comments were received back on December 9<sup>th</sup>. Formal Request for Proposals was released on January 28, 2021, Pre-proposal zoom meeting was conducted on February 9, 2021 with approximately twenty people attending. Proposals were received on March 4, 2021 from five firms. Evaluations of the proposals were completed by committee and HDR Engineering, Inc was the highest scoring successful proposer. An intent to award was sent out on March 18, 2021. Council approved Resolution 2021-35 at the June 2, 2021 meeting awarding an agreement to HDR along with issuance of a purchase order in the amount of \$791,832.68. Design services are expected to run approximately twelve months to provide bid ready plans and specifications. *Update: on July 6, 2021 the formal agreement between the City of Kenai and HDR was executed. Subcontracts are being secured with data collection and first meetings to begin in August 2021 after the dipnet fishery has concluded.*
- Multi-purpose Facility – The Building Maintenance Department went through the Ice Rink and pressure washed all of the algae that has been growing on the steel beams. Nelson Engineering was also able to come out and assess the structure and condition of the rusting. Formal report was received on October 6, 2020. *Nothing new to report.*
- Fire Sprinkler Testing, Inspection & Monitoring – Invitations to Bid were released on November 20, 2020 with Bids Due on December 8, 2020. This will be for up to a five year term service agreement for all City Facilities. Resolution 2020-93 with a Contract Award to Yukon Fire Protection was approved at the December 16, 2020 Council meeting. Total contract for five years services totals \$74,373. Contractor will be in Kenai on starting on January 18<sup>th</sup> going



through all City owned facilities. The Contractor has performed all preliminary site inspections with the exception of the Senior Housing which was decided to wait until after their vaccination clinics which were actively taking place when contractor started. The City received Yukon Fire's formal report on February 2, 2021, the Contractor is set to return in March and begin repairing deficiencies identified during their inspection. Council will see some upcoming legislation to address needs at the Visitors Center and Recreation Center that are beyond the current budgeted contingencies.

- Cemetery Expansion – This project is located at the corner of First Ave and Float Plane Rd and will provide for additional burial space as the existing adjacent cemetery has reached capacity. The Public Works Department using in house personnel has already cleared, leveled and graded the site, and placed and compacted a gravel sub-base for the parking area. This spring asphalt paving, topsoil and seeding will take place. Additional funds will be sought during the FY22 budget to purchase and install a new perimeter fence.
- Kenai Fine Arts Center Improvement – Polar North Construction has begun work for the Fine Arts Center, asbestos abatement work has now been completed as of April 9, 2021 and restoration work will now begin. *Update: Contractor has completed the \$120K worth of repairs requested by the Fine Arts Center, additional legislation is pending to supplement this funding to complete additional repairs identified during the project.*
- DOT Kenai Spur Highway to Sports Lake Rd – In speaking with representatives from DOT on June 10, 2021, it is my understanding this project will likely be released for construction bids in late fall 2021 for an anticipated construction start of Spring/Summer 2022. This project is intended to continue the widening of the roadway similar to the previous project that extended to approximately Swires Rd. *Nothing new to report.*





# KENAI

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

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**THROUGH:** Paul Ostrander, City Manager  
**FROM:** Kathy Romain, Senior Center Director  
**DATE:** July 8, 2021  
**SUBJECT:** June 2021 Monthly Report

Inhouse dining resume on June 15, along with Thursday evening bluegrass and game night. All of our services are up and running, except for transportation and we are in the process of recruiting for two driving positions.

	2021	2020
Home Delivered Meals	2121	2729
Individuals	85	120
Pick-Up Meals	127	214
Individuals	14	20
Dining Room (Congregate) Meals	401	0
Individuals	97	0
Grocery Shopping Assistance	0	14
Writers Group	38	0
Caregiver Support Group	32	0
Growing Stronger Exercise	265	0
Tai Chi Class	43	0
TOPS Weight Loss Class	8	0
Coffee/Paper	1109	0
Bluegrass Jam Session	108	0
Card Games	289	0
Total Event Sign-ins	1892	0
Individuals	170	0
Vintage Pointe Manor Vacancies	2	5

**PURCHASE ORDERS BETWEEN \$2,500.00 AND \$15,000.00 FOR COUNCIL REVIEW**  
**COUNCIL MEETING OF: AUGUST 4, 2021**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>DEPT.</b>	<b>ACCOUNT</b>	<b>AMOUNT</b>
CDW GOVERNMENT	REPLACEMENT BATTERIES	NON-DEPARTMENTAL	SMALL TOOLS	4,983.21
BRODART	ANNUAL BOOK LEASING	LIBRARY	RENTALS	6,102.00
EDOCSALASKA	LASERFICHE SUPPORT AND MAINT.	CLERK	SOFTWARE	12,395.00
E.S.R.I.	ARCGIS BASIC	VARIOUS	SOFTWARE	3,700.00
MOTOROLA SOLUTIONS	FY22 MAINTENANCE FEE	COMMUNICATIONS	REPAIR & MAINTENANCE	11,122.24
ALASKA MUNICIPAL LEAGUE	FY22 MEMBERSHIP DUES	LEGISLATIVE	DUES & PUBLICATIONS	7,900.00
ARCTIC OFFICE PRODUCTS	CHAIRS FOR COUNCIL SEATING	LEGISLATIVE	SMALL TOOLS	8,279.74
NORTHERN SECURITY SUPPLY	BALLISTIC VESTS	POLICE	SMALL TOOLS	5,630.00
AMERICAN BUREAU OF CRANE INSPECTION	ANNUAL CRANE INSPECTIONS	SHOP	REPAIR & MAINTENANCE	2,737.60
MUNICIPAL CODE CORPORATION	MUNICODE MEETINGS SUBSCRIPTION	CLERK	SOFTWARE	3,800.00
ALASKA WASTE	DUMPSTER RENTAL AT WWTP	WWTP	PROFESSIONAL SERVICES	10,000.00
SGS ENVIRONMENTAL SERVICES	FY22 LAB TESTING SERVICES	WATER	PROFESSIONAL SERVICES	5,000.00
TAURIAINEN ENGINEERING/TESTING	FY22 WATER TESTING	WATER	PROFESSIONAL SERVICES	5,000.00
BIO-AQUATIC TESTING	FY22 WET TESTING	WWTP	PROFESSIONAL SERVICES	3,000.00