

Title 6

REVENUE AND FINANCE

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Chapter 6.04

FISCAL POLICIES

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- 6.04.010 Budget and Capital Program.
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6.04.010 Budget and Capital Program.

A. The Borough Manager shall arrange for the preparation of a budget and capital program as outlined in Chapter 6.12. The budget and capital expenditure proposals shall be given a public hearing.

B. As set forth in Chapter 6.20, after public hearing the Assembly may approve the budget with or without amendments, and shall appropriate the funds required for the approved budget.

6.04.020 Borough Obligations -- Appropriations --
Restrictions on Borrowing.

A. If during any fiscal year there are available revenues received from sources not anticipated in the budget estimates, the Assembly, by ordinance, may make supplemental appropriations for the year up to the amount of the additional revenues. Upon declaration by the Assembly of a public emergency and describing the emergency, the Assembly may make emergency appropriations. Such appropriations may be made by emergency ordinances. No payment may be authorized or made and no obligation incurred except in accordance with appropriations.

B. The Assembly may authorize the payment of or making of contracts for capital improvements, to be financed wholly or partly by the issuance of bonds.

C. A bond, contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by ordinance adopted by a majority of the votes authorized on the question.

D. No general obligation bond indebtedness of the Borough may be incurred unless authorized for capital improvements by the Assembly and ratified by a majority vote of those in the Borough voting on the question; provided however that the Assembly, by ordinance, may issue notes in anticipation of

the issuance of general obligation bonds without a vote when such bonds have been so ratified.

E. No obligation by a pledge of taxes to be levied in a service area may be issued unless authorized for capital improvements by the Assembly and ratified by a majority of the qualified voters in the service area voting on the question; provided however that the Assembly, by ordinance, may issue notes in anticipation of the issuance of bonds so secured without a vote when such bonds have been ratified by the voters. In a service area where there are no qualified voters to vote on the question, voter ratification shall not be required.

6.04.030 Fiscal year. The fiscal year of the Borough shall begin on the first day of July and end on the last day of June.

6.04.040 Funds designated. The accounts of the Borough shall be divided into the following principal funds:

A. General funds. All financial transactions relating to the general operations of the Borough government shall be recorded in the accounts of this fund. Additionally, the financial transactions relating to trusts and agency funds and bond funds when authorized and required shall be recorded in the accounts of this fund.

B. Special assessment funds. These funds shall be created upon establishment of a special assessment district and the financing of public improvements by special assessments.

D. Public school operating funds. This fund includes only the Borough funds appropriated to the public school system operated by the School Board.

6.04.050 Audit of Borough Government Accounts. Prior to the end of each fiscal year, the Assembly shall designate certified public accountants who, as of the end of the fiscal year, shall make an independent audit of all the accounts and other evidences of financial transactions of the Borough government including, but not being limited to, trust and agency funds and bond and assessment funds, and shall submit their report to the Assembly, including the Mayor. Such accountant or accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the Borough government or of any of its officers. They shall not maintain any accounts or records of the Borough business, but, within specifications approved by the Assembly, shall post-audit the afore-described accounts and records of the Borough government. Copies of the audit shall be available to the public upon request.

Chapter 6.08

ASSETS -- DISBURSEMENTS

Sections:

- 6.08.010 Borough Treasury.
- 6.08.020 Central Accounting.
- 6.08.030 Checks.

6.08.010 Borough Treasury.

A. The Borough Finance Director shall be responsible for the collection, custody and disbursement of all monies from whatever source.

B. The Borough treasury operating cash shall be deposited into one institution to be designated by resolution of the Assembly.

C. The Borough Finance Director shall invest Borough money upon directive of the Assembly by resolution in any of the following types of investments:

1. Bonds, notes or other obligations;
2. Certificates of deposit or saving accounts of any bank;
3. Equities: common or preferred, American depository receipts, or real estate investment trusts.

D. The Assembly may delegate investment, custodial or depository authority on a discretionary or nondiscretionary basis to independent firms, banks, financial institutions, broker-dealers, investment advisors, or trust companies by designation through appointments, contracts, or letters of authority.

E. The Finance Director shall provide to the Assembly on a monthly basis, the following statements:

1. A summary statement of cash receipts and disbursements;
2. A general fund expenditure report as follows: Each department as listed on the adopted fiscal year budget, with listed the actual monthly expenditures, total expenditures to date, the budgeted amount and the remaining balance for each department's line items;
3. A general fund revenue report as follows: Each local, state, federal or other revenue source as listed on the adopted fiscal year budget, with listed the revenue received during the month, revenue received to date, budget amount and balance due for each line item; and

4. Summary balances for all checking and savings account funds.

F. The School Board shall be responsible for the collection, custody and disbursement of all moneys from whatever source which are used in operating the public school system.

6.08.020 Central Accounting.

A. All accounting functions for all departments, offices and agencies are centralized in the office of the Borough Finance Director. The Finance Director may utilize, to the maximum extent allowable by the state, the services of the state of Alaska.

B. The Finance Director shall provide to the Assembly on a monthly basis, the following statements:

1. A consolidated balance sheet -- all funds;
2. A statement of revenue -- estimated and actual;

and

3. A statement of expenditures compared with authorizations.

C. All accounting functions for the public school system are the responsibility of the School Board.

6.08.030 Checks. All checks drawn on the treasury of the Borough shall be signed by authorized signees as designated by resolution.

Chapter 6.12

BUDGET -- BUDGET MESSAGE -- CAPITAL IMPROVEMENTS

Sections:

- 6.12.010 Preparation and Adoption of Budget.
- 6.12.020 Budget Message.
- 6.12.030 Capital Improvement Program.
- 6.12.040 Budget Message -- Capital Improvements.
- 6.12.050 Budget Message -- Supporting Schedule.
- 6.12.060 Budgetary Control and Administration.

6.12.010 Preparation and Adoption of Budget. The Borough Manager shall recommend to the Assembly an annual budget for the ensuing fiscal year. The budget shall present information on recommended appropriations, anticipated expenditures, estimated taxes and other revenues required to support the budget. The Borough Finance Director shall compile the budget based upon detailed departmental estimates and work programs, and shall control the same under the direction of the Borough Manager.

6.12.020 Budget Message. A budget message, submitted by the Borough Manager to the Assembly, shall accompany the proposed budget. The budget message shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the Borough for the budget year, and shall describe in connection therewith the most important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in appropriation and revenue items and shall explain any major changes in policy.

6.12.030 Capital Improvement Program.

A. The Borough Manager shall submit a capital improvement program which includes a budget of proposed projects for the six following fiscal years, said program and budget to be updated annually by the Planning and Zoning Commission.

B. The capital improvements program and budget shall contain, at the very least, the following information:

1. A simple, clear summary of the detailed contents of the program;

2. A summary of current capital improvements which are unfinished, including costs to date and projected costs to completion;

3. The capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing; and

4. An estimate of additional or reduced cost of operating and maintaining the project after completion.

C. Capital improvements to be financed in the following fiscal year shall be included in the budget as well as in the capital improvements program.

D. The appropriation ordinance shall appropriate from the various funds to the capital projects fund the monies for the capital improvement projects. Disbursements shall be made for each authorized project or improvement from the capital projects fund.

E. The school board shall make its recommendations regarding capital improvements to the Assembly through the Planning and Zoning Commission.

6.12.040 Budget Message -- Capital Improvements. As part of the budget message, with relation to the proposed expenditures for down payments and capital projects stated in the budget, the Borough Manager shall include a statement of pending capital projects and proposed new capital projects, relating the respective amounts, if any, proposed to be raised therefore by the issuance of bonds during the budget year. A forecast of the projected debt ratios will be provided.

6.12.050 Budget Message -- Supporting Schedules. Attached to the budget message, as the Borough Manager believes useful to the Assembly, shall be supporting schedules, exhibits and other explanatory material regarding both current operations and capital improvements.

6.12.060 Budgetary Control and Administration.

A. No payment may be made and no obligation incurred against the Borough except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the Manager or Mayor ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the payment.

B. No officer, department or agency shall, without Assembly approval, during any budget year, expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that general classification of expenditures by the current budget.

C. All appropriations lapse at the end of the budget year to the extent that they have not been expended or lawfully encumbered; however, an appropriation for capital improvement, or in connection with requirements with federal or state grants shall not lapse until its purpose has been accomplished or abandoned.

D. Unencumbered appropriation balances may be transferred within a department by the Borough Manager at any time. At the request of the Borough Manager or on its own prerogative, the Assembly may transfer unencumbered appropriation balances from one office, department or agency to another.

E. If during the fiscal year it appears that revenues available will be insufficient to meet the amount appropriated, the Assembly, by ordinance, may reduce any appropriation, except for debt service. No appropriation may be reduced by more than the amount of the unencumbered balance.

F. Notwithstanding paragraph A of this subsection, the Assembly may, by ordinance, require payment of funds from appropriations of a later fiscal year or of more than one year for any contract, lease, note or bond obligation, or any other grant or program.

Chapter 6.16

BUDGET FORM AND SCOPE

Sections:

- 6.16.010 Scope of Budget.
- 6.16.020 Anticipated Revenues.
- 6.16.030 Anticipated Revenues Compared with Other Years.
- 6.16.040 Year-end Surpluses.
- 6.16.050 Anticipated Surplus From Borough Utility or Other Public Service Enterprise.
- 6.16.060 Revenues -- Measures of Estimates.
- 6.16.070 Revenues From New Source.
- 6.16.080 Revenue From Property Tax.
- 6.16.090 Revenue From Delinquent Property Taxes -- Measure of Estimates.
- 6.16.100 Revenue From Current Property Tax -- Measure of Estimates.
- 6.16.110 Proposed Expenditures.
- 6.16.120 Provision for Cash Deficit of Current Year.
- 6.16.130 Proposed Expenditures Compared with Other Years.
- 6.16.140 Down Payments on Capital Projects.
- 6.16.150 Reserve for Capital Outlay Account.
- 6.16.160 Budget Summary.

6.16.010 Scope of Budget.

A. The budget shall be a complete financial plan for all operations of the Borough, showing all reserves, estimated revenues from all sources, and proposed expenditures for all purposes.

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

C. Proposed expenditures shall not exceed total anticipated revenues and reserves.

6.16.020 Anticipated Revenues. Anticipated revenues shall be composed of "taxes," "licenses and permits," "intergovernmental revenue," "charges for services," "fines and forfeits," "miscellaneous revenue," "cash reserves," and "rents and leases."

6.16.030 Anticipated Revenues Compared with Other Years.

In the comparative statement, in parallel columns opposite the items of anticipated revenues, there shall be listed the amount of each such item actually received in the preceding fiscal year, the amount of each item of the budget of the current year, and the amount actually received during the first six months of the current year.

6.16.040 Year-end Surpluses. Unencumbered year-end surpluses available for appropriation shall be restricted to available surplus, which is defined for purposes of this title as the amount by which cash plus accrued net receivables exceeds current liabilities at the beginning of the current fiscal year. Net receivables for particular funds shall be determined as provided by the National Committee on Governmental Accounting in the current edition of their manual on Governmental Accounting, Auditing and Financial Reporting.

6.16.050 Anticipated Surplus From Borough Utility or Other Public Service Enterprise. The anticipated revenues and proposed expenditures of each utility or other public service enterprise owned or operated by the Borough shall be stated in a separate section of the budget, each bearing the name of the utility or enterprise. Any anticipated year-end surpluses, if legally available for general purposes, anticipated payment in lieu of taxes (utilizing the same evaluation basis which would be used if privately owned, times the applicable millage rate), and reimbursements for central services rendered shall be stated as an item of revenue in the general fund budget. However, no payment for general purposes or payment in lieu of taxes may be made if the utility or enterprise is not self-liquidating in regard to debt.

6.16.060 Revenues -- Measures of Estimates. No revenue from any source, except year-end surpluses from publicly owned enterprises, shall be included as an anticipated revenue in the budget in an amount in excess of the average of the amount actually realized in cash from the same source in the next preceding fiscal year, and that actually realized in the first six months of the current fiscal year plus that anticipated for the remaining portion of the fiscal year, estimated as accurately as may be, unless the Borough Manager shall determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and the budget message explains this determination.

6.16.070 Revenues From New Source. No revenue from a new source not previously stated in the budget shall be included unless the Borough Manager shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and the budget message explains such determination. If the new revenue is to be received from the state or a federal agency, the anticipated amount shall not exceed the amount which an appropriate officer of the state or federal agency shall declare in writing to be the amount which may reasonably be anticipated in the budget year.

6.16.080 Revenue From Property Tax. Anticipated revenue from the property tax shall separately include the estimated revenue from delinquent property taxes and the estimated revenue from the levy due in the budget year. Each item of revenue shall be the anticipated actual cash receipts from these sources, estimated as prescribed in Sections 6.16.090 and 6.16.100 of this Chapter.

6.16.090 Revenue From Delinquent Property Taxes -- Measure of Estimates. The estimate of the amount of delinquent property taxes expected to be collected during the budget year shall be a proportion of the delinquent property taxes expected to be outstanding on the first day of the budget year, said proportion to not exceed the average of (1) the percentage of delinquent property taxes outstanding at the beginning of the next preceding fiscal year which was actually realized in cash during that year; and (2) the percentage of the delinquent taxes outstanding at the beginning of the current fiscal year which was actually realized in cash for the first six months plus that to be received in the remainder of the year estimated as accurately as may be.

6.16.100 Revenue From Current Property Tax -- Measure of Estimates. The item included in the budget as anticipated revenue from the property tax levied and payable in the budget year shall be a proportion of the levy, not in excess of the average of (1) the percentage of the levy of the next preceding fiscal year which was actually realized in cash during that year and (2) the percentage of the levy of the current fiscal year which was actually realized in cash for the first six months plus that to be received in the remainder of the current year estimated as accurately as may be. There shall be set forth with the estimate of revenue to be received from the tax levy

applicable to the budget year, the total amount of taxes required to be levied to produce this estimate and the amount of the reserve required for taxes uncollected within the year of levy.

6.16.110 Proposed Expenditures. Proposed expenditures shall be itemized. Separate provisions shall be included in the budget for, but not necessarily limited to, the following items:

A. Interest, amortization of principal and redemption charges on the public debt for which the faith and credit of the Borough is pledged;

B. Other expenditures required by statute;

C. The payment of all judgments, unless the Borough is authorized by law to issue bonds to pay such judgments and has made actual provision for payment under such authorization;

D. The cash deficit of the current year, to the extent provided by Section 6.16.120;

E. The amount equal to the aggregate principal amount of all tax anticipation notes which it is estimated will be outstanding on the first day of the budget year;

F. The amount equal to the aggregate of all discounts, cancellations, remissions, abatements and refunds of taxes that have been made during the current fiscal year, provided that where applicable this shall be set out as a specific item of reduction in the revenue projections;

G. The amount equal to the aggregate of all special revenue notes or warrants, which it is estimated will be outstanding at the end of the current year in anticipation of the collection of revenues other than the property tax;

H. The amount equal to the aggregate of all emergency notes or warrants, which it is estimated will be outstanding at the end of the current year;

I. The amount equal to the deficit arising from the operations of utility or other public service enterprises during the next preceding fiscal year, separately stated for each utility or other public service enterprise which appears in a separate section of the budget. However, provision shall be made for increased service charges or increased contributions from taxes in an amount sufficient to eliminate the deficit;

J. Administration, operation and maintenance costs of each office, department or agency of the Borough;

K. Assembly's budgetary reserve in an amount not more than three percent of the total amount stated pursuant to subsection (J) of this section;

L. Expenditures proposed for capital projects, including provisions for down payments on capital projects to be transferred to the capital projects fund; and

M. A provision for appropriations to a reserve for capital outlay account, to be maintained in the capital projects fund for all projects scheduled for pay-as-you-go or for a partial down payment as provided for in Section 6.16.140.

6.16.120 Provision for Cash Deficit of Current Year.

Under the caption "Cash Deficit of Current Year," there shall be included an amount at least equal to the amount by which the aggregate of expenditures and encumbrances in the current year will exceed the aggregate of cash receipts in the current year, unless or to the extent that such deficit will have been provided for from available reserves of the various service areas or areawide accounts or through the issuance of notes, warrants or other interim or temporary financing needs for which appropriation is made under Section 6.16.110(E) and (H).

6.16.130 Proposed Expenditures Compared With Other Years.

In parallel columns, opposite the items of proposed expenditures, there shall be placed the amount of each such item actually expended in the preceding fiscal year, the amount budgeted for the current fiscal year and the amount actually expended for the first six months of the current fiscal year.

6.16.140 Down Payments on Capital Projects.

A. The budget shall separately state a sum which is not less than five percent of the amount of expenditures from bond proceeds for each capital project during the budget year; said sum shall be a "down payment" on projects and appropriated from the reserve for capital outlay account if accumulated under the provision of Section 6.16.150, and/or otherwise appropriated from the applicable fund to the extent the down payment was not provided in prior operating budgets. Each capital project shall be individually listed, along with the amount expected to be authorized for bonds to finance the project. For the purpose of the down payments, all street improvements expected to be financed in part by the issuing of bonds during the budget year may be considered a single project, as may all proposed extensions of the water and sewer systems.

B. An appropriation for a down payment shall not be required before the issuance of bonds to finance any capital expenditure which is the result of fire, flood or other disaster, is for a Borough owned or operated utility or other public service enterprise, or is to be met, in part, in cash,

labor or materials by any agency of the government of the United States of America or of this state.

C. A down payment may be accumulated in a reserve for capital outlay account in the capital projects fund, as well as the enterprise funds, annually based upon the long range capital improvement program and budget.

6.16.150 Reserve for Capital Outlay Account.

A. A reserve for capital outlay accounts will be established within the capital projects fund and each utility and other enterprise fund.

B. Based upon the six-year program submitted per Section 6.12.040, provisions will be made to accumulate annually the minimum down payment for each project in the current budget to be expended from bond proceeds. In addition, provisions will be made to annually appropriate funds to this account for projects outlined in the six-year program.

6.16.160 Budget Summary. At the beginning of the budget, there shall appear a summary of the budget. The budget summary need not be itemized further than by principal sources of anticipated revenue, stating separately the amounts to be raised by property tax, and by departments and kinds of expenditures in such a manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.

Chapter 6.20

BUDGET PROCEDURES

Sections:

- 6.20.010 Budget Public Record.
- 6.20.020 Publication of Notice of Public Hearing.
- 6.20.030 Public Hearing on Budget.
- 6.20.040 Further Consideration of Budget.
- 6.20.050 Adoption of Budget -- Vote Required -- Date of Adoption.
- 6.20.060 Effective Date of Budget -- Certification -- Copies Made Available.

6.20.010 Budget Public Record. The budget, the budget message, the capital improvement program and all supporting schedules shall be a public record in the office of the Clerk, open to public inspection.

6.20.020 Publication of Notice of Public Hearing. The Assembly shall determine the place and time of the public hearing on the budget, and shall cause such to be published in a newspaper of general circulation, or if there is no such newspaper in the Borough, post such notice in three places in the Borough. The Assembly shall include in the notice a summary of the budget and capital improvement program and a statement setting out the time and place for a public hearing. This notice shall be published at least two weeks prior to the hearing.

6.20.030 Public Hearing on Budget. At the time and place so advertised, or at any time and place to which such hearing from time to time be adjourned, the Assembly shall hold a public hearing on the budget as submitted, at which all interested persons shall be given reasonable opportunity to be heard, for or against the estimates or any item thereof.

6.20.040 Further Consideration of Budget. After the conclusion of such public hearing, the Assembly may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law or prescribed by Section 6.16.110(A) through (I). The Assembly may not vary the titles, descriptions or conditions of administration specified in the budget.

6.20.050 Adoption of Budget -- Vote Required -- Date of Adoption. The budget shall be adopted by favorable votes of at least a majority of all the members of the Assembly, preferably by May first, and not later than June 15th.

6.20.060 Effective Date of Budget -- Certification -- Copies Made Available. Upon adoption of the budget, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified by the Mayor and the Clerk and filed in the office of the Clerk. The budget so certified shall be printed, mimeographed or otherwise reproduced and sufficient copies shall be made available for the use of all officers, departments and agencies and for interested persons and civic organizations through the Clerk's office.

Chapter 6.24

PURCHASING

Sections:

- 6.24.010 Purchasing Agent.
- 6.24.020 Purchasing Agent -- Scope of Authority.
- 6.24.030 Purchasing Agent -- Other Powers and Duties.
- 6.24.040 Inspection and Testing.
- 6.24.050 Authority of Borough Manager.
- 6.24.060 Public Improvement Contracts.
- 6.24.070 When Prior Approval by the Assembly is Required.
- 6.24.080 Requisitions and Estimates.
- 6.24.090 Contracts over Fifteen Thousand Dollars.
- 6.24.100 Bids -- Notice Inviting.
- 6.24.110 Changes and Addenda in Contract Documents.
- 6.24.120 Pre-bid Conference.
- 6.24.130 Bids -- Opening Procedure.
- 6.24.140 Bids -- Rejection.
- 6.24.150 Bids -- Waiver of Irregularities.
- 6.24.160 Award of Contract to Lowest Bidder -- Exception.
- 6.24.170 Exceptions to Competitive Sealed Bidding and Submission of Quotations.
- 6.24.175 Competitive Sealed Proposals.
- 6.24.180 Contracts for Five Thousand Dollars or Less.
- 6.24.190 Contracts Between Five and Fifteen Thousand Dollars.
- 6.24.200 Insurance Policies.
- 6.24.210 Subdivision of Specifications Prohibited.
- 6.24.220 Emergency Contracts.
- 6.24.230 Encumbrance of Funds.
- 6.24.240 State Procurement Code.

6.24.010 Purchasing Agent. The Borough Manager or his designee shall be the Borough Purchasing Agent.

6.24.020 Purchasing Agent -- Scope of Authority.

A. The purchasing agent shall have the power, and it shall be his duty, to purchase or contract for supplies and contractual services needed by any using agency of the Borough and to sell surplus personal property of such using agencies in accordance with the ordinances of the Borough and such rules and regulations as shall be prescribed by the Mayor and approved by the Assembly.

B. The purchasing agent shall have the authority to join with other units of governments in cooperative purchasing ventures when the best interests of the Borough would be served thereby, and same is in accordance with Borough and state law.

6.24.030 Purchasing Agent -- Other Powers and Duties. The purchasing agent shall:

A. Act to procure for the Borough the highest quality in supplies and contractual services at least expense to the Borough;

B. Recommend the establishment, and amendment when necessary, of all rules and regulations relating to purchasing;

C. Prescribe and maintain such forms as he shall find reasonably necessary; and

D. Act so as to procure for the Borough all state and federal tax exemptions to which it is entitled.

6.24.040 Inspection and testing.

A. The purchasing agent may designate each department head to inspect, as far as possible, and/or supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract as it pertains to that department.

B. The purchasing agent shall have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such using agencies, under rules and regulations which the purchasing agent shall prescribe.

C. The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the Borough government or of any outside laboratory.

6.24.050 Authority of Borough Manager. The Borough Manager may transfer supplies, materials and equipment to or between agencies, offices and departments.

6.24.060 Public Improvement Contracts. Contracts for public improvements shall be by competitive, sealed bid and shall be awarded to the lowest qualified bidder.

6.24.070 When Prior Approval by the Assembly is Required. Every contract for, or purchase of, supplies, materials,

equipment, or contractual services for more than fifteen thousand dollars shall require the prior approval of the Assembly, and under no circumstances may such contract or purchase be made without first obtaining the approval of the Assembly.

6.24.080 Requisitions and Estimates.

A. All agencies of the Borough which use supplies or services shall, either by or with the authorization of the department head under which the using agency operates, file with the purchasing agent requisitions or estimates of their requirements in supplies and contractual services in such manner, at such times, and for such future periods as the purchasing agent shall prescribe.

B. A using agency shall not be prevented from filing, in the same manner, with the purchasing agent at any time a requisition or estimate for any supplies and contractual services, the need for which was not foreseen when the detailed estimates were filed.

C. The purchasing agent shall examine each requisition or estimate and shall have the authority to recommend revisions as to quantity, quality or estimated cost.

6.24.090 Contracts Over Fifteen Thousand Dollars. Unless otherwise prohibited or exempted by the ordinances of the Borough, all contracts and purchases for an amount estimated to exceed fifteen thousand dollars shall be by competitive, sealed bid.

6.24.100 Bids -- Notice Inviting.

A. Notice inviting competitive, sealed bids shall be published once in a newspaper of general circulation published in the Borough, or if there is no such newspaper by posting in three separate places in the Borough at least fourteen days preceding the last day set for the receipt of bids. The notice required herein shall state a general description of the work, materials or services, where bid forms and specifications may be secured, the closing time for submission of bids, the place of submission of bids and the time and place for opening bids. Bid deposits, if required, shall be prescribed in the public notices inviting bids.

B. The Borough shall also invite sealed bids from all responsible prospective contractors who have requested their names be added to a "bidders' list" which the Borough shall maintain, by sending such contractors a copy of such notice or such other notice as will acquaint them with the proposed

contract. In any case, invitations sent to the contractors on the bidders' list shall be limited to work that is similar in character and ordinarily performed by the contractors. Failure of any person on the "bidders' list" to receive such invitation to bid shall not invalidate the bidding procedures.

6.24.110 Changes and Addenda in Contract Documents. No official or officer shall make any oral interpretations which may affect the substance of the contract documents, nor shall make any oral change in the contract documents. The bid documents shall so state this. Addenda shall be issued when questions arise which might affect the bids. The purchasing agent shall be certain that all bidders receive the addenda, which should be delivered by certified mail (receipt requested), telegraph, or hand. When delivered by hand, receipt of the addenda should be obtained. When an addendum is issued less than four working days before the time for receipt of bids, the addendum shall contain a new bid date which shall be at least four working days after the normal receipt of the addendum by the prospective bidder. Receipt of addenda should be acknowledged as part of the bid submitted.

6.24.120 Pre-bid Conference. Department heads or the purchasing agent, upon their own initiative or at the request of a bidder, may provide for a pre-bid conference at least seven days prior to the time for submission of bids. All points of clarification and questions answered at the conference which may affect the bid shall be issued in the form of addenda.

6.24.130 Bids -- Opening Procedure.

A. Sealed bids shall be submitted personally or by mail to the officer designated in the notice inviting bids and shall be identified as bids on the envelope.

B. Bids shall be opened in public at the time and place stated in the public notices, which shall be immediately after the closing time for submission of bids. The time of closing should preferably be on a Tuesday, Wednesday, Thursday or Friday afternoon. Bids not received by the Borough prior to the bid opening shall not be opened and considered. Any bidder may review all bids immediately after opening and prior to tabulation or summary.

C. A tabulation of all bids received shall be forwarded to the Assembly by the purchasing agent with appropriate recommendations for acceptance or rejection of bids. A copy of the tabulation shall be furnished to each bidder.

6.24.140 Bids -- Rejection.

A. Upon receipt of the bids, the Borough Assembly or its delegate shall have the authority to:

1. Reject defective or nonresponsive bids;
2. Reject all bids;
3. Negotiate with the three lowest responsible bidders, if bid prices are in excess of the money available; and/or
4. Readvertise the project for bidding, after making substantial changes in the project plans to bring the cost within the limit of the money available.

B. If the lowest and best bid exceeds the budgeted amount and the Borough Assembly does not make additional funds available, the proposed contract for purchase or sale or for services or for a construction project shall be reduced in scope sufficiently to bring the estimate of cost within the fund available.

6.24.150 Bids -- Waiver of Irregularities. The Borough Assembly shall have the authority to waive any and all irregularities on any or all bids.

6.24.160 Award of Contract to Lowest Bidder -- Exception.

A. Contracts shall be awarded to the lowest responsible bidder. In determining the "lowest responsible bidder," in addition to price, there shall be considered:

1. The ability, capacity and skill of the bidder to perform the contract;
2. Whether the bidder can perform the contract within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract;
7. The number and scope of conditions attached to the bid; and
8. If some bids are approximately equal, some preference may be given to local bidders.

B. When the award is given to other than the lowest bidder, a full and complete written statement of the reasons therefor shall be delivered to the unsuccessful low bidder or bidders and filed with the other papers relating to the

transaction. The minutes of the Assembly relating to the matter may be used as the required written statement.

6.24.170 Exceptions to Competitive Sealed Bidding and Submission of Bid. The restrictions and provisions of this Chapter requiring competitive bidding shall not apply:

A. To contracts involving the obtaining of professional or specialized services, such as, but not limited to, services rendered by architects, attorneys, engineers and other specialized consultants;

B. Where calling for bids on a competitive basis is unavailing or impossible, including, but not limited to, situations where rates are set by statute or ordinance or where like items are traded in, or where used items are being purchased;

C. Where the Borough's requirements can be met solely by an article or process obtainable only from a single source;

D. To placement of insurance coverage;

E. When public work is performed by the Borough with its own employees;

F. When it is advantageous to the Borough to enter into a contract with a bidder for the same supplies or services such bidder is providing another Alaskan local government, the state of Alaska, or the United States, where such supplies or services are being provided the other governmental unit on the basis of formal bids submitted, and where the Borough contract is on substantially the same terms as those bid; or to contract with or through such other governmental unit so that the benefit of the responsible bid accrues to the Borough;

G. When competitive procedure has been followed, but no bids or quotations are received. In such a case, the purchasing agent may proceed to have the services performed or the supplies purchased without further competitive bidding;

H. To supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers, including war surplus; and

I. To contractual services purchased from a public utility corporation at a price or rate determined by state or other government authority.

J. To contracts which are procured by competitive sealed proposals pursuant to Section 6.24.175 of this Chapter, when the conditions for use of competitive sealed proposals under that section are met.

K. To purchases of fuel, and related container, transportation and delivery services, by the Borough's

electrical utility, provided that the purchasing agent ascertains, through reasonably sufficient and commercially practicable efforts, that the fuel is being purchased by the Borough at the lowest cost available to the Borough taking into account all related expenses. Purchases made under this paragraph do not require Assembly approval under section 6.24.070 of this Chapter.

6.24.175 Competitive Sealed Proposals.

A. When the Borough Purchasing Agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the Borough, a contract may be entered into by competitive sealed proposals.

B. When the purchasing agent determines that it is advantageous to the Borough, the purchasing agent may issue a request for proposals requesting the submission of offers to provide construction in accordance with a design provided by the offeror. The request for proposals shall require that each proposal submitted contain a single price that includes the design/build.

C. A request for competitive sealed proposals must contain the date, time, and place for delivering proposals, a specific description of the supplies, construction, services, or professional services to be provided under the contract, and the terms under which the supplies, construction, services, or professional services are to be provided. The request must require the offeror, no later than five working days after the proposal that is the most advantageous to the Borough is identified, to list subcontractors the offeror proposes to use in the performance of the contract. The list must include the name and location of the place of business for each subcontractor, the work to be subcontracted to each subcontractor, and evidence of the subcontractor's valid Alaska business license. An offeror for a construction contract shall also submit evidence of the offeror's registration under AS 08.18 and evidence of registration for each listed subcontractor.

D. A request for proposals must contain that information necessary for an offeror to submit a proposal, or contain references to any information that cannot reasonably be included with the request. The request must provide a description of the factors that will be considered by the purchasing agent when evaluating the proposals received, including the relative importance of price and other evaluation factors.

E. Notice of a request for proposals shall be given in accordance with procedures under Section 6.24.100. The

purchasing agent may use additional means considered appropriate to notify prospective offerors of the intent to enter into a contract through competitive sealed proposals.

F. If a subcontractor on an offeror's list did not have a valid Alaska business license and a valid certificate of registration under AS 08.18 at the time the proposal was opened, the offeror may not use the subcontractor in the performance of the contract, and shall replace the subcontractor with a subcontractor who had a valid Alaska business license and a valid certificate of registration under AS 08.18 at the time the proposal was opened.

An offeror may replace a listed subcontractor if the subcontractor

- (1) fails to comply with AS 08.18;
- (2) files for bankruptcy or becomes insolvent;
- (3) fails to execute a contract with the offeror involving performance of the work for which the subcontractor was listed and the offeror acted in good faith;
- (4) fails to obtain required bonding;
- (5) fails to obtain insurance acceptable to the Borough;
- (6) fails to perform the contract with the offeror involving work for which the subcontractor was listed;
- (7) must be substituted in order for the offeror to satisfy required state and federal affirmative action requirements;
- (8) refuses to agree or abide with the offeror's labor agreement; or
- (9) is determined by the purchasing agent not to be a responsible subcontractor.

G. A bidder who attempts to circumvent the requirements of subsection (C) hereof by listing as a subcontractor another contractor who, in turn, sublets the majority of the work required under the contract violates this section.

H. If a contract is awarded to an offeror who violates the requirements of subsection (C) hereof, the purchase agent may

- (1) cancel the contract; or
- (2) after notice and a hearing, assess a penalty on the offeror in an amount that does not exceed 10 percent of the value of the subcontract at issue.

I. The offeror must have a valid Alaska business license at the time its proposal was opened.

J. The purchasing agent shall open proposals so as to avoid disclosure of contents to competing offerors during the process of negotiation. The proposals are open for public

inspection after the notice of intent to award a contract is issued. To the extent that the offeror designates and the purchasing agent concurs, trade secrets and other proprietary data contained in the proposal documents are confidential.

K. Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors reasonably susceptible of being selected for award shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before the award of the contract for the purpose of obtaining best and final offers. In conducting discussions, the purchasing agent may not disclose information derived from proposals submitted by competing offerors.

L. The purchasing agent or, if the contract is for more than fifteen thousand dollars, the Assembly, shall award a contract under competitive sealed proposals to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the Borough taking into consideration price and the evaluation factors set out in the request for proposals. In determining whether a proposal is advantageous to the Borough, the purchasing agent or Assembly shall take into account whether the offeror is a local bidder who has maintained a place of business within the Borough for a period of six months preceding the date of the request for proposals. For the purpose of evaluating cost factors, the proposed costs of an offeror who qualifies as a local bidder shall be reduced by five percent (5%). Factors and criteria other than those set forth in the request for proposals may not be used in the evaluation. The contract file must contain the basis on which the award is made. The minutes of the Assembly relating to the award decision may be used as the basis for the award.

M. The purchasing agent or, if the contract is for more than fifteen thousand dollars, the Assembly, may either make an award or reject all proposals and resolicit proposals.

N. A contract awarded under competitive sealed proposals must contain

(1) the amount of the contract stated on its first page;

(2) the date for the supplies to be delivered or the dates for construction, services, or professional services to begin and be completed; and

(3) a description of the supplies, construction, services, or professional services to be provided.

6.24.180 Contracts of Five Thousand Dollars or Less.
Unless otherwise prohibited by the ordinances of the Borough, purchases of materials, supplies, equipment or contractual services, where the actual cost is five thousand dollars or less, may be made on the open market without competitive bidding.

6.24.190 Contracts Between Five and Fifteen Thousand Dollars.

A. All purchases of supplies, materials, equipment and contractual services of a total estimated value of more than five thousand dollars and less than fifteen thousand dollars shall be made in the open market without newspaper advertisement and without observing the procedure prescribed by this title for formal purchasing or sale procedures.

B. Open market purchases or sales made under this section shall, whenever possible, be based on at least three competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in Sections 6.24.090 through 6.24.170 of this Chapter.

C. The purchasing agent may solicit either oral or written bids for open market purchases or sales.

D. The purchasing agent shall keep a record of all open market bids submitted in competition thereon, and such records shall also be open to public inspection.

6.24.200 Insurance Policies.

A. The Borough shall purchase policies of insurance by the open market procedures provided in this Chapter.

B. Open market procedures may not be required for a policy which:

1. Has an annual premium or charge of less than two hundred fifty dollars;
2. Provides liability coverage for a single event;
3. Is for property title insurance; or
4. Has its premium or charge fixed by state statute.

C. Open market procedures may not be required for a change in an insurance policy in effect, or to acquire policies supplemental to an existing policy if the policies in effect cannot be changed, provided that the change or supplemental policies are approved by the Assembly.

6.24.210 Subdivision of Specifications Prohibited. No project or contract specifications shall be subdivided to avoid the requirements of this title. This provision shall not preclude the use of alternate deductible items.

6.24.220 Emergency Contracts. Whenever, because of any emergency, it is deemed necessary and in the public interest by the Mayor to enter into any contract without following the competitive bidding procedures as may be required by this title, the Mayor shall authorize such emergency contract if the estimated sum involved is less than fifteen thousand dollars. If the estimated contract sum involved is greater than fifteen thousand dollars, the Mayor shall refer any proposed emergency contract to the Assembly for its approval and authorization to waive the competitive bidding procedures.

6.24.230 Encumbrance of Funds. Except in cases of emergency declared by the Mayor or the Assembly as provided in this chapter, no contract or any change order to an existing contract shall be authorized unless there is a sufficient unencumbered balance in the budget appropriation of the using agency or sufficient bond funds available, in excess of actual expenditures or commitments, to cover such contract or change order.

6.24.240 State Procurement Code. If the bidding procedures set out in the State Procurement Code (AS 36.30.005 et seq.) are applicable to any contract to which the Borough is a party, then those procedures shall govern in the case of any inconsistency between those procedures and the procedures set out in this Code.

Chapter 6.28

LEVY OF PROPERTY TAX

Sections:

- 6.28.010 Annual Tax Levy.
- 6.28.020 Taxpayer Notice.
- 6.28.030 Property Subject to Tax.
- 6.28.040 Required Exemptions.
- 6.28.050 ANB Hall Tax Exemption.
- 6.28.060 Additional Taxation Upon a Service Area.

6.28.010 Annual Tax Levy.

A. The Assembly shall annually by ordinance levy a general property tax for the Borough.

B. The Assembly shall annually by resolution establish the rate or rates of levy on assessed property within the Borough, provided however, that such rate or rates shall not be more than three percent of the assessed valuation of real property within the Borough, unless authorized by AS 29.45.090 or other applicable provision of state law.

C. All property on which a tax is levied shall be taxed at the same rate during the year.

6.28.020 Taxpayer Notice.

A. The Assembly shall provide the following notice:

NOTICE TO TAXPAYER

For the current fiscal year the Borough has been allocated the following amount of state aid for school and municipal purposes under the applicable financial assistance Acts:

PUBLIC SCHOOL FUNDING PROGRAM (AS 14.17)	\$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 14.11.100)	\$
COMMUNITY REVENUE SHARING PROGRAM (AS 29.60.850-29.60.879)	\$
TOTAL AID	\$

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

MILLAGE EQUIVALENT		
	PREVIOUS YEAR	THIS YEAR
PUBLIC SCHOOL FUNDING		
PROGRAM ASSISTANCE	... MILLS	... MILLS
STATE AID FOR RETIREMENT		
OF SCHOOL CONSTRUCTION		
DEBT	... MILLS	... MILLS
COMMUNITY REVENUE SHARING		
PROGRAM	... MILLS	... MILLS
TOTAL MILLAGE EQUIVALENT	... MILLS	... MILLS

B. Notice shall be provided:

1. by furnishing a copy of the notice with tax statements mailed for the fiscal year for which aid is received; or

2. by publishing in a newspaper of general circulation in the Borough a copy of the notice once each week for a period of three successive weeks, with such publication to occur not later than 45 days after the final adoption of the Borough's budget.

6.28.030 Property Subject to Tax. All real property within the corporate limits of the Borough of every nature, not exempt under the laws of the United States or the state of Alaska or the ordinances of this Borough, is subject to taxation for Borough purposes.

6.28.040 Required Exemptions.

A. The following property is exempt from general taxation:

1. Municipal property, including property held by a public corporation of a municipality or state property, except that (a) a private leasehold, contract or other interest in the property is taxable to the extent of the interest; (b) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an

investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land granted to the University by the state to replace land that had been granted under AS 14.40.380 or 14.40.390; (c) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, the Borough may not tax an interest in real property located in the Borough and owned by a city in the Borough;

2. Household furniture and personal effects of members of a household;

3. Property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes;

4. Property of a nonbusiness organization composed entirely of persons with ninety days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of an auxiliary of that organization;

5. Money on deposit;

6. The real property of certain residents of the state to the extent and subject to the conditions provided in (E) of this section;

7. Real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended.

8. Property of a political subdivision, agency corporation or other entity of the United States to the extent required by federal law, except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest.

9. Natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber.

B. In (A) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

1. The residence of a bishop, pastor, priest, rabbi, minister or religious order of a recognized religious organization;

2. A structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

3. Lots supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use;

4. Lots required by local ordinance for parking near a structure defined in (2) of this Subsection.

C. Property required in (A) (3) or (4) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

D. Laws exempting certain property from execution under the Code of Civil Procedure (AS 09) do not exempt the property from taxes levied and collected by the Borough.

E. The real property owned and occupied as the primary residence and permanent place of abode by a (1) resident 65 years of age or older; (2) disabled veteran; or (3) resident at least 60 years old who is the widow or widower of a person who qualified for an exemption under (1) or (2) of this subsection, is exempt from taxation on the first \$150,000 of the assessed value of the real property. The Borough may, in a case of hardship, provide for exemption beyond the first \$150,000 of assessed value in accordance with regulations of the Department of Community and Regional Affairs. Only one exemption may be granted for the same property and, if two or more persons are eligible for an exemption for the same property, the parties shall decide between or among themselves who is to receive the benefit of the exemption. Real property may not be exempted under this subsection if the assessor determines, after notice and hearing to the parties, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor may be appealed under AS 44.62.560-44.62.570.

F. An exemption may not be granted under (E) of this section except upon written application for the exemption on a form approved by the state assessor for use by local assessors. The claimant must file the application no later than January 15, or a date provided by ordinance that is not later than March 31, of the assessment year for which the exemption is sought. The Assembly for good cause shown may waive during a year the claimant's failure to make timely application for exemption for that year and authorize the assessor to accept the application as if timely filed. The claimant must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, the assessor shall allow an

exemption in accordance with the provisions of this section. If a failure to file by January 15, or a date provided by ordinance that is not later than March 31, of the assessment year has been waived as provided in this subsection and the application for exemption is approved, the amount of tax that the claimant has already paid for the assessment year for the property exempted shall be refunded to the claimant. The assessor shall require proof in the form the assessor considers necessary of the right to and amount of an exemption claimed under (E) of this section, and shall require a disabled veteran claiming an exemption under (E) of this section to provide evidence of the disability rating. The assessor may require proof under this section at any time.

G. The state shall reimburse the Borough for the real property tax revenues lost to it by the operation of (E) of this section. However, reimbursement will be made to the Borough for revenue lost to it only to the extent that the loss exceeds an exemption that was granted by the Borough, or that on proper application by an individual would have been granted under AS 29.45.050(a). If appropriations are not sufficient to fully fund reimbursements under this subsection, the amount available shall be distributed pro rata among eligible municipalities.

H. Except as provided in (G) of this section, nothing in (E) - (J) affects similar exemptions from property taxes granted by the Borough on September 10, 1972, or prevents the Borough from granting similar exemptions by ordinance as provided in AS 29.45.050.

I. In (E) - (I) of this section.

1. "disabled veteran" means a disabled person (a) separated from the military service of the United States under a condition that is not dishonorable who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as 50 percent or more by the branch of service in which that person served or by the Veterans' Administration; or (b) who served in the Alaska Territorial Guard, who is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska Territorial Guard, and whose disability has been rated as 50 percent or more;

2. "real property" includes, but is not limited to mobile homes, whether classified as real or personal property for Borough tax purposes.

J. One motor vehicle per household owned by a resident 65 years of age or older on January 1 of the assessment year is exempt either from taxation on its assessed value or from the

registration tax under AS 28.10.431. An exemption may be granted under this subsection only upon written application on a form prescribed by the Department of Public Safety.

K. The Department of Community and Regional Affairs shall adopt regulations to implement the provisions of (g) and (j) of AS 29.45.030, which are identical to (G) and (J) of this subsection

L. Two percent of the assessed value of a structure is exempt from taxation if the structure contains a fire protection system approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. The exemption granted by this subsection is limited to

1. an amount equal to two percent of the value of the structure based on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

2. an amount equal to two percent of the value of the structure based on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

M. For the purpose of determining property exempt under (A)(7) of this section, the following definitions apply to terms used in 43 U.S.C. 1620(d) unless superseded by applicable federal law:

1. "developed" means a purposeful modification of the property from its original state that effectuates a condition of gainful and productive present use without further substantial modification; surveying, construction of roads, providing utilities or other similar actions normally considered to be component parts of the development process, but that do not create the condition described in this paragraph, do not constitute a developed state within the meaning of this paragraph; developed property, in order to remove the exemption, must be developed for purposes other than exploration, and be limited to the smallest practicable tract of the property actually used in the developed state;

2. "exploration" means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources;

3. "lease" means a grant of primary possession entered into for gainful purposes with a determinable fee remaining in the hands of the grantor; with respect to a lease that conveys rights of exploration and development, this exemption shall continue with respect to that portion of the leased tract that is used solely for the purpose of exploration.

N. If property or an interest in property that is determined not to be exempt under (A)(7) of this section reverts to an undeveloped state, or if the lease is terminated, the exemption shall be granted, subject to the provisions of (A)(7) and (M) of this section.

6.28.050 ANB Hall Tax Exemption.

A. This section is enacted pursuant to the authority conferred upon the City and Borough of Yakutat under AS 29.45.050.

B. The Alaska Native Brotherhood Hall shall be exempted from the payment of real property taxes for the year 1979 and years following. This exemption applies to the land upon which the Hall is located and all buildings, structures, improvements and fixtures of whatever kind.

6.28.060 Additional Taxation Upon a Service Area. Any additional property tax levied upon a service area established under Chapter 6.30 of this Code shall comply with and be governed by the procedures set forth in Chapters 6.28 - 6.36 of this Code.

Chapter 6.30

SERVICE AREAS

Sections:

- 6.30.010 Purpose.
- 6.30.020 Establishment.
- 6.30.030 Service Area Petition Procedure.
- 6.30.040 Financing.
- 6.30.050 Differential Tax Levied.

6.30.010 Purpose. Service areas may be established to provide services not provided on an area-wide basis or to provide a higher level of service than that provided on an area-wide basis. A new service area shall be established only after the Assembly determines that such services cannot be provided reasonably by an existing service area.

6.30.020 Establishment.

A. The Assembly, by ordinance, may establish, alter, consolidate, or abolish service areas. The Assembly, by ordinance, may add or eliminate services to a service area. The ordinance shall contain the following:

1. The boundaries and area to be included; and
2. The service to be provided or to be eliminated.

B. Procedures for the establishment by petition of a service area shall be in accordance with the service area petition procedure set forth in 6.30.030.

C. Any protest to the establishment or abolishment of a service area shall be prepared, submitted and processed as set forth in Sections 7.2 - 7.8 of the Borough Charter, however, the petition shall be signed by a number of qualified voters residing within the service area or proposed service area equal to at least 25 percent of the votes cast in the service area or proposed service area at the last regular election. Such a protest shall be filed with the Borough Clerk within 14 days of passage of the ordinance by the Assembly.

6.30.030 Service Area Petition Procedure.

A. A service area may be sought through a petition addressed to the Borough Clerk. The petition shall contain the following:

1. A statement of the services proposed to be provided in the service area;

2. A map and/or legal description of the area to be included within the proposed service area;

3. The dated signatures of at least fifty (50) percent of the owners of real property within the proposed service area, as shown on the current property tax assessment roll;

4. The residence and mailing address of, and a legal description of the relevant real property owned by, each signor; and

5. The name and mailing address of a representative designated to receive correspondence on behalf of the signers.

B. All signatures on the petition shall be dated within sixty (60) days of the submission of the petition.

C. The petition shall be submitted to the Borough Clerk, who shall review it for conformity to this Section. The Clerk shall return an insufficient petition to the designated representative with a written description of its deficiencies. The Clerk shall refer a sufficient petition to the Borough Manager.

D. Within forty-five (45) days after a petition has been accepted as sufficient, the Borough Manager shall cause a review to be made of the matters set forth in the petition, and formation of the proposed service area, and shall report it to the Assembly. The Assembly may extend the time for making the report. The report shall contain the following:

1. A plan defining the proposed service area boundaries;

2. The number of persons living within the area;

3. The manner of exercising the proposed services therein;

4. The assessed or estimated value of all taxable property within the proposed area;

5. The need for services within the proposed area, and the feasibility of providing them, considering the area's size, population, and the facilities and services already existing therein;

6. The estimated cost of the proposed services;

7. The proposed area's ability to pay for the proposed services; and

8. Such other matters as deemed appropriate by either the Borough Manager or the Assembly.

E. The report shall be in written form and shall be presented to the Assembly at least fifteen (15) days before the public hearing on the proposed formation of the service area.

F. A public hearing shall be held within the proposed service area. The hearing may be held at a location outside the

area if no suitable location within the area can be found or if the Assembly deems it otherwise appropriate. Notice of the hearing shall be published in a newspaper of general circulation within the Borough not less than one week prior to the hearing. If no such newspaper exists, the notice shall be posted in at least three public places in the Borough at least seven (7) days prior to the hearing. Notice of the hearing shall be mailed to each landowner as shown on the current property tax assessment roll within the area described on the petition, at least seven (7) days prior to the hearing. Mailing is deemed complete upon posting.

G. The Assembly, after the public hearing, shall consider the proposed service area, in light of the Borough Manager's report and the evidence submitted at the public hearing. If the Assembly so chooses, it may thereafter establish, by ordinance, the service area.

H. The service area may be different in boundaries or services than as set forth in the petition. If the description of the type or amount of services to be provided, or the boundary of the area to be included within the area, is different than designated in the petition, another public hearing shall be held prior to or in conjunction with the ordinance procedure and notice thereof shall be given as provided in paragraph F above.

6.30.040 Financing. The Assembly may levy taxes, assessments or other charges within a service area to finance the services, and funds thereby raised shall not be used for any purpose outside of the service area.

6.30.050 Differential Tax Levied. There shall be a differential tax rate levied in each area and that rate shall be related to the estimated cost of services provided in that area.

Chapter 6.32

ASSESSMENT OF PROPERTY TAXES

Sections:

- 6.32.010 Definitions.
- 6.32.020 Assessor's Duties.
- 6.32.030 Full and True Value.
- 6.32.040 Assessment for Certain Properties.
- 6.32.050 Assessment Notice.
- 6.32.060 Board of Equalization.
- 6.32.070 Assembly Clerk ex Officio Clerk of Board.
- 6.32.080 Appeal to Board of Equalization.

6.32.010 Definitions. The following terms and phrases whenever used in this Chapter shall have the meanings ascribed to them in this section.

A. "Real property" includes:

1. Land itself, whether laid out in lots or otherwise;
2. All buildings, structures, improvements, fixtures of whatsoever kind permanently fixed thereon;
3. All possessory rights and privileges belonging or in any way appertaining thereto, including possessory rights to tidelands.

B. "Tract" includes all lands, pieces or parcels of land which may be separately assessed, together with the fixtures and improvements thereon.

C. "Business property" includes all real property as herein above defined which is used for business purposes.

6.32.020 Assessor's Duties.

A. Manner of listing property. The assessor shall complete the listing of all real property subject to taxation within the limits of the Borough before February 15. (Assessor appointment - See Section 2.36.010.) The listing of all taxable property may be made upon permanent separate ledger cards which will be the combined assessment roll and tax ledger. Real property shall be assessed to the owner of record as shown in the records of the recorder for the recording district, provided however, that any other person having an interest in the property may be listed on the assessment records with the owner. The person in whose name any property is listed as owner thereof shall be conclusively presumed to be the legal owner of record. If the owner of land is unknown, such land may be assessed to

"unknown owner" or "unknown owners." No assessment shall be invalidated by a mistake, omission or error in the name of the owner of the real property assessed if the property is correctly described.

B. Description of real property. The assessor may list real property located in a subdivision by lot and block or tract description, and unsubdivided property according to the land office section and township survey description, by describing the boundaries of the property, by reference to the book and page of the records of the recorder where the description may be found, by tax lot number referring to a public record of descriptions of real property kept by the assessor, or by any other description capable of being made certain. Initial letters, abbreviations, fractions and exponents to designate the township, range, section or part of a section, or the number of a lot or block or part of a lot or block, or a distance, course, bearing or direction may be used in a description of real property.

1. For purposes of investigation, the assessor or his agent may enter any premises during reasonable hours and examine property on the premises. He may examine all property records involved. A person shall, upon request, furnish to the assessor or his agent every facility and assistance for the purposes of investigation. If refused entry or production of records, the assessor may seek a court order to compel same.

2. An assessor may examine a person on oath. Upon request, the person shall present himself for examination by the assessor.

C. Content of assessment roll. The assessor shall prepare an annual assessment roll in duplicate. The roll shall contain:

1. The names and last known addresses of all persons with property subject to assessment and taxation;
2. A description of all taxable property; and
3. The assessed value, quantity or amount of all taxable property.

D. Corrections by assessor. The assessor may correct any error or supply any omission made in the preparation of the assessment roll at any time before the sitting of the board of equalization.

E. Completion of assessment roll. After the hearings held by the board of equalization are concluded, the assessor shall complete the annual assessment roll, which shall be based on values as of the January first immediately preceding, and he shall certify the same.

F. Supplementary assessment rolls. Supplementary assessment rolls shall be prepared and certified as may be necessary or expedient. All the duties imposed upon the assessor with respect to the annual assessment roll and all provisions of this title relating to assessment rolls shall, so far as applicable, apply to supplementary assessment rolls.

G. Entry of changes by assessor. The assessor shall enter changes upon his records, when such changes are authorized and approved by the board and certified to by the finance director, and no assessed valuations shall thereafter be changed.

H. Delivery of assessment roll to Assembly. When the final assessment records have been completed by the assessor as herein provided, the assessor shall deliver to the Assembly a statement of the total assessed valuation of all real and personal property within the Borough.

6.32.030 Full and True Value. The assessor shall assess property at its full and true value as of January first of the assessment year, except as provided in AS 29.45.060, 29.45.110, and 29.45.230. The full and true value is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

6.32.040 Assessment for Certain Properties. Farm or agricultural lands shall be assessed as provided in AS 29.45.060. Oil and gas production and pipeline property shall be taxed according to AS 29.45.080. Tax adjustments on property affected by a natural disaster shall be made in accordance with AS 29.45.230.

6.32.050 Assessment Notice.

A. Notice mailed to property owners. On or before February 28, the assessor shall give to each person named in the assessment roll a notice of assessment, showing the assessed value of the person's property. Sufficient assessment notice is given if mailed by first class mail addressed to, or delivered at, the person's address as last known to the assessor, at least thirty days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing or delivery.

B. Form of Notice. The notice shall show the assessed value of each tract assessed. On each assessment notice shall

be printed a brief summary of the dates when the taxes are payable, delinquent, and subject to interest and penalty, the dates when the board of equalization will sit, and any other particulars specified by the Assembly.

C. Notice. When all assessment notices have been mailed, the assessor shall cause a notice to be posted at three public places for a period of two weeks. Such notice shall state when and where the equalization hearings shall be held.

D. Corrections. A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of the person's property. The assessor may correct errors or omissions in the roll before the board of equalization hearing. If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the Board of Equalization.

6.32.060 Board of Equalization.

A. The Assembly shall sit as a Board of Equalization. The purpose of the board of equalization is to examine the assessment roll, to equalize and revise the assessment for the current year where the board considers it necessary and to hear complaints and protests on the part of taxpayers or owners of property assessed. The date on which the Assembly shall sit as a board of equalization shall be the third Thursday in April unless otherwise changed by resolution. The board shall adjourn over and continue its sessions as business requires.

B. Duties and powers of board. The Assembly sitting as a board of equalization shall have the full power, and it shall be the duty of the board:

1. To raise or lower the valuation of any property, which may be by them deemed unequally or unfairly assessed or otherwise in error;

2. To add to the assessment list any and all real property which they may find to have been unfairly omitted from such list:

a. To place a fair, just and correct valuation thereon; and

b. To assess the same, and equalize such assessment.

Such assessment and equalization of the board shall have the same effect as though such property had been originally assessed by the duly appointed assessor.

C. Board to send additional notices. If it appears to the board of equalization that there are overcharges, errors or invalidities in the assessment roll, or in any of the proceedings leading up to or after the preparation of the roll,

and there is no appeal before the board, or if the name of a person is ordered by the board to be entered on the assessment roll by way of addition or substitution for the purpose of assessment, the board shall require the assessor to mail notice of assessment or corrected assessment, to that person, giving him at least thirty days from the date of the mailing within which to appeal to the board against the assessment.

D. Delegation of authority as board of equalization. The Assembly may delegate its authority as the board of equalization to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be members of the Assembly, Borough residents, or a combination thereof. The Assembly shall by ordinance establish the qualifications for membership.

6.32.070 Assembly Clerk Ex Officio Clerk of Board. The Clerk of the Assembly shall be ex officio Clerk of the Board of Equalization and shall record in the minutes of the meeting all proceedings before the Board, the names of all persons protesting assessments, and all changes, revisions, corrections and orders relating to claims or adjustments. Within three days following the final hearings of the Board, the Clerk shall transmit to the assessor all changes, corrections, revisions or orders authorized and approved by the board and shall certify that the changes, corrections, revisions or orders are as approved by the board of equalization.

6.32.080 Appeal to Board of Equalization.

A. Any person whose name appears on the assessment roll or the agents or assigns of that person may appeal to the board for relief from an alleged error in valuation, overcharge, omission or neglect of the assessor not adjusted by the assessor to the taxpayer's satisfaction.

B. The appellant shall, within thirty days after the date of mailing of notice of assessment, submit to the assessor a written appeal specifying the grounds for appeal. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board that the taxpayer was unable to appeal within the time so specified.

C. Upon receipt of the notice of appeal, the assessor shall make a record of the same in such form as the Assembly may direct. The record shall contain all of the information shown on the assessment roll with respect to the subject matter of the appeal, and the assessor shall place the same before the board as may be so required.

D. The assessor shall notify the appellant and any other person in respect of whom the appeal is taken of the time and place of the hearing, by mail to their respective addresses as last known to the assessor.

E. At the time appointed for the hearing of the appeal, or as soon thereafter as the appeal may be heard, the board shall hear the assessor, the appellant, other parties to the appeal and their witnesses, consider the testimony and evidence adduced, and determine the matters in question on the merits and render its decision accordingly.

If any party to whom notice was mailed fails to appear, the board may proceed with the hearing in his absence.

The burden of proof in all cases shall be upon the party appealing.

F. The only grounds for adjustment are proof of unequal, excessive, improper or under valuation based on facts which are stated in a valid written appeal or proven at the hearing.

G. The board shall certify its actions to the assessor within seven days. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

H. An appellant may appeal a determination of the Board of Equalization to the superior court, as provided by rules of court applicable to appeals from the decisions of administrative agencies.

I. Entry of decisions. The board shall from time to time enter in the appeal record its decision upon appeals brought before it and shall certify to the same.

Chapter 6.36

COLLECTION OF PROPERTY TAXES

Sections:

- 6.36.010 Tax Levy and Rate.
- 6.36.020 Tax Statements.
- 6.36.030 Due Date -- Discount Credit.
- 6.36.040 Delinquent Date.
- 6.36.050 Tax Liability and Lien.
- 6.36.060 Rates of Penalty and Interest -- Priority for Crediting Payments.
- 6.36.070 Action for Collection of Tax Against Real Property.
- 6.36.080 Time of Tax Sale.
- 6.36.090 Foreclosure List.
- 6.36.100 Clearing Delinquencies.
- 6.36.110 List to Lienholder.
- 6.36.120 Foreclosure Proceedings.
- 6.36.130 Judgment.
- 6.36.140 Transfer and Appeal.
- 6.36.150 Redemption Period.
- 6.36.160 Effect.
- 6.36.170 Additional Liens.
- 6.36.180 Possession During Redemption Period.
- 6.36.190 Expiration.
- 6.36.200 Deed to Borough.
- 6.36.210 Sale of Foreclosed Properties.
- 6.36.220 Repurchase by Record Owner.
- 6.36.230 Proceeds of Tax Sale.
- 6.36.240 Payment of Taxes Upon Public Utilization.
- 6.36.250 Refund of Taxes.
- 6.36.260 Enforcement of Special Assessments.
- 6.36.270 Collection of Delinquent Taxes on Certain Governmental Property.

6.36.010 Tax Levy and Rate. When the final assessment records are completed by the assessor, the assessor shall deliver to the Assembly a statement of the total assessed valuation of all property in the Borough. The Assembly shall annually, by resolution, determine the rate of levy before June 15.

6.36.020 Tax Statements.

A. By July 1, the agent of the Borough designated by the Mayor as tax collector of the Borough shall prepare tax

statements and cause such statements to be mailed to the persons listed as the owners on the assessment rolls. The statement shall set out the levy, dates when taxes are payable and delinquent, and penalties and interest. All of the tax statements shall be mailed on the same day. This day shall be known as the billing date. The tax collector shall post in three separate public places in the Borough, a notice that the tax statements have been mailed and the date upon which they were mailed, as well as the date which has been determined to be the billing date.

B. All taxes levied or collected shall be calculated, levied and collected upon the assessed values entered in the assessment roll and certified by the assessor as correct, subject to the taxpayers' right of appeal and to the corrections and amendments made in the rolls.

C. Certified assessment rolls and foreclosure lists are valid and binding on all persons, notwithstanding a defect, error, omission, or invalidity in the assessment rolls or proceedings pertaining to the assessment roll.

6.36.030 Due Date -- Discount Credit. All taxes become due thirty days after the billing date. Those taxes paid in full before they become due, that is within thirty days from the billing date, will be allowed a two percent discount credit on the total tax paid.

6.36.040 Delinquent Date. Those taxes that are not paid within thirty days after the due date are delinquent.

6.36.050 Tax Liability and Lien. Real property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property.

6.36.060 Rates of Penalty and Interest -- Priority for Crediting Payments. A penalty of twelve percent of the total tax due shall be added to all delinquent taxes, and interest at the rate of twelve percent per year shall accrue upon all unpaid taxes, not including the penalty, from the due date until paid in full. All payments made for taxes, penalty and interest on any one piece of property shall be credited first to the penalty, then to the interest, then to the past due taxes and then to the current taxes, in that order.

6.36.070 Action for Collection of Tax Against Real Property.

A. The Assembly shall enforce delinquent real property tax liens by the sale of the property assessed, after foreclosure proceedings provided for herein.

B. If the tax on property described in AS 29.45.070 or on a taxable interest in tax exempt property is not paid when due, the Borough may enforce the tax by a personal action against the delinquent taxpayer, in addition to other remedies available to enforce the lien.

6.36.080 Time of Tax Sale. All real property within the Borough on the assessment roll on which the taxes are one or more years delinquent may be subject to tax sale as prescribed herein and the Borough Attorney shall report to the Assembly on such matters as the Assembly directs.

6.36.090 Foreclosure List.

A. The Borough shall seek to foreclose delinquent tax liens by presenting a petition for judgment and a certified copy of the foreclosure list in the proper court for judgment.

B. The foreclosure list shall be arranged in alphabetical order as to last name and shall include

1. the last known owner;
2. the property description as stated on the assessment roll;
3. years and amounts of delinquency;
4. penalty and interest due;
5. a statement that the list is available for public inspection at the Clerk's office; and
6. a statement that the list has been presented to the proper court with a petition for judgment and decree.

C. The Borough shall publish the foreclosure list for four consecutive weeks in a newspaper of general circulation distributed in the Borough, or, if there is no newspaper of general circulation distributed in the Borough, post the list at three public places for at least thirty days.

D. Within ten days after the first publication or posting, the Borough shall mail to the last known owner of each property, as the owner's name and address appear on the list, a notice advising of the foreclosure proceeding in which a petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.

E. Completion of the requirements of (A) - (D) of this section constitutes and has the same force and effect as the filing of an individual and separate complaint and service of

summons to foreclose a lien against each property described on the foreclosure list.

6.36.100 Clearing Delinquencies. During the time of the publication or posting of the foreclosure list and up to the time of transfer to the Borough, a person may pay the taxes, together with the penalty, interest, and proportionate share of the costs of publication and foreclosure. The tax collector, or other officer, shall make proper notation of such payment on the foreclosure list.

6.36.110 List to Lienholder. A mortgagee or other holder of a recorded lien on real property may file with the tax collector a request that notice of any foreclosure list including such real property be given to such mortgagee or other lienholder. The request shall contain the name and address of the person filing it, the description of the property and the name of the owner or reputed owner thereof, and the date of expiration of the mortgage or lien, unless a further request therefor is filed. If the mortgagee or lienholder furnishes a duplicate form of the request for notice, the tax collector shall certify thereon to the filing and return the duplicate to the person making the request. Whenever any property described in the request for notice is included in a foreclosure list, the tax collector shall send by certified mail written notice thereof to the mortgagee or other lienholder. At the time of mailing the notice, the tax collector shall note that fact in ink in the foreclosure list opposite the description of the property. The notation in the list is prima facie evidence that the notice was mailed. Where the same mortgagee or lienholder has filed requests for notices on two or more properties included in the foreclosure list, one notice may be issued covering all such properties.

6.36.120 Foreclosure Proceedings.

A. One general foreclosure proceeding shall be brought on the part of the Borough to foreclose the tax liens against the properties included in the foreclosure list. The person whose name appears in the latest assessment roll as the owner of the property therein described shall be considered and treated as the owner of the property. Each such proceeding shall be a proceeding in rem against the property itself. If the owner of any property is unknown, then such property shall be proceeded against as belonging to "unknown owner". Tax foreclosure proceedings under this title shall be given priority over all other civil proceedings.

B. The costs of publication of the foreclosure list and of the tax foreclosure proceedings shall be taxed by the clerk of the court and paid by the Borough, but the same shall be apportioned by the clerk of the court to the properties ordered foreclosed so that each property will bear its proportionate share of such costs and the same shall thereafter be a charge against the property to which it is proportioned.

C. A person having an interest in a property on the foreclosure list may file an answer within 30 days after the date of last publication or posting. Such answer shall be in writing and specify the grounds of objection. The court shall make its decision in summary proceedings. The foreclosure list shall be prima facie evidence that the assessment and levy of the tax is valid and that the tax is unpaid. No objection to the manner of the assessment and levy of the tax or any of the subsequent proceedings shall be entertained by the court which does not affect the substantial rights of the party interposing the objection.

6.36.130 Judgment. The court shall in a proper case give judgment and decree that the tax liens be foreclosed. It is a several judgment against and a lien on each parcel.

6.36.140 Transfer and Appeal.

A. Foreclosed properties are transferred to the Borough for the lien amount. When answers are filed the court may enter judgment against and order the transfer to the Borough of all other properties on the list pending determination of the matters in controversy. The court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.

B. The court clerk shall deliver a certified copy of the judgment and decree to the Borough Clerk. The certified judgment and decree constitutes a transfer to the Borough.

C. The judgment and decree stops objections to it that could have been presented before judgment and decree. Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be taken in the manner provided for appeals in civil actions.

6.36.150 Redemption Period.

A. Properties transferred to the Borough are held by the Borough for at least one year. During the redemption period a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest and costs, including

all costs incurred under section 6.36.190(A). Property redeemed is subject to all accrued taxes, assessments, liens and claims as though it had continued in private ownership. Only the amount applicable under the judgment and decree must be paid in order to redeem the property.

B. A person holding a mortgage or other lien of record covering only a portion of a parcel of real property included in the judgment and decree of foreclosure may redeem that portion by paying the proportionate amount applicable under the judgment and decree.

6.36.160 Effect. Receipt of redemption money by the Borough releases the judgment obtained under 6.36.130. The Finance Director shall record the redemption and issue a certificate containing a property description, the redemption amount and the dates of judgment and decree of foreclosure. The Finance Director shall file the certificate with the recorder and collect the recording fee from the person redeeming at the time of redemption. The court clerk shall file the certificate as part of the judgment roll.

6.36.170 Additional Liens. If a property included in a foreclosure list is removed after payment of delinquencies or redemption by another lienholder, the payment represented by receipt for payment constitutes an additional lien on the property, collectible by the lienholder in the same manner as the original lien.

6.36.180 Possession During Redemption Period. Foreclosure does not affect the former owner's right to possession during the redemption period. In the event that waste is committed by the former owner, or by anyone acting under the permission or control of the former owner, the Borough may declare an immediate forfeiture of the right to possession.

6.36.190 Expiration.

A. At least thirty days before the expiration of the redemption period the Finance Director shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration of the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the Borough immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the Borough. The notice is published once a week for four consecutive weeks in a

newspaper of general circulation distributed within the Borough. If there is no newspaper of general circulation distributed within the Borough, the notice is posted in three public places for at least four consecutive weeks. The Finance Director shall send a copy of the published notice by certified mail to each record owner of property against which a judgment of foreclosure has been taken, and, if the assessed value of the property is more than \$10,000, to all holders of mortgages or other liens of record on the property. The notice shall be mailed within five days of the first publication or posting. The mailing shall be sufficient if mailed to the property owner and, if necessary, to the holder of a mortgage or recorded lien at the last address of record.

B. The right of redemption shall expire thirty days after the date of the first notice publication or posting.

C. Costs incurred in the determination of holders of mortgages and other liens of record and costs of notice publication or posting incurred by the Borough under (A) of this section are a lien on the property and may be recovered by the Borough.

6.36.200 Deed to Borough.

A. Unredeemed property within the Borough is deeded to the Borough. The deed shall be recorded in the recording district in which the property is located.

B. Conveyance gives the Borough clear title, except for prior recorded tax liens of the United States and the state.

C. No deed is invalid for irregularities, omissions, or defects in the document itself or in the proceedings under this Chapter, unless the former owner has been misled so as to be injured. Two years after the date of the deed, its validity is conclusively presumed and any claim of the former owner or other person having an interest in the property is forever barred.

6.36.210 Disposition and Sale of Foreclosed Property.

A. The Assembly shall determine, by ordinance, whether foreclosed property deeded to the Borough shall be retained for a public purpose. The ordinance shall contain the legal description of the property, the address or a general description of the property sufficient to provide the public with notice of its location, and the name of the last record owner of the property as the name appears on the assessment rolls.

B. Tax-foreclosed property conveyed to the Borough by tax foreclosure and not required for a public purpose may be sold. Before the sale of tax foreclosed property held for a public

purpose, the Borough, by ordinance, shall determine that a public need does not exist. The ordinance shall contain the information required under (A) of this section.

C. The clerk or the clerk's designee shall send a copy of the published notice of hearing of an ordinance to consider a determination required under (A) or (B) of this section by certified mail to the former record owner of the property that is the subject of the ordinance. The notice shall be mailed within five days after its first publication and shall be sufficient if mailed to the last record owner of the property as the name appears on the assessment rolls of the Borough.

D. The provisions of (C) of this section do not apply with respect to property that has been held by the Borough for a period of more than ten years after the close of the redemption period.

6.36.220 Repurchase by Record Owner.

A. The record owner at the time of tax foreclosure of property acquired by the Borough, or the assigns of that record owner, may, within ten years and before the sale or contract of sale of the tax-foreclosed property by the Borough, repurchase the property. The Borough shall sell the property for the full amount applicable to the property under the judgment and decree plus, (1) interest at the rate of 8 percent a year from the date of entry of the judgment of foreclosure to the date of repurchase; (2) delinquent taxes assessed and levied as though it had continued in private ownership; (3) costs of foreclosure and sale incurred by the Borough; and (4) costs of maintaining and organizing the property incurred by the Borough including insurance, repairs, association dues, and management fees, that exceed amounts received by the Borough for the use of the property.

B. After adoption of an ordinance providing for the retention of tax-foreclosed property by the Borough for a public purpose, the right of the former record owner to repurchase the property ceases.

6.36.230 Proceeds of Tax Sale. If tax-foreclosed property that has been held by the Borough for less than ten years after the close of the redemption period and never designated for a public purpose is sold at a tax-foreclosure sale, the former record owner is entitled to the portion of the proceeds of the sale that exceeds the amount of the foreclosure judgment, plus interest thereon, the amount equal to taxes that would have been assessed and levied after foreclosure if the property had continued in private ownership, penalty, interest, costs to the

Borough of foreclosing and selling the property, and costs to the Borough of maintaining and managing the property that exceed amounts received by the Borough for the use of the property. If the proceeds of the sale of tax-foreclosed property exceed this total, the Borough shall provide the former owner of the property written notice advising of the amount of the excess and the manner in which a claim for the balance of the proceeds may be submitted. Notice is sufficient under this section if mailed to the former record owner at his last address of record. On presentation of a proper claim, the Borough shall remit the excess to the former record owner, A claim for the excess not filed within six months of the date of sale is forever barred.

6.36.240 Payment of Taxes Upon Public Utilization. If the Borough takes title to tax-foreclosed property for a public purpose, the Borough shall satisfy unpaid taxes and assessments against the property held by other municipalities, with accrued interest but without penalty. If the amount required to satisfy the unpaid taxes and assessments exceeds the assessed value of the property, the Borough shall pay the other municipalities the assessed value, which shall be divided between the other municipalities in proportion to their respective taxes and assessments against the property at the time of foreclosure.

6.36.250 Refund of Taxes.

A. If a taxpayer pays taxes under protest, the taxpayer may bring suit in the superior court against the Borough for the recovery of the taxes. If judgment for recovery is given against the Borough, the Borough shall refund the amount of the taxes to the taxpayer with interest at eight percent from the date of payment plus costs.

B. If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the Borough, on audit of the account in question, is satisfied that this is the case, the Borough shall refund the excess to the taxpayer with interest at eight percent from the date of payment. A claim for refund not filed within one year after the due date of the tax is forever barred.

6.36.260 Enforcement of Special Assessments. The word "tax" as used in this Chapter shall apply to special assessments for improvements as authorized by the Borough and both such delinquent special assessments as well as delinquent taxes shall be included on the foreclosure list, but when so included shall be stated separately and the penalties and interest due on each shall also be stated separately.

6.36.270 Collection of Delinquent Taxes on Certain Governmental Property. Sections 6.36.050 and 6.36.070 - 240 do not apply to property taxable under 6.28.040(A)(1)(b) or (c) or to federal property not exempted under 6.28.040 (A)(8). The Borough may bring an action in the superior court to compel payment of property taxes due from the state, municipal, or federal entity if the entity does not pay the amount due within six months after the date that the taxes are due.

Chapter 6.40

SALES TAX

Sections:

- 6.40.010 Definitions
- 6.40.020 Levy of Tax.
- 6.40.030 Exemptions.
- 6.40.040 Exemption Procedures.
- 6.40.050 Application For Tax Refund.
- 6.40.060 Collection.
- 6.40.070 Tax Schedule.
- 6.40.080 Returns -- Payments.
- 6.40.090 Form of Return.
- 6.40.100 Seller's Compensatory Collection Discount.
- 6.40.110 Delinquencies.
- 6.40.120 (repealed).
- 6.40.130 Record Keeping.
- 6.40.140 Tax as Lien.
- 6.40.150 Rules and Regulations.
- 6.40.160 (repealed).
- 6.40.170 Oaths.
- 6.40.180 Audit.
- 6.40.190 Notification to the Borough.
- 6.40.200 Confidentiality of Records.
- 6.40.210 Claims against the Borough.

6.40.010 Definitions. For the purpose of this Chapter, unless the context otherwise requires, the following words and phrases shall have the meanings defined herein:

A. "Buyer" or "purchaser" means a person to whom a sale of property or product is made or to whom a service is furnished.

B. "Goods for resale" means:

1. the sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.

2. sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

3. sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

C. "Property" and "product" and "good" means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e., intellectual property, brand recognition, goodwill, trade, copyright and patents).

D. "Renting of property" means an individual or entity using or occupying, or acquiring the right to use or occupy, the property owned by another for a consideration.

E. "Resale of services" means sales of intermediate services to a business where the charge for which will be passed directly by that business to a specific buyer.

F. "Sale" or "retail sale" means any sale of services for any purpose other than for resale, or any transfer of property or product for consideration for any purpose other than for resale. "Sale" includes the transfer of or contract to transfer rights or an interest in real or personal property or the renting of property, or the rendering, performance or furnishing of services from a seller to a buyer for a consideration. This also includes the sale of electricity, gas and other utility service.

G. "Seller" means every individual or entity, whether acting as principal, agent or broker, making sales or rents of property, products or services, or a marketplace facilitator facilitating sales or rents on behalf of a seller.

H. "Selling price" or "sales price" or "purchase price" means the total amount of consideration, including cash, credit, property, products, and services, for which property, products, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

1. The seller's cost of the property or product sold;

2. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

3. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

4. Delivery charges;

5. Installation charges; and

6. Credit for any trade-in, as determined by state law.

I. "Services" means all services of every manner and description which are performed or provided in whole or in part within the Borough, including but not limited to:

1. Professional services;
2. Services in which a sale of property or product may be involved, including property or products made to order;
3. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;
4. The sale of transportation services;
5. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;
6. Advertising, maintenance, recreation, amusement, and craftsman services; and
7. The admission price charged for entering or staying in any place of entertainment including theaters, exhibitions, games, races where admission is by tickets, gate charges, seat charges, box charges, season pass charges, or cover charges.

6.40.020 Levy of Tax.

A. A sales tax is levied on all sales and rents made wholly or partially in the Borough at the rate of five percent of the selling price.

B. A sales tax is levied on all services performed in the Borough at the rate of five percent of the selling price. For the purposes of this Chapter, services are performed within the Borough if the service, or any part thereof, is performed, rendered or furnished within the Borough.

C. This tax is meant to be interpreted broadly and applied to all sales, rents and services made or performed wholly or partially in the Borough, including where delivery is made wholly or in part within or into the Borough, to the maximum extent constitutionally permissible, subject only to the exemptions set out below in section 6.40.030.

D. A buyer shall be entitled to any appropriate credit against this tax to the extent constitutionally mandated. The Borough is authorized to enter into agreements with other taxing authorities to effectuate tax collection and allocation.

E. 20% of the total tax revenues received hereunder, less administrative and enforcement-related expenses, are dedicated to operation, maintenance and repair of the borough landfill.

6.40.030 Exemptions. The following sales are exempt from taxation:

A. Building materials purchased locally for construction to be performed within the Borough limits are taxable on the first \$3,000 only, with any balance over \$3,000 to be exempt. This exemption is applicable to each buyer on an annual basis, beginning on January 1 and expiring on December 31 of each year.

B. Casual sales. A casual and isolated sale not made in the regular course of business is exempt.

C. Sales, service and rentals to any non-profit corporation, organization or institution which has obtained a certificate of exemption as being organized exclusively for religious or charitable purposes are exempt, except where the sale, rental or service is incidental to business for profit.

D. Court fixed fees. Any sale where the price is fixed by law, by a court of competent jurisdiction, or by other authority beyond the control of the seller, and where, if the tax were applied, its effect would become an income tax upon the seller, is exempt.

E. Dues and fees. Dues or fees paid to clubs, labor unions and fraternal organizations are exempt.

F. Exports. A sale made to a foreign citizen where delivery is made to a foreign country is exempt.

G. Federal and state prohibitions. A sale which the Borough is prohibited from taxing under the Constitution and laws of the United States or the Constitution and laws of the State of Alaska is exempt.

H. Freight and wharfage. Freight and wharfage charges, whether arising out of foreign, interstate or intrastate commerce, are exempt. Warehouse and storage services are taxable. The servicing, including freezing, storing, handling and wharfing, of fish awaiting shipment or in the process of being shipped is exempt.

I. Governmental agencies. A sale directly to the United States government, the state of Alaska and its political subdivisions, the Borough or any departments thereof, is exempt.

J. Insurance. The sale of insurance policies, guaranty bonds and fidelity bonds are exempt.

K. Loans. The loaning of money and interest charged for loans is exempt.

L. Funeral charges and services, professional services and supplies by a state licensed or certified medical doctor, dentist, osteopath, optometrist, psychologist, naturopath, audiologist, midwife, birthing center, acupuncturist, occupational or physical therapist, nurse's aide, registered or

licensed practical nurse, or chiropractor, provided that the sale is within the scope of the state license or certificate, and hospital services, are exempt.

M. Contractors. Services under a building or construction contract or subcontract are exempt. This does not exempt construction or building activities which are incidental to, and/or performed to enable, performance or completion of, a contract or contracts whose primary or substantial purpose is not to build or construct and which is otherwise subject to the sales tax.

N. Newspapers. The sale of newspapers and periodicals by a carrier is exempt.

O. Nursery and baby-sitting services are exempt.

P. Public food. The sale of food and beverages to the public in high school cafeterias or lunchrooms which are operated primarily for teachers and students and not for a profit is exempt.

Q. Purchases made with food coupons, food stamps, or other type of allotments issued under 7 U.S.C. 2011-2036 (Food Stamp Program) or food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants and Children), are exempt. For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011-2036 (Food Stamp Program).

R. Resale. A sale of a good made in contemplation of resale is exempt, provided that the end user pays sales tax under this Chapter on such good or on the final good.

S. Residential Rentals.

(1) The rental of a house or apartment, or room in a house or apartment, to any person for residential purposes is exempt.

(2) A rental is for residential purposes if the rental use to that person continues for thirty (30) or more consecutive days.

(3) A rental is presumptively not for residential purposes if the rental use to that person is for less than thirty (30) consecutive days. The presumption that the rental is not for residential purposes can be overcome by presentation of evidence that the renter currently resides in the Borough and presently intends to reside in the Borough indefinitely. Under this provision, unless the renter first obtains a certificate of exemption pursuant to section .040 of this Chapter, the tax due shall be collected and paid and an application for a tax refund sought thereafter pursuant to section .050 of this Chapter.

T. Sales of real property are exempt, however services performed by a real estate broker or agent are not exempt.

U. Salaries and wages received by an employee from an employer are exempt, but this exemption shall not apply to the gross remuneration for furnishing labor and materials for accomplishing a specified result.

V. Sales of advertising time or space and advertising services on or in radio, newspaper, television, movie theaters, telephone directories, programs and periodicals are exempt.

W. Student transportation. The service of transporting students to and from a school in vehicles is exempt.

X. Yakutat Fuel Dock. Sale or resale of any product or commodity for which the Borough has received, or is entitled to receive, a royalty by virtue of said product or commodity being delivered at the Yakutat Fuel Dock located in proximity to the Delta Western Tank Farm.

Y. Utility service provided by the Borough for sewer and water is exempt.

Z. Fees charged by a Bank for maintaining or servicing deposits or bank accounts.

AA. The fuel surcharge imposed on electrical utility usage, until the final billing cycle of fiscal year 2009.

6.40.040 Exemption Procedures. The burden of establishing any tax exemption is on the claimant.

A. No seller may allow an exemption for the reasons hereinafter stated unless the buyer first obtains a certificate of exemption and presents it to the seller at the time of the sale or identifies the certificate by giving its number. The person making the purchase must be the person in whose name the certificate is issued, or a person authorized in writing by the certificate holder to make such purchases under the certificate. In the case of an exemption contained in subsection (H), (K), (L) or (V) of Section 6.40.030 of this Chapter, the seller shall first obtain a certification of exemption.

B. The seller shall indicate the certificate number on the sales slip and account for these sales on seller's sales tax return in the manner required. In addition, in the case of a sale for which an exemption under subsection (R) of Section 6.40.030 of this Chapter is claimed, the buyer must possess a valid Borough business license, and the seller must maintain a written record of that sale which includes the following information: the date of sale, description of item(s) purchased, name of person making the purchase, the CBY business license number of the buyer, specific resale intended, and the amount of the sale. That record shall be signed and sworn to by the buyer

and submitted by the seller to the borough with the seller's return under Section 6.40.080.

C. Application for exemption certificate shall generally be signed by the buyer. In the case of an exemption contained in subsection (H), (K), (L) or (V) of Section 6.40.030 of this Chapter, an application for exemption certificate shall be signed by the seller. The application shall contain the information reasonably required by the Mayor.

6.40.050 Application for Tax Refund.

A. An application for tax refund may be filed by any buyer where:

1. He believes the sale to be exempt; and
2. He has paid the sales tax levied by the Borough.

Applications for refund shall be given by the seller to any buyer who has paid the tax and desires to request a refund.

The application may contain information reasonably required by the Mayor, but the seller shall provide the following information and shall sign or initial the application:

1. Who paid the tax;
2. The amount of tax paid;
3. The fact that payment was made; and
4. The date of payment.

The buyer shall state why it is claimed that the sale is exempt, sign the application and present it to the Mayor within thirty days of the sale or at the time the quarterly return is due to be submitted, whichever is later.

B. The burden of establishing the sale's exemption is on the buyer.

C. If the Mayor determines the sale to be exempt, he shall allow a credit on sales tax due from the application or pay cash to him, whichever he believes proper.

6.40.060 Collection.

A. A seller shall add the 5% sales tax to the selling price which the seller collects at the time of the sale or at the time of collection with respect to credit transactions. If the buyer refuses to pay the tax, the seller is exempt from any violations or penalties otherwise imposed if he/she reports to the Borough all the facts known to him concerning the sale and refusal within one business day of the refusal. Otherwise, if the seller fails to collect the tax or the buyer refuses to pay the tax, the seller is liable therefor. The tax is a debt from the buyer to the seller until paid and is recoverable at law in the same manner as other debts. The buyer is liable to the

Borough for the tax notwithstanding the seller's duty to collect.

B. The tax shall be stated separately on any sales receipt or slips, rent receipts, charge tickets, invoices, statements of account, or other tangible evidence of sale.

C. Any director, officer, employee, agent or member of a corporation or limited liability company having control over or supervision of, or charged with the responsibility for, the collection or remittance of sales tax, or the filing of sales tax returns, on behalf of the corporation or company is personally liable for any uncollected and/or unpaid taxes, penalties and interest due the Borough. Dissolution, sale or other transfer of the corporation or company does not discharge this liability.

6.40.070 Tax Schedule. The seller shall add to the selling price an amount determined according to the following scale:

<u>Selling Price</u>	<u>Tax</u>
Under 0.05	none
.05 to .20 . . . . .	.01
.21 to .40 . . . . .	.02
.41 to .60 . . . . .	.03
.61 to .80 . . . . .	.04
.81 to 1.00 . . . . .	.05
1.01 to 1.20 . . . . .	.06
1.21 to 1.40 . . . . .	.07
1.41 to 1.60 . . . . .	.08
1.61 to 1.80 . . . . .	.09
1.81 to 2.00 . . . . .	.10
2.01 to 2.20 . . . . .	.11
2.21 to 2.40 . . . . .	.12
2.41 to 2.60 . . . . .	.13
2.61 to 2.80 . . . . .	.14
2.81 to 3.00 . . . . .	.15
3.01 to 3.20 . . . . .	.16
3.21 to 3.40 . . . . .	.17
3.41 to 3.60 . . . . .	.18
3.61 to 3.80 . . . . .	.19
3.81 to 4.00 . . . . .	.20
over 4.00, straight 5%	

6.40.080 Returns -- Payments.

1. Sellers shall file returns and remit the tax collected in accordance with the following schedule:

A. Quarterly. Unless as otherwise provided for in this section, sellers shall on or before the last day of the month succeeding the end of each quarter-year ending March thirty-first, June thirtieth, September thirtieth and December thirty-first, prepare a return for the preceding quarter-year upon forms furnished by the Borough and pay the amount of the tax collected over to the Borough. Returns shall be filed with the Borough by five p.m. or postmarked prior to five p.m. on the last day of the month following the end of each quarter year. In the event the last day of the month falls on a Saturday, Sunday or legal holiday, the return may be filed and payment made on the first business day following.

B. Monthly. If a seller fails to file or is late in filing a return or in paying tax due, the Borough Manager may require the seller to submit returns and payment each month.

C. Sale of business to another person. A seller who sells his business to another person shall make a final sales tax return within fifteen days after the date of selling the business. The purchaser of the business shall withhold a portion of the purchase money sufficient to pay any sales tax, penalties and interest that may be due until the seller displays a receipt from the Borough showing that all tax obligations imposed by this Chapter have been paid. If any purchaser of a business fails to withhold this sum, he shall be personally liable for the taxes, penalties and interest owed by the seller to the Borough.

D. Upon termination of business activities. If a seller terminates his business without the benefit of a purchaser, successor, successors or assigns, he shall make a final return and settlement of tax obligations within fifteen days.

E. Filings to be continuous. A person who has filed a sales tax return will be presumed to be making sales in successive quarters unless he files a return showing termination or sale of his business.

F. Remote Sellers and Marketplace Facilitators. Taxes collected by remote sellers and marketplace facilitators under this Chapter and Chapter 6.42 of this Code, as those terms are defined in Chapter 6.42, shall be remitted to the Alaska Remote Seller Sales Tax Commission on behalf of the Borough, in accordance with Section 6.42.230 and the other provisions of Chapter 6.42.

2. Amounts received with the return shall be applied in the following order: (i) Penalties due, beginning with the oldest penalty; (ii) interest due, beginning with the interest due on the oldest quarter; and (iii) tax due, beginning with the tax due from the oldest quarter.

6.40.090 Form of Return. On forms furnished by the Borough, the seller shall furnish the following information, sign the form and certify that it correctly states the information purportedly set forth:

- A. Total sales divided into all taxable and all non-taxable sales;
- B. A substantiation of sales exempt from the tax by virtue of Section 6.40.030 (I) "Governmental Agencies";
- C. A substantiation of sales claimed exempt under Section 6.40.030 (A) by a listing of each sale and the amount of each which was not taxable;
- D. A substantiation of all other sales claimed exempt;
- E. The amount of any refund which the seller wishes to claim for tax paid on purchases made for resale and attachment of "Application for Sales Tax Refund" forms indicating payment of the amount;
- F. The amount of tax due; and
- G. Such other information as may be reasonably required.

6.40.100 Seller's Compensatory Collection Discount. Any seller, whose return and payment for any quarter is timely, is entitled to a four percent collection discount, equal to four percent of the tax due or the sum of one hundred dollars whichever is less, in the form of a deduction from the amount of the tax due, provided that:

- A. The Seller files a return and remits the tax due in compliance with all other provisions of this Chapter; and
- B. The Seller does not exhibit a manifest failure to maintain proper accounting records and returns of the tax due.

6.40.110 Delinquencies.

A. Penalty and interest. A penalty equal to five percent of the delinquent tax shall be added to the tax for the first month, or any part thereof, and an additional five percent shall be added to the tax due for each month, or fraction thereof, of delinquency until a total penalty of fifteen percent has accrued. The penalty shall be assessed and collected in the same manner as the tax is assessed and collected.

In addition to the penalty provided above, interest at the rate of fifteen percent per year on the delinquent tax from the

date of delinquency until paid shall accrue and be collected in the same manner as the delinquent tax is collected.

B. Additional procedures. If a seller fails to file the return or make payment in accordance with Sections 6.40.080 or 6.40.090, the Finance Director or his or her designee may do any or all of the following things:

1. Criminal action. File a criminal complaint against the seller in the proper court for violation of Sections 6.40.080 or 6.40.090;

2. Estimated Assessment. Make an estimated sales tax assessment against the seller, with the assessment based upon an estimate of the gross revenue received by the seller during the period. The estimate of gross revenue shall be derived from past returns of the seller, information obtained from an audit, the general economic level of the business community and, if available, returns of comparable businesses. Notice of the estimated assessment shall be sent to the last known address of the seller by certified mail. The estimated assessment shall be deemed to be admitted by the seller to be the amount due and owing to the Borough unless the Finance Director receives, within twenty (20) days of the date of the mailing of the notice of the estimated assessment, an accurate and complete sales tax return for the delinquent periods, together with the full remittance of all taxes, interest, penalty and other costs due, or the seller remits the amount due under protest. Failure to file a written statement of protest and to remit in full the amount claimed by the Borough as owing within the time permitted under this subsection constitutes a waiver of the right to protest, appeal or otherwise challenge the amount due. The Finance Director shall issue a written ruling on a seller's protest within thirty (30) days of receipt of the protest and remittance if timely filed. The seller has the burden of proof;

3. Hearing. Notify the seller in writing by certified mail, sent to the seller's last known address, that a hearing will be held to determine the sales tax liability of the seller at a specified time and place not less than fifteen days after the date of the notice. The seller shall present himself at the hearing and make available for inspection his books, papers, records and other memoranda pertaining to gross revenues derived from his commercial transactions sufficient to enable the Borough to make a determination whether the return is required or tax due;

4. Publish. Publish in a newspaper of general circulation within the Borough, or if there is no such newspaper, post in three separate places in the Borough, the

name and amount of sales tax, interest and penalty due from a seller who is delinquent under this Chapter.

5. Demand. Make written demand upon the seller, mailed to his last known address, for submission of the return and/or payment.

6. Civil enforcement. Collect the amount due by any method available in law, including but not limited to the filing and/or foreclosure of a lien or the institution of a civil action.

6.40.120 Period of Limitation. (repealed)

6.40.130 Record Keeping. A seller shall retain for a period of seven years all of the sales tax returns, reports, forms, records and supporting schedules as may be required by the Borough.

6.40.140 Tax as Lien. The tax, interest and any penalties imposed under this Chapter, and any administrative costs, including attorney fees and litigation costs, incurred by the Borough to collect the tax, shall constitute a lien in favor of the Borough upon all the real and personal property of the person owing the tax. The lien arises upon delinquency and continues until the liability is satisfied or the lien is foreclosed. A notice of lien may be filed in the office of the recorder for the Juneau Recording District. The Borough may also, at its discretion, file a notice of lien in any other recording district. When recorded, the sales tax has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; (3) mechanics' and materialmen's for which claims for lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien.

6.40.150 Rules and Regulations. The Mayor shall from time to time cause to be promulgated rules and regulations as are necessary and advisable to provide for the application and interpretation of this Chapter and to submit them to the Assembly for its adoption or rejection, and to cause to be provided methods and forms for reporting and collecting the tax in accordance with this Chapter and regulations.

6.40.160 Inspection of State Business License Returns.
(repealed)

6.40.170 Oaths. The Finance Director or Mayor is authorized and empowered to administer any oath necessary for the purpose of administering and enforcing the provisions of this Chapter.

6.40.180 Audit.

A. The Borough Manager may from time to time cause to be performed an audit of any individual or entity conducting sales or believed to be conducting sales within the Borough, and any sales tax returns filed with the Borough.

B. Upon written notification and request by the Borough, mailed to the seller at the seller's last known address, a seller shall present himself at a specified date and time and bring with him the books, papers, records and any other documentation of the business requested by the Borough. Said documents may include, but are not limited to, the following: Sales journals, general ledgers, bank statements, income statements, balance sheets, charts of account, and federal income tax returns.

C. Failure by the seller to comply with the provisions of paragraph B above shall constitute a violation of the Code of the City and Borough of Yakutat and shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) which may be imposed in addition to injunctive and compensatory relief. Each day that a violation continues constitutes a separate violation.

6.40.190 Notification to the Borough.

A. Prior to the undertaking of business within the Borough which will result in sales tax liability under this Chapter, the owner of the business shall notify the Borough of such undertaking and provide the information required herein.

B. At the time of such notification, and thereafter as requested by the Borough, the owner shall provide the name and address of the business, the nature of the business undertaken, the months of operation of the business, the name of the person employed by the business who is responsible for collection and payment to the Borough of Borough sales tax, and such other information or documentation as the Borough Finance Director deems necessary in order to ensure compliance with this Chapter. The owner shall also provide at that time, and on an annual basis thereafter, a current copy of the State of Alaska

Business License issued to it, if it is required to have one. Thereafter, the owner shall notify the Borough of any changes in the information provided.

C. If, at the time of enactment of this ordinance, a business is already transacting business within the Borough, the owner of the business shall provide the required notification to the Borough as set forth in paragraph B above by the due date of the first sales tax return due after enactment of this ordinance.

6.40.200 Confidentiality of Records. All tax returns filed under this Chapter, all data obtained from such tax returns, and all financial information obtained from an inspection of records or audit conducted under this Chapter are confidential and may not be released by the Borough except upon court order or when necessary to enforce the provisions of or to collect the taxes due under this Chapter. The Borough may publish at any time the names of delinquent taxpayers and the amounts and periods of delinquency.

6.40.210 Claims against the Borough. Any claim brought against the Borough to seek a refund of any amount paid to the Borough under this Chapter, including a claim for refund or return of any sums claimed to have been paid in error, shall be commenced within two years of the due date of the tax return filing upon which the claim is based. Notwithstanding the foregoing, this section has no applicability to a claim based upon an asserted right to an exemption, which shall continue to be governed by CCBY 6.40.050.

Chapter 6.42

ALASKA REMOTE SELLER SALES TAX CODE

Sections:

- 6.42.005 Introduction.
- 6.42.010 Interpretation.
- 6.42.020 Title to Collected Sales Tax.
- 6.42.030 Collection - Rate.
- 6.42.040 Obligation to Collect Tax - Threshold Criteria.
- 6.42.050 No Retroactive Application.
- 6.42.060 Payment and Collection.
- 6.42.070 Remote Seller and Marketplace Facilitator Registration Requirement.
- 6.42.080 Tax Filing Schedule.
- 6.42.090 Estimated Tax.
- 6.42.100 Returns - Filing Contents.
- 6.42.110 Refunds.
- 6.42.120 Amended Returns.
- 6.42.130 Extension of Time to File Tax Return.
- 6.42.140 Audits.
- 6.42.150 Audit or Estimated Tax Protest.
- 6.42.160 Penalties and Interest for Late Filing.
- 6.42.170 Repayment Plans.
- 6.42.180 Remote Seller or Marketplace Facilitator Record Retention.
- 6.42.190 Cessation or Transfer of Business.
- 6.42.200 Use of Information on Tax Returns.
- 6.42.210 Violations.
- 6.42.220 Penalties for Violations.
- 6.42.230 Sellers with a Physical Presence in the Taxing Jurisdiction.
- 6.42.240 Remittance of Tax; Remote Seller Held Harmless.
- 6.42.250 Definitions.
- 6.42.260 Supplemental Definitions.

6.42.005 - Introduction. The Alaska Remote Seller Sales Tax Code, as set out in the provisions of this chapter, is an ordinance largely prepared by the Alaska Remote Seller Sales Tax Commission, of which the Borough is a Member. This ordinance is herein adopted in order to provide for administration by the Commission of the Borough sales tax collected by remote sellers and marketplace facilitators, as those terms are defined herein, pursuant to Section 6.42.230. When used in this chapter, the

term "member jurisdiction" refers to the City and Borough of Yakutat.

6.42.010 - Interpretation.

A. In order to prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person or entity engaging in business are subject to the sales tax.

B. The application of the tax to be collected under this Code shall be broadly construed and shall favor inclusion rather than exclusion.

C. Exemptions from the tax to be collected under this Code shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in the member jurisdiction's Code.

D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services into Member municipalities adopting this Code, within the state of Alaska.

6.42.020 - Title to Collected Sales Tax. Upon collection by the remote seller or marketplace facilitator, title to collected sales tax vests in the Commission for remittance to the member jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the member jurisdiction, from whom that power is delegated, in trust for the member jurisdiction and is accountable to the Commission and member jurisdiction.

6.42.030 - Collection - Rate.

A. To the fullest extent permitted by law, the sales tax levied and assessed by the member jurisdiction shall be collected on all remote sales where delivery is made wholly or in part within the member jurisdiction, within the state of Alaska.

B. The applicable tax shall be added to the sales price as provided in the member jurisdiction's Sales Tax Code, based on point of delivery.

C. The tax rate added to the sale price shall be the tax rate for the member jurisdiction where the property or product is sold, or service that was rendered is received, and based on the date the property or product was sold or the date the service rendered was received.

D. An Address and Tax Rate Database will be made available to remote sellers and marketplace facilitators, indicating the appropriate tax rate to be applied.

E. The tax assessed shall be consistent with relevant jurisdictional tax caps, single unit sales, and exemptions.

F. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered, based on the member jurisdiction's Code.

G. When a sales transaction involves placement of a single order with multiple deliveries made at different points in time that are separately invoiced, the applicable sales tax shall be collected on each separately invoiced delivery, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered.

6.42.040 - Obligation to Collect Tax - Threshold Criteria.

A. Any remote seller or marketplace facilitator must collect and remit sales tax in compliance with all applicable procedures and requirements of law, provided the remote seller or marketplace facilitator has met one of the following Threshold Criteria ("Threshold Criteria") in the current or previous calendar year:

1. The remote seller's statewide gross sales, including the seller's marketplace facilitator's statewide gross sales, from the sale(s) of property, products or services delivered in the state meets or exceeds one hundred thousand dollars (\$100,000); or

2. The remote seller, including the seller's marketplace facilitator, sold property, products, or services delivered in the state in two hundred (200) or more separate transactions.

B. For purposes of determining whether the Threshold Criteria are met, remote sellers or marketplace facilitators shall include all gross sales, from all sales of goods, property, products, or services rendered within the state of Alaska.

6.42.050 - Reporting and remittance requirements for local and remote sales.

A. Sellers with a physical presence in the member jurisdiction conducting only local sales shall report and remit to, and comply with standards of, including audit authority, the member jurisdiction.

B. Sellers with a physical presence in the member jurisdiction that also have remote or internet-based sales where the point of delivery is in a different taxing jurisdiction

shall (i) report and remit the remote or internet sales to the Commission; and (ii) report and remit the local sales to the member jurisdiction.

C. Sellers with a physical presence in the member jurisdiction that also have remote or internet-based sales where the point of delivery is in the same member jurisdiction shall report and remit those remote sales to the member jurisdiction.

D. Sellers and marketplace facilitators that do not have a physical presence in the member jurisdiction must report and remit to the Commission all remote sales where the point of delivery is in the member jurisdiction.

E. A marketplace facilitator is considered the remote seller for each sale facilitated through its marketplace and shall collect, report, and remit sales tax to the Commission. A marketplace facilitator is not considered to be the remote seller for each sale or rental of lodging facilitated through its marketplace, wherein the seller is considered to have a physical presence in the member jurisdiction.

6.42.060 - No Retroactive Application. The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the member jurisdiction's ordinance adopting the Alaska Remote Seller Sales Tax Code.

6.42.070 - Payment and Collection. Pursuant to this Code, taxes imposed shall be due and paid by the buyer to the remote seller or marketplace facilitator at the time of the sale of property or product or date service is rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of each remote seller or marketplace facilitator to collect the taxes from the buyer and to hold those taxes in trust for the taxing authority of the member jurisdiction. Failure by the remote seller or marketplace facilitator to collect the tax shall not affect the remote seller's, or marketplace facilitator's, responsibility for payment to the Commission.

6.42.080 - Remote Seller and Marketplace Facilitator Registration Requirement.

A. If a remote seller's gross statewide sales meets or exceeds the Threshold Criteria from section .040, the remote seller shall register with the Commission. If the remote seller is a marketplace seller and only makes sales in Alaska through a marketplace, the marketplace seller is not required to register with the Commission. The marketplace seller must submit an

affidavit attesting to these facts on a form provided by the Commission.

B. If a marketplace facilitator's gross statewide sales meets or exceeds the Threshold Criteria in section .040, the marketplace facilitator shall register with the Commission.

C. A remote seller or marketplace facilitator meeting the Threshold Criteria shall apply for a certificate of sales tax registration within thirty (30) calendar days of the effective date of this Code or within thirty (30) calendar days of meeting the Threshold Criteria whichever occurs second. Registration shall be to the Commission on forms prescribed by the Commission.

D. An extension may be applied for and granted based on criteria established by the Commission, based on evidence produced to describe time necessary to update software or other technical needs, not to exceed ninety (90) days.

E. Upon receipt of a properly executed application, the Commission shall confirm registration, stating the legal name of the remote seller or marketplace facilitator, the primary address, and the primary sales tax contact name and corresponding title. The failure of the Commission to confirm registration does not relieve the remote seller or marketplace facilitator of its duty to collect and remit sales tax.

F. Each business entity shall have a sales tax registration under the advertised name.

G. The sales tax certificate is non-assignable and non-transferable.

H. The sales tax certificate satisfies the member jurisdiction's requirement to obtain a municipal business license, provided the remote seller does not have a physical presence in that member jurisdiction.

6.42.090 - Tax Filing Schedule.

A. All remote sellers or marketplace facilitators subject to this Code shall file a return on a form or in a format prescribed by the Commission and shall pay the tax due.

B. Filing of sales tax returns are due monthly; quarterly or less frequent filing is optional upon application and approval by the Commission, consistent with the Sales Tax Code of the member jurisdiction.

C. A remote seller or marketplace facilitator who has filed a sales tax return will be presumed to be making sales in successive periods unless the remote seller or marketplace facilitator files a return showing a termination or sale of the business in accordance with this Code.

D. The completed and executed return, together with the remittance in full for the tax due, shall be transmitted to and must be received by the Commission on or before midnight Alaska Standard Time on the due date. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:

Quarter 1 (January - March)	April 30
Quarter 2 (April - June)	July 31
Quarter 3 (July - September)	October 31
Quarter 4 (October - December)	January 31

E. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday or Alaska state holiday, the due date will be extended until the next business day immediately following.

F. Any remote seller or marketplace facilitator holding a remote seller registration shall file a sales tax return even though no tax may be due. This return shall show why no tax is due. If the remote seller or marketplace facilitator intends to continue doing business a return shall be filed reflecting no sales and a confirmation of the intent to continue doing business and shall continue to do so each filing period until the entity ceases doing business or sells the business. If the remote seller or marketplace facilitator intends to cease doing business, a final return shall be filed along with a statement of business closure.

G. The remote seller or marketplace facilitator shall prepare the return and remit sales tax to the Commission on the same basis, cash or accrual, which the remote seller or marketplace facilitator uses in preparing its federal income tax return. The remote seller or marketplace facilitator shall sign the return, and transmit the return, with the amount of sales tax and any applicable penalty, interest or fees that it shows to be due, to the Commission.

H. Remote sellers and marketplace facilitators failing to comply with the provisions of this Code shall, if required by the Commission and if quarterly filing has been chosen, file and transmit collected sales taxes more frequently until such time as they have demonstrated to the Commission that they are or will be able to comply with the provisions of this Code. Six (6) consecutive on-time sales tax filings, with full remittance of the sales taxes collected, shall establish the presumption of compliance and return to quarterly filing.

I. The preparer of the sales tax return shall keep and maintain all documentation supporting any and all claims of

exempted sales and purchases. Documentation for exempted sales should include the number of the exemption authorization card presented by the buyer at the time of the purchase; the date of the purchase; the name of the person making the purchase; the organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the Commission upon request. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided.

6.42.100 - Estimated Tax.

A. In the event the Commission is unable to ascertain the tax due from a remote seller or marketplace facilitator by reason of the failure of the remote seller or marketplace facilitator to keep accurate books, allow inspection, or file a return, or by reason of the remote seller or marketplace facilitator filing a false or inaccurate return, the Commission may make an estimate of the tax due based on any evidence in their possession.

B. Sales taxes may also be estimated, based on any information available, whenever the Commission has reasonable cause to believe that any information on a sales tax return is not accurate.

C. A remote seller's or marketplace facilitator's tax liability under this Code may be determined and assessed for a period of six (6) years after the date the return was filed or due to be filed with the Commission. No civil action for the collection of such tax may be commenced after the expiration of the six (6) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the six (6) year period, unless the remote seller or marketplace facilitator waives the protection of this section.

D. The Commission shall notify the remote seller or marketplace facilitator, in writing, that the Commission has estimated the amount of sales tax that is due from the remote seller or marketplace facilitator. The Commission shall serve the notice on the remote seller or marketplace facilitator by delivering the notice to the remote seller's or marketplace facilitator's place of business, or by mailing the notice by certified mail, return receipt requested, to the remote seller's or marketplace facilitator's last known mailing address. A remote seller or marketplace facilitator who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

E. The Commission's estimate of the amount of sales tax that is due from a remote seller or marketplace facilitator shall become a final determination of the amount that is due unless the remote seller or marketplace facilitator, within thirty (30) calendar days after service of notice of the estimated tax:

1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs and other charges due; or

2. Files a written notice with the Commission appealing the estimated tax amount in accordance with the appeal procedures, under the provisions of section .160 of this chapter.

3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:

a. The identity of the remote seller or marketplace facilitator is in error;

b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or

c. The remote seller or marketplace facilitator disputes the denial of exemption(s) for certain sales.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars (\$50) for each calendar month or partial month for which the amount of sales tax that is due has been determined.

6.42.110 - Returns - Filing Contents.

A. Every remote seller or marketplace facilitator required by this chapter to collect sales tax shall file with the Commission upon forms furnished by the Commission a return setting forth the following information:

1. Gross sales rounded to the nearest dollar;

2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption, rounded to the nearest dollar;

3. Computation of taxes to be remitted;

4. Calculated discount (if applicable) based on the member jurisdiction's Sales Tax Code; and

5. Such other information as may be required by the Commission.

B. Each tax return remitted by a remote seller or marketplace facilitator shall be signed (digital or otherwise) by a responsible individual who shall attest to the completeness and accuracy of the information on the tax return.

C. The Commission reserves the right to reject a filed return for failure to comply with the requirements of this Code for up to three (3) months from the date of filing. The Commission shall give written notice to a remote seller or marketplace facilitator that a return has been rejected, including the reason for the rejection.

6.42.120 - Refunds.

A. Upon request from a buyer or remote seller or marketplace facilitator, the Commission shall provide a determination of correct tax rate and amount applicable to the transaction. In the case of an overpayment of taxes, the remote seller or marketplace facilitator shall process the refund and amend any returns accordingly.

B. If the claimant is a remote seller or marketplace facilitator, and the tax refund is owed to any buyer, the remote seller or marketplace facilitator submits, and the Commission approves, a refund plan to all affected buyers.

C. Interest will not be paid on tax refund requests filed with the Commission.

D. The member jurisdiction may allow a buyer to request a refund directly from the member jurisdiction.

6.42.130 - Amended Returns.

A. A remote seller or marketplace facilitator may file an amended sales tax return, with supporting documentation, and the Commission may accept the amended return, but only in the following circumstances:

i. The amended return is filed within one (1) year of the original due date for the return; and

ii. The remote seller or marketplace facilitator provides a written justification for requesting approval of the amended return; and

iii. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission.

B. The Commission shall notify the remote seller or marketplace facilitator in writing (by email or otherwise) whether the Commission accepts or rejects an amended return, including the reasons for any rejection.

C. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation, the Commission determines the figure included in the original

returns are incorrect; and the Commission adjusts the return within three (3) years of the original due date for the return.

D. A remote seller or marketplace facilitator may file a supplemental sales tax return, with supporting documentation, and the Commission may accept the supplemental return, but only in the following circumstances:

i. The remote seller or marketplace facilitator provides a written justification for requesting approval of the supplemental return; and

ii. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission.

6.42.140 - Extension of Time to File Tax Return.

Upon written application of a remote seller or marketplace facilitator, stating the reasons therefor, the Commission may extend the time to file a sales tax return but only if the Commission finds each of the following:

1. For reasons beyond the remote seller's or marketplace facilitator's control, the remote seller or marketplace facilitator has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the remote seller or marketplace facilitator;

3. The remote seller or marketplace facilitator has a plan to cure the problem that caused the remote seller or marketplace facilitator to apply for an extension and the remote seller or marketplace facilitator agrees to proceed with diligence to cure the problem;

4. At the time of the application, the remote seller or marketplace facilitator is not delinquent in filing any other sales tax return, in remitting sales tax to the Commission or otherwise in violation of this chapter;

5. No such extension shall be made retroactively to cover existing delinquencies.

6.42.150 - Audits.

A. Any remote seller or marketplace facilitator who has registered with the Commission, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the remote seller or marketplace facilitator in order to determine whether appropriate amounts of sales tax revenue have

been collected by the remote seller or marketplace facilitator and remitted to the Commission.

B. The Commission is not bound to accept a sales tax return as correct. The Commission may make an independent investigation of all retail sales or transactions conducted within the State or member jurisdiction.

C. The records that a remote seller or marketplace facilitator is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the Commission for the purpose of auditing any return filed under this chapter, or to determine the remote seller's or marketplace facilitator's liability for sales tax where no return has been filed.

D. In addition to the information required on returns, the Commission may request, and the remote seller or marketplace facilitator must furnish, any reasonable information deemed necessary for a correct computation of the tax.

E. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation or audit, the Commission determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the Commission adjusts the return within three (3) years of the original due date for the return.

F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Commission may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any remote seller or marketplace facilitator at any reasonable hour on the premises of the remote seller or marketplace facilitator and may require the attendance of any officer or employee of the remote seller or marketplace facilitator. Upon written demand by the Commission, the remote seller or marketplace facilitator shall present for examination, in the office of the Commission, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the Commission and the person upon whom the demand is made agree to presentation of such materials at a different place.

G. The Commission may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any remote seller or marketplace facilitator refuses to obey any such subpoena, the Commissioner may refer the matter to the Commission's attorney for an application to the superior court for an order requiring the remote seller or marketplace facilitator to comply therewith.

H. Any remote seller, marketplace facilitator, or person engaged in business who is unable or unwilling to submit their records to the Commission shall be required to pay the Commission for all necessary expenses incurred for the examination and inspection of their records maintained outside the Commission.

I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.

J. In the event the Commission, upon completion of an audit, discovers more than five hundred dollars (\$500) in additional sales tax due from a remote seller or marketplace facilitator resulting from a remote seller's or marketplace facilitator's failure to accurately report sales and taxes due thereupon, the remote seller or marketplace facilitator shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the Commission at the time of the conclusion of the audit.

6.42.160 - Audit or Estimated Tax protest.

A. If the remote seller or marketplace facilitator wishes to dispute the amount of the estimate, or the results of an examination or audit, the remote seller or marketplace facilitator must file a written protest with the Commission, within thirty (30) calendar days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:

1. The remote seller's or marketplace facilitator's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated; or

2. The remote seller's or marketplace facilitator's reasons for challenging the examination or audit results.

B. In processing the protest, the Commission may hold an informal meeting or hearing with the remote seller or marketplace facilitator, either on its own or upon request of the remote seller or marketplace facilitator, and may also require that the remote seller or marketplace facilitator submit to an audit if one was not previously conducted, or a more formal audit if an estimation audit was previously performed.

C. The Commission shall make a final written determination on the remote seller's or marketplace facilitator's protest and mail a copy of the determination to the remote seller or marketplace facilitator.

D. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination result shall be final, due and payable to the Commission.

6.42.170 - Penalties and Interest for Late Filing.

A. A late filing fee of twenty-five dollars (\$25) per month, or fraction thereof, shall be added to all late-filed sales tax reports, until a total of one-hundred dollars (\$100) has been reached. An incomplete return shall be treated as the filing of no return.

B. Delinquent sales tax bear interest at the rate of fifteen percent (15%) per annum until paid.

C. In addition, delinquent sales tax shall be subject to an additional penalty of 5% per month, or fraction thereof, until a total of 20% of delinquent tax has been reached. The penalty does not bear interest.

D. Fees, penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to fees, penalties and interest, second to past due sales tax.

E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing of no return.

F. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the Commission, upon written application of the remote seller or marketplace facilitator accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the remote seller or marketplace facilitator, within forty-five (45) calendar days after the date of delinquency. A remote seller or marketplace facilitator may not be granted more than one (1) waiver of penalty under this subsection in any one calendar year, in accordance with the Commission's penalty waiver policy. The Commission shall report such waivers of penalty to the member jurisdiction, in writing.

6.42.180 - Remote Reseller Certificate of Exemption

A. A remote seller with no physical presence in the member jurisdiction purchasing goods or services for the express purpose of resale to buyer(s) located in the member jurisdiction shall apply for a resale certificate through the Commission.

B. The Remote Reseller Certificate of Exemption will expire at the end of the calendar year it is issued.

6.42.190 - Repayment Plans.

A. The Commission may agree to enter into a repayment plan with a delinquent remote seller or marketplace facilitator. No repayment plan shall be valid unless agreed to by both parties in writing.

B. A remote seller or marketplace facilitator shall not be eligible to enter into a repayment plan with the Commission if the remote seller or marketplace facilitator has defaulted on a repayment plan in the previous two (2) calendar years.

C. The repayment plan shall include a secured promissory note that substantially complies with the following terms:

i. The remote seller or marketplace facilitator agrees to pay a minimum of ten percent (10%) down payment on the tax, interest and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.

ii. The remote seller or marketplace facilitator agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.

iii. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.

iv. If the remote seller or marketplace facilitator is a corporation or a limited liability entity, the remote seller or marketplace facilitator agrees to provide a personal guarantee of the obligations under the repayment plan.

v. The remote seller or marketplace facilitator agrees to pay all future tax bills in accordance with the provisions of this chapter.

vi. The remote seller or marketplace facilitator agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the Commission at the time the repayment plan is signed. The remote seller or marketplace facilitator shall be responsible for the cost of recording the tax lien.

D. If a remote seller or marketplace facilitator fails to pay two (2) or more payments in accordance with the terms of the repayment plan agreement, the remote seller or marketplace facilitator shall be in default and the entire amount owed at the time of default shall become immediately due. The Commission will send the remote seller or marketplace facilitator a notice of default. The Commission may immediately foreclose on the sales tax lien or take any other remedy available under the law.

6.42.200 - Remote Seller or Marketplace Facilitator Record Retention. Remote sellers or marketplace facilitators shall keep and preserve suitable records of all sales made and such other books or accounts as may be necessary to determine the amount of tax which the remote seller or marketplace facilitator is obliged to collect. Remote sellers or marketplace facilitators shall preserve suitable records of sales for a period of six (6) years from the date of the return reporting such sales, and shall preserve for a period of six (6) years all documentation supporting exempted sales of goods or services, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the remote seller or marketplace facilitator was obliged to collect under this chapter.

6.42.210 - Cessation or Transfer of Business.

A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, assigns, gifts or otherwise transfers (collectively, a "transfer") the majority of their business interest, including to a creditor or secured party, shall make a final sales tax return within thirty (30) days after the date of such conveyance.

B. At least ten (10) business days before any such transfer is completed, the remote seller or marketplace facilitator shall send to the Commission, by approved communication (email confirmation, certified first-class mail, postage prepaid) a notice that the remote seller's or marketplace facilitator's interest is to be conveyed and shall include the name, address and telephone number of the person or entity to whom the interest is to be conveyed.

C. Upon notice of transfer and disclosure of buyer, the Commission shall be authorized to disclose the status of the remote seller's or marketplace facilitator's sales tax account to the named buyer or assignee.

D. Upon receipt of notice of a transfer, the Commission shall send the transferee a copy of this Code with this section highlighted.

E. Neither the Commission's failure to give the notice nor the transferee's failure to receive the notice shall relieve the transferee of any obligations under this section.

F. Following receipt of the notice, the Commission shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the remote seller or marketplace facilitator. If the notice is not mailed at least ten (10) business days before the transfer is completed, the Commission shall have twelve (12) months from the date of the

completion of the transfer or the Commission's knowledge of the completion of the transfer within which to begin a final sales tax audit and assess sales tax liability against the remote seller or marketplace facilitator. The Commission may also initiate an estimated assessment if the requirements for such an assessment exist.

G. A person acquiring any interest of a remote seller or marketplace facilitator in a business required to collect the tax under this chapter assumes the liability of the remote seller or marketplace facilitator for all taxes due the Commission, whether current or delinquent, whether known to the Commission or discovered later, and for all interest, penalties, costs and charges on such taxes.

H. Before the effective date of the transfer, the transferee of a business shall obtain from the Commission an estimate of the delinquent sales tax, penalty and interest, if any, owed by the remote seller or marketplace facilitator as of the date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the remote seller or marketplace facilitator has produced a receipt from the Commission showing that all tax obligations imposed by this chapter have been paid. A transferee that fails to withhold the amount required under this subsection shall be liable to the Commission and member jurisdiction for the lesser of the amount of delinquent sales tax, penalty and interest due from the remote seller or marketplace facilitator as of the date of transfer, and the amount that the transferee was required to withhold.

I. In this section, the term "transfer" includes the following:

1. A change in voting control, or in more than fifty percent (50%) of the ownership interest in a remote seller or marketplace facilitator that is a corporation, limited liability company or partnership; or

2. A sale of all or substantially all the assets used in the business of the remote seller or marketplace facilitator; or

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the remote seller's or marketplace facilitator's gross receipts from sales, rentals or services.

J. Subsection H of this section shall not apply to any person who acquires their ownership interest in the ongoing business as a result of the foreclosure of a lien that has priority over the Commission's sales tax lien.

K. Upon termination, dissolution or abandonment of a business entity, any officer having control or supervision of sales tax funds collected, or who is charged with responsibility for the filing of returns or the payment of sales tax funds collected, shall be personally liable for any unpaid taxes, interest, administrative costs and penalties on those taxes if such person willfully fails to pay or cause to be paid any taxes due from the entity. In addition, regardless of willfulness, each director, member, or general partner of the entity shall be jointly and severally liable for unpaid amounts. The person shall be liable only for taxes collected which became due during the period he or she had the control, supervision, responsibility or duty to act for the entity. This section does not relieve the entity of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

L. A remote seller or marketplace facilitator who terminates the business without the benefit of a purchaser, successor or assign shall make a final tax return and settlement of tax obligations within thirty (30) days after such termination. If a final return and settlement are not received within thirty (30) days of the termination, the remote seller or marketplace facilitator shall pay a penalty of one hundred dollars (\$100), plus an additional penalty of twenty-five dollars (\$25) for each additional thirty (30) day period, or part of such a period, during which the final return and settlement have not been made, for a maximum of six (6) additional periods.

6.42.220 - Use of Information on Tax Returns.

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the Commission under this Code, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the Commission and member jurisdiction whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The Commission will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of sellers and marketplace facilitators;

2. Whether a business is registered to collect taxes under this chapter;

3. The name and address of businesses that are sixty (60) days or more delinquent in filing returns or in remitting sales tax, or both filing returns and remitting sales tax; and, if so delinquent, the amount of estimated sales tax due, and the number of returns not filed.

D. The Commission may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular remote seller or marketplace facilitator is disclosed.

E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or their duly authorized representative, of a copy of any return or report filed by them, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers, remote sellers, or marketplace facilitators, nor to prohibit the furnishing of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws.

F. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any remote seller or marketplace facilitator or agent of any remote seller or marketplace facilitator required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within thirty (30) days after the required date for that business. Entry into any agreement whether pursuant to the provisions of this chapter or otherwise shall not act as any prohibition to disclosure of the records of that remote seller or marketplace facilitator as otherwise provided in this chapter.

G. A prospective lessee or purchaser of any business or business interest may inquire as to the obligation or tax status of any business upon presenting to the Commission a release of tax information request signed by the authorized agent of the business.

H. Except as otherwise provided herein, all returns referred to in this chapter, and all data taken therefrom, shall

be kept secure from public inspection, and from all private inspection.

6.42.230 - Violations.

A. A remote seller or marketplace facilitator that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this Code, shall pay to the Commission all costs incurred by the Commission to determine the amount of the remote seller's or marketplace facilitator's liability or to collect the sales tax, including, without limitation, reviewing and auditing the remote seller's or marketplace facilitator's business records, collection agency fees, and actual reasonable attorney's fees.

B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the Commission as required by this Code shall be liable to the Commission for the amount that should have been collected or remitted, plus any applicable interest and penalty.

C. Notwithstanding any other provision of law, and whether or not the Commission initiates an audit or other tax collection procedure, the Commission may bring a declaratory judgment action against a remote seller or marketplace facilitator believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state and federal law. The action shall be brought in the judicial district of the member jurisdiction.

D. The Commission may cause a sales tax lien to be filed and recorded against all real and personal property of a remote seller or marketplace facilitator where the remote seller or marketplace facilitator has:

1. Failed to file sales tax returns for two (2) consecutive filing periods as required by the Code; or

2. Failed within sixty (60) days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement as provided in this Code.

3. Prior to filing a sales tax lien, the Commission shall cause a written notice of intent to file to be mailed to the last known address of the delinquent remote seller or marketplace facilitator.

E. In addition to other remedies discussed in this Code, the Commission may bring a civil action to:

1. Enjoin a violation of this Code. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.

2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.

3. Foreclose a recorded sales tax lien as provided by law.

F. All remedies hereunder are cumulative and are in addition to those existing at law or equity.

6.42.240 - Penalties for Violations.

A. In the event that a penalty provided below is different from the same penalty in the member jurisdiction's Sales Tax Code, the penalty prescribed in the member jurisdiction's Sales Tax Code will apply.

B. A buyer, remote seller, or marketplace facilitator who knowingly or negligently submits false information in a document filed with the Commission pursuant to this Code is subject to a penalty of five hundred dollars (\$500).

C. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or member jurisdiction is subject to a penalty of five hundred dollars (\$500).

D. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a penalty of five hundred dollars (\$500).

E. A remote seller or marketplace facilitator who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the Commission a penalty equal to three (3) times any deficiency found or estimated by the Commission with a minimum penalty of five hundred dollars (\$500).

F. A remote seller or marketplace facilitator who falsifies or misrepresents any record filed with the Commission is guilty of an infraction and subject to a penalty of five hundred dollars (\$500) per record.

G. Misuse of an exemption card is a violation and subject to a penalty of fifty dollars (\$50) per incident of misuse;

H. Nothing in this chapter shall be construed as preventing the Commission from filing and maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a remote seller or marketplace facilitator. The Commission may also recover attorney's fees in any action against a delinquent remote seller or marketplace facilitator.

6.42.250 - Remittance of Tax; Remote Seller Held Harmless.

A. Any remote seller or marketplace facilitator that collects and remits sales tax to the Commission as provided by law may use an electronic database of state addresses that is certified by the Commission pursuant to subsection (C) of this section to determine the member jurisdictions to which tax is owed.

B. Any remote seller or marketplace facilitator that uses the data contained in an electronic database certified by the Commission pursuant to subsection (C) of this section to determine the jurisdictions to which tax is owed shall be held harmless for any tax, charge, or fee liability to any member jurisdiction that otherwise would be due solely as a result of an error or omission in the database.

C. Any electronic database provider may apply to the Commission to be certified for use by remote sellers or marketplace facilitators pursuant to this section. Such certification shall be valid for three years. In order to be certified, an electronic database provider shall have a database that satisfies the following criteria:

1. The database shall designate each address in the state, including, to the extent practicable, any multiple postal address applicable to one location and the taxing jurisdictions that have the authority to impose a tax on purchases made by purchasers at each address in the state.

2. The information contained in the electronic database shall be updated as necessary and maintained in an accurate condition. In order to keep the database accurate, the database provider shall provide a convenient method for taxing jurisdictions that may be affected by the use of the database to inform the provider of apparent errors in the database. The provider shall have a process in place to promptly correct any errors brought to the provider's attention.

6.42.260 - Savings Clause. If any provision of this Chapter 6.42, the Remote Seller Sales Tax Code, and Chapter 6.40, Sales Tax Code, is determined by the Commission or an adjudicatory body of competent jurisdiction to discriminate against a remote seller in favor of a local seller with a physical presence in the Borough, the discriminatory provision shall continue in effect only to the extent such provision does not discriminate against a remote seller, and the comparable code provision applicable to a local seller will apply to a remote seller, and the remainder of Chapters 6.40 and 6.42 shall continue in full force and effect.

6.42.270 - Definitions. Whenever the following words and terms are used in this chapter, they shall have the meaning herein ascribed unless the context clearly indicates otherwise. Other definitions are found in the definitional section of the taxing jurisdiction's general sales tax ordinance.

"Buyer or purchaser" means a person to whom a sale of property or product is made or to whom a service is furnished.

"Commission" means the Alaska Remote Seller Sales Tax Commission established by Agreement between local government taxing jurisdictions within Alaska, and delegated tax collection authority.

"Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

"Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing.

"Entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

"Goods for resale" means:

A. the sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.

B. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

"Lease" or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term

for consideration. A lease or rental may include future options to purchase or extend.

"Local sale" means a sale by a seller with a physical presence in a taxing jurisdiction, where the point of delivery is a location within the same taxing jurisdiction.

"Marketplace" means a physical or electronic place, platform or forum, including a store, booth, internet website, catalog or dedicated sales software application, where products or services are offered for sale.

"Marketplace facilitator" means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller's property, product or services through a physical or electronic marketplace operated by the person, and engages:

(a) Directly or indirectly, through one or more affiliated persons in any of the following:

(i) Transmitting or otherwise communicating the offer or acceptance between the buyer and remote seller;

(ii) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;

(iii) Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or

(iv) Software development or research and development activities related to any of the activities described in (b) of this subsection, if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

(b) In any of the following activities with respect to the seller's products:

(i) Payment processing services;

(ii) Fulfillment or storage services;

(iii) Listing products for sale;

(iv) Setting prices;

(v) Branding sales as those of the marketplace facilitator;

(vi) Order taking;

(vii) Advertising or promotion; or

(viii) Providing customer service or accepting or assisting with returns or exchanges.

"Marketplace seller" means a person that makes retail sales through any physical or electronic marketplace that is operated by a marketplace facilitator.

"Member jurisdiction" means a taxing jurisdiction that is a signatory of the Alaska Remote Seller Sales Tax Agreement, thereby members of the Commission, and who have adopted the Alaska Remote Seller Sales Tax Code.

"Monthly" means occurring once per calendar month.

"Nonprofit organization" means a business that has been granted tax-exempt status by the Internal Revenue Service.

"Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

"Physical presence" for purposes of section .050 means a seller who establishes any one or more of the following within the member jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the member jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the member jurisdiction;
3. Provides services or holds inventory within the boundaries of the member jurisdiction;
4. Rents or Leases property located within the boundaries of the member jurisdiction.

A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the member jurisdiction for the following calendar year.

"Point of delivery" means the location at which property or a product is delivered or service rendered.

A. When the product is not received or paid for by the purchaser at a business location of a remote seller in the member jurisdiction, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as

supplied by the purchaser (or recipient) and as known to the seller.

B. When the product is received or paid for by a purchaser who is physically present at a business location of a remote seller in the member jurisdiction, the sale is considered to have been made in the member jurisdiction where the purchaser is present even if delivery of the product takes place in another taxing jurisdiction. Such sales are reported and tax remitted directly to the member jurisdiction, not to the Commission.

C. When the service is not received by the purchaser at a business location of a remote seller, the service is considered delivered to the location where the purchaser receives the service.

D. For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.

"Product-based exemptions" means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations that require a professional license under Alaska Statute.

"Property" and **"product"** and **"good"** means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).

"Quarter" means trimonthly periods of a calendar year; January-March, April-June, July-September, and October-December.

"Receive or receipt" for purposes of section .030 and the definition of "point of delivery" means

- A. Taking possession of property or product;
- B. Making first use of services;
- C. Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include temporary possession by a shipping company on behalf of the purchaser.

"Remote sales" means sales of goods or services by a remote seller or marketplace facilitator.

"Remote seller" means a seller or marketplace facilitator making sales of goods or services for delivery within the State of Alaska without having a physical presence in the member jurisdiction in which delivery is being made.

"Resale of services" means sales of intermediate services to a business where the charge for which will be passed directly by that business to a specific buyer.

"Sale" or "retail sale" means any provision of service(s) or any transfer of property or product for consideration for any purpose other than for resale.

"Sales price or purchase price" means the total amount of consideration, including cash, credit, property, products, and services, for which property, products, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property or product sold;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges; and
- F. Credit for any trade-in, as determined by state law.

"Seller" means a person making sales of property, products, or services, or a marketplace facilitator facilitating sales on behalf of a seller.

"Services" means all services of every manner and description, which are performed or furnished for compensation, and delivered

electronically or otherwise into the member jurisdiction, including but not limited to:

- A. Professional services;
- B. Services in which a sale of property or product may be involved, including property or products made to order;
- C. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;
- D. The sale of transportation services;
- E. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission; and
- F. Advertising, maintenance, recreation, amusement, and craftsman services.

"Tax cap" means a maximum taxable transaction.

"Taxing jurisdiction" means a local government in Alaska that has a sales tax.

"Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

6.42.280 - Supplemental Definitions. For purposes of this chapter, the Commission may promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code, provided that they are not in conflict with or contrary to definitions set forth in the general sales tax ordinance of the member jurisdiction. Supplemental Definitions are available at www.arsstc.org. Provisions of the Supplemental Definitions that are amended, deleted, or added prior to or after the effective date of the latest amendment to this chapter shall be applicable for purposes of this chapter on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

Chapter 6.44

SPECIAL ASSESSMENTS

Sections:

- 6.44.010 Assessment and Proposal.
- 6.44.020 Special Assessment Districts.
- 6.44.030 Initiation by Petition -- Form and Requirements.
- 6.44.040 Initiation by Assembly -- Authorization.
- 6.44.050 Survey and Report of Proposed District.
- 6.44.060 Public Hearing on Necessity of Improvement.
- 6.44.070 Assembly Action After Hearing.
- 6.44.080 Preparation of Assessment Roll.
- 6.44.090 Public Hearing on Assessment Roll.
- 6.44.100 Confirmation of Assessment Roll.
- 6.44.110 Notice Required for Public Hearings.
- 6.44.120 Recording of Assembly Resolution.
- 6.44.130 Determination of Property Assessed.
- 6.44.140 Determination of Property Owner.
- 6.44.150 Determination of Amount Assessed.
- 6.44.160 Computation of Assessments.
- 6.44.170 Notice of Assessment.
- 6.44.180 Payment.
- 6.44.190 Objection and Appeal.
- 6.44.200 Special Assessment Lien.
- 6.44.210 Cumulative Enforcement.
- 6.44.220 Change in District Boundaries -- Public Hearing.
- 6.44.230 Correction of Invalid Special Assessments.
- 6.44.240 Special Assessment Bonds.
- 6.44.250 Capital Improvements by Agreement.
- 6.44.260 Accounts.

6.44.010 Assessment and Proposal.

A. The Assembly may assess against the property of a governmental unit and private real property to be benefited by an improvement all or a portion of the cost of acquiring, installing, or constructing capital improvements.

B. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under AS 29.46.020 (b). If a governmental unit other than the state benefited by an improvement refuses to pay the assessment, it shall be denied the benefit of the improvement.

- C. An improvement proposal may be initiated by:
1. Petition to the Assembly of the owners of the properties which shall bear at least fifty percent of the estimated cost of the improvement sought by the petition, or at least seventy-five percent of the estimated cost of the improvement sought by the petition in the circumstances set forth in 6.44.030(B); or
 2. The Assembly.

6.44.020 Special Assessment Districts.

A. When more than one property is to be specially benefited by a proposed improvement, the project is considered a special assessment district.

B. A special assessment district for a public improvement may be initiated for any one or more of the following improvements:

1. Streets, roads, parkways, street lighting, curbs and gutters, driveways, curb cuts and sidewalks;
2. Storm sewers or drains;
3. Sanitary sewers;
4. Parks or playgrounds;
5. Off-street parking facilities;
6. Changes in channels of streams or watercourses;
7. Bridges, culverts, bulkheads, embankments or dikes for streams or watercourses;
8. Water supply system including water mains, water connections and fire hydrants;
9. Fallout or disaster shelters;
10. Street, road, parkways and sidewalk drainage, oiling, sprinkling or snow removal; or
11. Docks and cold storage facilities.
12. Extension of electrical service.

6.44.030 Initiation by Petition -- Form and Requirements.

A. The petition for a special assessment district shall be in a form prescribed by the Assembly and shall include a description of the improvement sought by the petition. The original or copies of the petition shall be signed by the owners of properties which will bear at least fifty percent of the estimated cost of the improvement sought by the petition.

B. Notwithstanding Subsection (A), in the case of improvements sought for fallout or disaster shelters, parks and playgrounds, changes in channels of streams or watercourses, or bridges, culverts, bulkheads, embankments or dikes for streams or watercourses wherein the Borough has determined not to

participate in the cost of such improvements, the petition shall bear the signatures of the owners of the properties which shall bear at least seventy-five percent of the cost of improvements sought by the petition.

C. The petition when signed shall be filed with the Borough Clerk. No property owner may withdraw his signature of approval for three months after the petition has been filed with the Borough Clerk, unless authorized by the Assembly.

6.44.040 Initiation by Assembly -- Authorization. The Assembly, by motion or other action, may direct the Borough Manager or approve his request to make a survey and report on a proposed Assembly-initiated special assessment district.

6.44.050 Survey and Report of Proposed District. Upon the filing with the Borough Clerk of a petition under Section .030 of this Chapter, or upon the direction of the Assembly under Section .040, the Borough Manager shall make a survey and report to the Assembly concerning the need for and the estimated cost of the proposed improvement. The report shall contain a plan defining the district, outlining the properties to be assessed and showing the desirable extent of the proposed improvement. The district may be defined:

A. By a boundary description; or

B. By a designation of the properties to be assessed within the district by lot, block and subdivision or, if unsubdivided, by other appropriate designation. The designation may generally refer to streets, alleys, intersections and all other public properties and rights-of-way to be included within the district as "and included public streets, rights-of-way and properties".

The survey and report of the Borough Manager may be made either before or at the time of the public hearing on the necessity for the proposed improvement.

6.44.060 Public Hearing on Necessity of Improvement.

A. The Assembly shall hold a public hearing on the necessity for the proposed improvement. The Assembly or Borough Manager shall fix the time and place of the public hearing which may be continued from time to time as the Assembly may decide. After hearing all interested persons favoring or opposing the proposed improvement, the Assembly may decrease the extent or value of the improvement, or may delete from the district properties not benefited in whole or in part by the improvement.

B. In a hearing on an improvement initiated by a petition under Section .030(A), no change may be made resulting in an

improvement district containing petitioners of properties bearing less than fifty percent of the estimated cost of the improvement, unless other sufficient property owners are added to the petition prior to Assembly action on the petition.

C. In a hearing on an improvement initiated by a petition under Section .030(B), no change may be made resulting in an improvement district containing petitioners of properties bearing less than seventy-five percent of the estimated cost of the improvement, unless other sufficient property owners are added to the petition prior to Assembly action on the petition.

D. If written protests as to the necessity of the local improvement are made by the owners of property who shall bear fifty percent or more of the estimated cost of the improvement, the Assembly shall not proceed with the improvement until the protests have been reduced to less than fifty percent.

E. Notice of the public hearing provided for herein shall be given in accordance with Section .110 of this Chapter.

6.44.070 Assembly Action After Hearing.

A. After the public hearing held under Section .060 of this Chapter is closed, the Assembly shall find by resolution whether to proceed or not to proceed with the proposed improvement.

B. An Assembly resolution to proceed must find that the improvement is necessary and of benefit to the properties to be assessed, and in the case of an improvement initiated by a petition under Section .030, that the petition has been signed by sufficient and proper petitioners. The findings of the Assembly are conclusive. The resolution shall require an account to be kept of all costs of the improvement and direct the Borough Manager to prepare the assessment roll. The Assembly, in the resolution, shall assess the authorized percentage or rate of the costs of the improvement against the properties within the district in:

1. Equal shares for every property in the district;
- or
2. Proportionate shares based on the percentage an individual property bears to the total area of the district; or
 3. A combination of both.

6.44.080 Preparation of Assessment Roll.

A. After the improvement plan has been completed and the costs of the improvement computed, the Borough Manager shall prepare an assessment roll for the special assessment district. The assessment roll shall contain, as to each property to be assessed, a brief description or designation of the property,

the name of the owner or reputed owner of the property and the amount assessed against the property.

B. When the assessment roll is completed, the Assembly or Borough Manager shall fix a time and place for a public hearing on objections to the assessment roll. Notice of the public hearing shall be given in accordance with Section .110 of this Chapter.

6.44.090 Public Hearing on Assessment Roll. At the public hearing on the assessment roll, an owner of property to be assessed shall have the right to present his objection to the assessment roll by showing errors and inequalities in the assessment roll and submitting any reason for amendments and correction of the assessment roll. The public hearing may be continued from time to time as the Assembly may decide. After the public hearing, the Assembly shall correct any error or inequality in the assessment roll. When the roll is finally determined, the Borough Clerk shall so certify.

6.44.100 Confirmation of Assessment Roll. After the public hearing and determination of the assessment roll, the Assembly, by resolution, shall confirm the special assessment roll of the special assessment district. The resolution shall provide for the levy and fix a schedule of dates when the special assessment or special assessment installment payments become due and delinquent.

6.44.110 Notice Required for Public Hearings. Notice by publication and mail shall be given for the public hearings required by Sections .060 and .090 of this Chapter.

A. Notice of the public hearing shall be published in a newspaper of general circulation within the Borough at least once a week for four consecutive weeks prior to the time fixed for the hearing. If there is no such newspaper, notice of public hearing shall be published by posting the notice in three public places in the Borough for at least thirty days. The notice to be published shall include a summary of the improvement, the designation of the properties to be assessed in the special assessment district, the purpose of the public hearing and the time and place fixed for the public hearing.

B. The Borough Clerk shall send a written notice by first class mail at least fifteen days prior to the time of the hearing to each owner of property to be assessed. The notice by mail shall include a summary of the improvement, the designation of the owner's property to be assessed, the purpose of the public hearing, the amount of estimated or actual assessment

against the property and the time and place fixed for the public hearing.

C. Each notice shall generally inform the property owner of the manner and method of protesting or objecting to the action to be taken at the public hearing.

6.44.120 Recording of Assembly Resolution.

A. Upon Assembly request, the Borough Attorney shall file on record with the district recorder all Assembly resolutions creating or establishing assessment districts.

B. Failure to file a resolution as required by Subsection (A) shall not operate as to impair any right or interest the Borough has in an assessment district under applicable Borough ordinances or state law.

6.44.130 Determination of Property Assessed. The Assembly may assess for an improvement any real property or any interest therein, specially benefited, and the property specially benefited may include abutting, adjoining, adjacent, contiguous, noncontiguous or other property or interests in property benefited directly or indirectly by the improvement. The property to be assessed may include any property which is otherwise for any reason exempt from taxation by law. A benefited property may be included in whole or in part in more than one special assessment district.

6.44.140 Determination of Property Owner. The person whose name is listed on the latest assessment roll as the owner of the property to be assessed is conclusively presumed to be the legal owner of the property. If the property owner is unknown, the property may be assessed in the name of the "unknown owner". No assessment is invalidated by a mistake, omission or error in the name of the owner if the property is correctly described.

6.44.150 Determination of Amount Assessed. The Assembly may assess one hundred percent of any or all costs of an improvement against each parcel of property benefited by the improvement. Unless the Assembly provides otherwise by resolution under Section .070(B), the Assembly shall assess each parcel of property in a special assessment district in proportionate to, and not to exceed, the value of the benefits received from the improvement.

6.44.160 Computation of Assessments.

A. A correct account shall be kept of all the expenses of the improvement. The expenses to be assessed may include all costs incident to the making of the improvement, as well as the costs of all times of work or expense which reasonably enter into the making of the improvement or reasonably arise in connection with the improvement, including but not limited to interest during construction, engineers' and attorneys' fees, property acquisition and financing costs, including interest and costs to be incurred in the collection of the assessment.

B. After the total cost of the improvement is established or estimated, that portion of the cost to be borne by special assessments shall be apportioned and spread against the various properties in accordance with the authorized rate or percentage and entered on the assessment roll. In anticipation of delinquent assessments, there may be added to each separate assessment appearing on the assessment roll a sum not less than three percent nor greater than ten percent of the assessment. Such assessment roll shall contain a brief description or designation of each tract of property, the name of the owner or reputed owner, and the amount of the proposed assessment.

6.44.170 Notice of Assessment. Within thirty days after the resolution set forth in Section .100 of this Chapter confirming the assessment roll and fixing the date of delinquency, the Borough Clerk shall mail with postage prepaid an assessment notice to the owner of each property assessed. The notice shall designate the property, the amount of the assessment, the schedule of payments and delinquencies, and the amount of the penalty and interest. Not more than sixty nor less than thirty days before the date the assessment becomes delinquent, the finance director shall mail a payment notice to each property owner, but the failure to mail the notice shall in no way affect any liability for or enforcement of payment of all or any part of the special assessment.

6.44.180 Payment.

A. No payment shall be required within sixty days after the date of the resolution set forth in Section .100 of this Chapter.

B. Deferred or installment payments may bear interest at a rate not to exceed the effective interest rate of the last bonds sold to finance similar improvements, from the date of the confirmation of the assessment roll until paid.

C. A penalty of eight percent shall be added to any assessment or assessment installment not paid before the date of delinquency, and both the assessment and penalty shall accrue

interest at the rate of eight percent per year until paid. Penalty and interest may be waived by the Mayor where the sum does not exceed two hundred dollars and such penalty and interest accrued through no fault of the property owner so assessed. The Borough Assembly may waive penalty and interest where the sum exceeds two hundred dollars and such penalty and interest accrued through no fault of the property owner so assessed.

6.44.190 Objection and Appeal.

A. The validity of an assessment is waived and may not be contested in any manner in any proceeding by a person who did not file with the Borough Clerk a written objection to the assessment roll prior to its confirmation.

B. The decision of the Assembly upon an objection may be appealed to the proper court within sixty days of the date of confirmation of the assessment roll. If no objection is filed or an appeal taken within that time, the assessment procedure shall be considered valid in all respects.

6.44.200 Special Assessment Lien. A special assessment, together with interest, collection and penalty charges, is a lien upon the property assessed from the time the special assessment is levied in the resolution confirming the assessment roll, second in priority only to property taxes and prior special assessments. The lien shall be of the same character, effect and duration as a lien for Borough real property taxes. A lien for a special assessment may be collected, foreclosed and otherwise enforced in accordance with the procedures provided in this code and the Alaska Statutes for the collection, foreclosure and enforcement of municipal tax liens on real property.

6.44.210 Cumulative Enforcement. The collection, foreclosure or enforcement of any installment or any part of a special assessment shall not bar, prevent or otherwise extinguish the right of the Borough to collect, foreclose or enforce the payment of any other installment or part of the same or any other special assessment.

6.44.220 Change in District Boundaries -- Public Hearing.

A. In its discretion, the Assembly may, by ordinance, at any time eliminate from the district any unit of the improvement which is not completed and may proceed with the construction of the balance of the improvements within the district as fully and completely as though the eliminated unit had not been included

within the district. The assessments to be levied to pay part or all of the costs of the improvements actually constructed may be levied only against the properties within the district specially benefited thereby.

B. The Assembly, by resolution, shall fix a time, date and place for a public hearing on the question of whether it should abandon the acquisition, construction and installation of a portion of the improvement. Notice of the hearing shall be published once at least fifteen days prior to the date thereof in a newspaper of general circulation within the Borough, or posted in three different places in the Borough, and shall be mailed on or prior to the date of publication to all owners of property within the district. The notice shall state the proposed Assembly action and shall also require that any owner who objects thereto shall file a written notice of that objection with the clerk at or prior to the hearing.

C. At the time of the hearing the Assembly shall hear all objections and evidence material to the question of whether the completion of the improvements should be abandoned. After considering the evidence, the Assembly shall then decide whether to abandon a portion of the improvements. In the event the Assembly decides that a portion of the improvements should not be completed, the costs of improvements incurred to the time of the abandonment shall be assessed only against the property within the district specially benefited by the improvements actually completed.

6.44.230 Correction of Invalid Special Assessments.

A. If any special assessment procedure of the Assembly is invalid for any reason, the Assembly may correct the same at any time within ninety days after the confirmation of the special assessment roll or after final determination of any litigation thereon, whether before or after the completion of the local improvement to which the special assessment applies.

B. In the event that a court of competent jurisdiction orders that any or all of a special assessment may not be assessed or enforced by the Assembly because of any invalid special assessment procedure, the Assembly may make a new assessment or reassessment upon the properties specifically benefited by the improvement by adopting a resolution to make a new assessment or a reassessment of the properties specially benefited by the improvement. In the resolution, the Assembly shall provide for the time and date of a public hearing on the new assessment or reassessment, shall direct the Borough Manager to prepare the assessment roll and shall assess the appropriate assessment against the property in the district. The procedures

set forth in Sections .080 through .110 of this Chapter shall be followed in making the new assessment or reassessment, unless that procedure is in conflict with this Section, in which event the provisions of this Section shall apply. The previous findings of benefit and necessity for the improvement shall continue in full force and effect in any assessment or reassessment unless invalidated by a court order.

C. In the event that findings of necessity and benefit are necessary to correct the invalid special assessment procedure, the Assembly may proceed to make a new assessment or reassessment of the property specially benefited by initiating an Assembly-initiated special assessment district in accordance with Section .040.

D. In any new assessment or reassessment by the Assembly, all sums paid upon the former assessment shall be credited to the property upon any new assessment or reassessment and the new assessment or reassessment shall to that extent be deemed satisfied.

If a refund, rather than a credit, is determined, then the Assembly in the resolution confirming the assessment roll shall provide for a refund to the person having paid the amount of assessment to be refunded.

No interest or penalty shall be charged by virtue of the fact that the original assessment was not pursued to completion.

E. The new assessment or reassessment when completed shall be enforced and collected in the same manner that special assessments are enforced and collected.

6.44.240 Special Assessment Bonds.

A. The Assembly may, by ordinance, authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall be deposited into an account for the payment of principal and interest on the bonds. The property benefited may be pledged by the Assembly to secure a payment.

B. Upon default in a payment due on a special assessment bond, a bond-holder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property.

6.44.250 Capital Improvements by Agreement. When the owners of one hundred percent of the property bearing the cost of improvements agree, the Assembly may, by ordinance, authorize a contract for provision of such improvements in lieu of special assessments, upon such terms and conditions as may be agreed upon. Any amounts due the Borough shall be a lien upon all real property involved in the same manner and with the same priority as special assessments hereunder, and shall be subject to penalty and interest as provided for special assessments.

6.44.260 Accounts. Accounts for special assessment districts shall be kept separate from other Borough accounts. Revenues from a special assessment shall be used solely to pay the cost of the improvement or the principal and interest on an indebtedness incurred for the improvements.

Chapter 6.48

SALMON TAX

(repealed)

Chapter 6.52

TRANSIENT ACCOMMODATION AND VEHICLE RENTAL TAX

Sections:

- 6.52.010 Definitions
- 6.52.020 Levy and Amount of Tax
- 6.52.030 Payment and Collection of Tax
- 6.52.040 Exemptions
- 6.52.050 Remittance of Tax and Returns
- 6.52.060 Sale or Transfer of Business
- 6.52.070 Delinquencies
- 6.52.080 Protest of Tax
- 6.52.090 Refund of Excess Payment
- 6.52.100 Period of Limitation
- 6.52.110 Rules and Regulations
- 6.52.120 Record Keeping
- 6.52.130 Tax as Lien
- 6.52.140 Oaths
- 6.52.150 Confidentiality of Records.
- 6.52.160 Tourism Enhancement Account.

6.52.010 Definitions.

- A. (repealed)
- B. "Borough" means the City and Borough of Yakutat.
- C. "Guest" means a person who rents a lodging for use for a term of less than 30 consecutive days.
- D. "Lodging" means a structure or part of a structure offered for dwelling or sleeping for a monetary consideration. This includes but is not limited to any hotel, motel, hostel, inn, resort, cabin, tent-cabin, bed and breakfast or boarding house. This is specifically intended to include any guest who has overnight lodging as part of a combined-price package. This excludes any hospital or other clinic or facility operated solely for the purpose of providing medical services.
- E. "Operator" means a person who offers a lodging or vehicle for rent and to whom rent for same is payable, either directly or through an agent or employee.
- F. "Renter" means a person who rents a vehicle from an operator.
- G. "Vehicle Rental" means the renting, or offering for rental, of an automobile, truck, van, pickup, or other passenger vehicle.
- H. "Combined-price package" means 1) a combination of services, or services and goods, provided by an operator for a

single, flat rate, or rate which otherwise combines the cost of services and goods provided, or 2) where overnight lodging is only made available by the operator on condition that the guest purchase other services or goods in connection therewith.

6.52.020 Levy and Amount of Tax.

A. A tax, in an amount equal to 8% of the charge made by the operator, is hereby levied on a guest occupying lodging for each day, or portion thereof, for which a charge is made by the operator. For combined price packages, the tax shall be computed as follows:

1. Where all or any part of the lodging utilized in the package is located within the service area defined in CCBY 1.16.010, the tax shall be either i) a flat rate of \$8.00 per person per day, or ii) the amount derived by charging the tax on thirty percent of the total cost of the combined price package, whichever is greater; and

2. Where all of the lodging utilized in the package is located outside of the service area defined in CCBY 1.16.010, the tax shall be either i) a flat rate of \$4.00 per person per day, or ii) the amount derived by charging the tax on fifteen percent of the total cost of the combined price package, whichever is greater.

B. A tax, in an amount equal to 8% of the rental charge made by the operator, is levied upon a renter of a vehicle for each day, or portion thereof, for which a charge is made by the operator.

C. The taxes levied under paragraphs A and B of this section are in addition to the sales tax levied under Chapter 6.40 of the Code of the City and Borough of Yakutat.

D. The operator shall state the tax as a separate item on the guest's invoice.

6.52.030 Payment and Collection of Tax.

A. The Operator shall add the tax to the rental payment. The tax is a debt from the Guest or Renter to the Operator and the Borough and from the Operator to the Borough until paid and is recoverable at law in the same manner as other debts. The Guest or Renter is liable to the Borough for the tax notwithstanding the Operator's duty to collect.

B. Any director, officer, employee, agent or member of a corporation or limited liability company having control over or supervision of, or charged with the responsibility for, the collection or remittance of transient accommodation and vehicle rental tax, or the filing of transient accommodation and vehicle rental tax returns, on behalf of the corporation or company is

personally liable for any uncollected and/or unpaid taxes, penalties and interest due the Borough. Dissolution, sale or other transfer of the corporation or company does not discharge this liability.

6.52.040 Exemptions. There are no exemptions except those, if any, required by state or federal law.

6.52.050 Remittance of Tax and Returns.

A. Taxes required to be paid under this Chapter during a quarter are due and payable to the Borough from the Operator or person upon whom the tax is imposed on the last day of each quarter. Every Operator or person liable for the tax shall file with the Borough on forms furnished by the Borough a return containing the following information.

1. Number of persons from whom rents were collected per day, for rental of lodging or a vehicle within the Borough;
2. The amount of tax collected.
3. Interest, penalties, and such other information as may be required.

Additionally, the Operator shall submit such other information and supporting documentation as may be required by regulations issued by the Borough under Section .110 of this Chapter.

B. The return shall be signed and its completeness and accuracy sworn to by the Operator or person upon whom the tax is imposed under penalty of perjury.

C. The completed return, together with remittance of the tax due during the quarter, must be received by the Borough on or before the last day of the month following the end of each quarter year ending March thirty-first, June thirtieth, September thirtieth and December thirty-first. In the event the last day of the month falls on a Saturday, Sunday or legal holiday, the return may be filed and payment made on the first business day following.

D. Any Operator or other person who was required to pay a tax during a quarter shall file a return for the next following quarter even though no tax may be due during the following quarter. A return filed for such a quarter in which no tax was required to be collected must show why no tax was due. If the lodging, or vehicle or business operating said rental of vehicle, is sold or transferred to another, whether voluntarily or involuntarily, the person filing the return shall provide on the form the name of the person to whom the business was sold or transferred. A person who files a return for a quarter in which no tax was required to be paid is not required to file

additional returns until the person is required to pay a tax under this Chapter.

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

1. Penalties due, beginning with the oldest penalty;
2. Interest due, beginning with the interest due on the oldest quarter; and
3. Tax due, beginning with the tax due from the oldest quarter.

F. If an Operator fails to file or is late in filing a return or in paying tax due, the Borough Manager shall require the Operator to submit returns and payment each month for a minimum of nine (9) months.

6.52.060 Sale or Transfer of Business. If any Operator or other person required to pay a tax under this Chapter sells, leases or in any other manner disposes of the lodging or vehicle or business operating said rental of the vehicle, or if the lodging or vehicle or business operating said rental of the vehicle, is transferred voluntarily or involuntarily, the person selling, leasing or otherwise transferring shall make or deliver to the Borough within fifteen (15) days of the date of the sale, lease or other transfer a final tax return. The purchaser, lessee or other transferee or successor-in-interest of a business required to pay a tax under this Chapter shall be liable for all taxes required to have been paid by the former owner but not paid over to the Borough and shall be liable for all penalties and interest on such unpaid taxes and on late, improper or unfiled returns.

6.52.070 Delinquencies.

A. Penalty and interest. A penalty equal to five percent of the delinquent tax shall be added to the tax for the first month, or any part thereof, and an additional five percent shall be added to the tax due for each month, or fraction thereof, of delinquency until a total penalty of fifteen percent has accrued. The penalty shall be assessed and collected in the same manner as the tax is assessed and collected.

In addition to the penalty provided above, interest at the rate of fifteen percent per year on the delinquent tax from the date of delinquency until paid shall accrue and be collected in the same manner as the delinquent tax is collected.

B. Written demand and additional procedures. If a person fails to file a return or make payment in accordance with this Chapter, the finance director of the Borough may do any or all of the following things:

1. Criminal action. File a criminal complaint against the person in the proper court for violation of this Chapter;

2. Estimated Assessment. Make an estimated assessment against the person or business, with the assessment based upon an estimate of the tax. The tax estimate shall be derived from past returns of the operator, information obtained from an audit, the general economic level of the community and, if available, returns of comparable businesses. Notice of the estimated assessment shall be sent to the last known address of the operator by certified mail. The estimated assessment shall be deemed to be admitted by the operator to be the amount due and owing to the Borough unless the Finance Director receives, within twenty (20) days of the date of the mailing of the notice of the estimated assessment, an accurate and complete tax return for the delinquent periods, together with the full remittance of all taxes, interest, penalty and other costs due, or the operator remits the amount due under protest. Failure to file a written statement of protest and to remit in full the amount claimed by the Borough as owing within the time permitted under this subsection constitutes a waiver of the right to protest, appeal or otherwise challenge the amount due. The Finance Director shall issue a written ruling on an operator's protest within thirty (30) days of receipt of the protest and remittance if timely filed. The operator has the burden of proof;

3. Hearing. Notify the person in writing by certified mail, sent to the person's last known address, that a hearing will be held to determine the tax liability at a specified time and place not less than fifteen days after the date of the notice. The person shall present himself or herself at the hearing and make available for inspection his or her books, papers, records, tickets, invoices and other memoranda sufficient to enable the Borough to make a determination of the amount of tax due;

4. Publish. Publish in a newspaper of general circulation within the Borough, or if there is no such newspaper, post in three separate places in the Borough, the name and amount of tax, interest and penalty due from a person who is delinquent under this Chapter.

5. Demand. Make written demand upon the person, mailed to his or her last known address, for submission of a return and/or payment.

6. Civil Enforcement. Collect the amount due by any method available in law, including but not limited to the filing and/or foreclosure of a lien or the institution of a civil action.

6.52.080 Protest of Tax.

A. If a person from whom tax is due believes that a transaction is exempt or otherwise not subject to the tax imposed under this Chapter or believes that a penalty, interest, or other charge is not owing but has been informed by the Borough that such transaction is subject to the tax imposed under this Chapter or such penalty, interest, or other charge is owing, the person may protest the tax by paying the tax owed to the Borough and filing with the Borough at the time of payment a statement of protest setting out all relevant facts and clearly explaining why the transaction taxed or charge made is exempt, not otherwise subject to the tax levied or not owing. The payment and statement of protest must be received by the Borough on or by the date the tax or charge is otherwise due under 6.52.050 or within ten days of the date of notice by the Borough, in the case of inquiry under 6.52.110(B). Failure to file a statement of protest and to pay the amount claimed by the Borough as owing within the time permitted under this subsection constitutes a waiver of the right to protest the tax, charge or Borough determination under this Chapter and is a waiver of the right to appeal the protest, or to appeal or otherwise challenge the tax, charge or determination in any judicial or other proceeding.

B. The Borough Manager or his designee shall issue a written ruling on each protest within thirty (30) days of receipt of the protest by the Borough. The person from whom the tax is due has the burden of proof. The Borough Manager or his designee may permit or require the protestor to provide additional information relevant to the protest. The ruling must set forth the reason for the grant or denial of the protest. The ruling will be sent to the protestor at the address given on the protest, and shall be effective upon mailing.

C. If a protest is granted, the Borough Manager or his designee shall cause to be refunded to the person the tax or other charge paid to the Borough that was not subject to the tax or charge levied.

D. If a protest is denied, the protestor may, within thirty (30) days of the date of the notice of denial, request that the protest be referred to the Borough Assembly. The Assembly shall receive such additional information, whether written or oral, as the protestor may desire to present. The Borough shall render a decision in writing to the protestor. The decision of the Assembly is final.

6.52.090 Refund of Excess Payment.

A. A person who paid a tax or other charge under this Chapter that exceeded the amount actually due may receive a refund of the excess payment upon meeting the conditions set out below :

1. The person notifies the Borough in writing of the excess payment and provides written documentation demonstrating the excess payment; and

2. Such notice is received by the Borough not later than the last day upon which the person may file a tax return under this Chapter for the month following the month for which the claimed excess payment was made.

B. Upon approval of a refund, the Borough may pay the refund to the person, credit the refund against subsequent taxes and other charges due and payable from the person under this Chapter, or, at the person's request, credit against future, but not yet due and payable, tax payments.

C. A claim for a refund of an excess payment to which this section applies is forever barred if notice and proof of the excess payment is not given within the time prescribed.

6.52.100 Period of Limitation. (repealed)

6.52.110 Rules and Regulations.

A. The Borough Manager or his designee shall from time to time cause to be promulgated rules and regulations as are necessary and advisable to provide for the application and interpretation of this Chapter and to submit them to the Assembly for its adoption or rejection, and to cause to be provided methods and forms for reporting and collecting the tax in accordance with this Chapter and regulations.

B. If any person who is or may be required to pay a tax under this Chapter questions the application of this Chapter to a transaction or other situation in which that person is involved or may become involved, the person may apply to the Borough Manager or his designee for a ruling on the question. The Borough Manager or his designee may rule on the question and may seek the service of the Borough Assembly on the question.

6.52.120 Record Keeping.

A. A person or entity shall retain for a period of seven years all reports, returns, forms, records and supporting schedules as may be required by the Borough

B. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Borough Manager or his designee may conduct investigations, hearings and audits and to that end may examine

any relevant books, papers, memoranda, records or other writings of any person from whom tax is due or believed to be due, and may require the attendance and sworn testimony of any person at a hearing. Upon written demand by the Borough Manager or his designee, the person from whom tax is or may be due, shall produce at the office of the Mayor or his designee, such books, papers, memoranda, records and other written material as may be set out in the demand, unless the Mayor or his designee, and the person upon whom the demand is made, agree to presentation of such materials at a different place.

6.52.130 Tax as Lien. The tax, interest and any penalties imposed under this Chapter, and any administrative costs, including attorney fees and litigation costs, incurred by the Borough to collect the tax, shall constitute a lien in favor of the Borough upon all the real and personal property of the person owing the tax. The lien arises upon delinquency and continues until the liability is satisfied or the lien is foreclosed. A notice of lien may be filed in the office of the recorder for the Juneau Recording District. The Borough may also, at its discretion, file a notice of lien in any other recording district. When recorded, the tax has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the tax lien for amounts actually advanced before the recording of the tax lien; (3) mechanics' and materialman's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the tax lien.

6.52.140 Oaths. The Finance Director or Borough Manager is authorized and empowered to administer any oath necessary for the purpose of administering and enforcing the provisions of this Chapter.

6.52.150 Confidentiality of Records. All tax returns filed under this Chapter, all data obtained from such tax returns, and all financial information obtained from an inspection of records conducted under this Chapter are confidential and may not be released by the Borough except upon court order or when necessary to enforce the provisions of or to collect the taxes due under this Chapter. The Borough may publish at any time the names of delinquent taxpayers and the amounts and periods of delinquency.

6.52.160 Tourism Enhancement Account. This section governs discretionary grants made from the Tourism Enhancement Account, established under Assembly Ordinance 10-520.

A. The use of grant funds is limited to initial support of new projects, or the expansion of existing programs, that will contribute to the growth and promotion of tourism within the Borough by attracting and/or serving visitors to the Borough. A grant proposal must demonstrate how the requested funds will meet the above-stated purpose, and must include the projected budget for the project, and, for existing programs, the applicant's balance sheet and income/expense statement for the last fiscal year. Successful applicants will be required to execute, prior to receipt of funds, a contract with the Borough, setting forth terms and conditions deemed necessary to enable the Borough to assure compliance with the purposes of this section and the proper expenditure of funds.

B. A written proposal for a Tourism Enhancement Account discretionary grant shall be submitted on forms provided by the Borough. Any Borough resident or qualified organization, either for- or not-for-profit, is eligible to submit a grant proposal. An organization is considered qualified if a majority of its members, shareholders or partners are Borough residents. Proposals must be submitted by September 30th of a given year, for disbursement of grant funds in the next calendar year.

C. The Assembly shall review submittals and by motion approve grant proposals, in whole or in part, on or before its last meeting in January. Distribution of funds is at the discretion of the Assembly. Any funds in the Account not approved for grant disbursement by the Assembly, or any funds approved but not disbursed, may be retained in the Account for disbursement in the following calendar year.

D. Recipients of grant funds will be required to report to the Borough on how the funds were spent, on forms established by the Borough, with backup financial documents demonstrating such expenditures as required by the Borough.

Chapter 6.56

SEVERANCE TAX

Sections:

- 6.56.010 Severance Tax Levied.
- 6.56.020 Definitions.
- 6.56.030 Exemptions.
- 6.56.040 Registration.
- 6.56.050 Accrual and Remittance of Tax.
- 6.56.060 Delinquencies and Penalties.
- 6.56.070 Tax as Lien.
- 6.56.080 Confidentiality of Records.
- 6.56.090 Recordkeeping and Audit.
- 6.56.100 Protest and Appeal.

6.56.010 Severance Tax Levied.

A. An excise tax, denominated as a severance tax, is hereby levied within the City and Borough of Yakutat on any severer of natural resources, for the following activities:

1. Mining, extracting, harvesting, removing or producing for sale, profit or commercial use any metallic or nonmetallic mineral product;

2. Felling, removing, or producing for sale, profit or commercial use any timber; and

3. Mining, quarrying, extracting, removing or producing for sale, profit or commercial use any gravel, sand, or coal.

B. The rate of tax for natural resources severed from lands within the Borough shall be as follows:

<u>Natural Resource</u>	<u>Amount of Levy</u>
Gravel/Sand/Coal	\$0.20 (twenty cents) per ton
Timber	\$5.00 (five dollars) per mbf(thousand board feet)
Any metallic or nonmetallic mineral product (other than Coal)	4%(four percent)of gross production value

C. The tax levied under this Chapter shall not apply to the severing of natural resources which is conducted under a

contract executed prior to May 5, 2006, provided that the actual severance occurs prior to May 5, 2007.

6.56.020 Definitions.

- A. "Borough" means the City and Borough of Yakutat.
- B. "Calendar quarter" means any one of the following three month periods: December 1 through February 28/29; March 1 through May 31; June 1 through August 31; and September 1 through November 30.
- C. "Gross Production Value" means the market value per unit at the point of severance, multiplied by the number of severed units of the natural resource.
- D. "Lands within the Borough" includes all private, borough, state, federal, and native lands.
- E. "Market Value per unit" is equal to the sale price per unit, as established by the first sale of the resource by the severer to an unrelated party. Under conditions wherein the sale price represents less than the true market value of the resource, the value of the resource shall be determined as nearly as possible according to the selling price of a resource of like quality or character.
- F. "Metallic mineral products" are those that are composed of metals; this includes but is not limited to copper, gold, silver, zinc, lead, tin, molybdenum, and nickel.
- G. "Nonmetallic mineral products" are those that are not composed of metals; this includes but is not limited to limestone, coal, garnet, and gypsum.
- H. "Point of Severance" means:
1. For gravel, sand, and coal, the scale at the pit, quarry or mine;
 2. For timber, the yard scale; and
 3. For all other metallic and nonmetallic mineral products, prepared for transport at the mining site.
- I. "severed units" means all units mined, harvested, produced, quarried, extracted, felled, or removed directly or contractually.
- J. "severer" means a person, company, corporation or other entity engaged in the business of severing natural resources.
- K. "severing of natural resources" is the conduct of any of the activities set forth in subparagraphs (A)(1) through (A)(3) of section 6.56.010.
- L. "unit" means unit of measurement for a natural resource, as follows:
1. Ton, for gravel, sand, and coal;
 2. board feet, for timber; and

3. standard unit utilized for commercial use or sale, for all other metallic and nonmetallic mineral product.

6.56.030 Exemptions. The following activities are exempt from taxation:

A. The severance of gravel, sand, or coal in an amount less than 15,000 tons in a single calendar quarter.

B. The severance of timber in an amount less than 150 mbf in a single calendar quarter.

C. The severance of any other metallic or nonmetallic mineral product, if the gross production value is less than \$18,750.00 in a single calendar quarter.

6.56.040 Registration. Every severer subject to taxation hereunder shall register with the Borough tax department prior to beginning a severance activity.

6.56.050 Accrual and Remittance of Tax.

A. Every severer subject to taxation under this Chapter shall accrue the taxes imposed by this ordinance at the time of sale. The tax imposed shall be shown on the bill of sale as a separate and distinct item.

B. The severance tax shall be paid quarterly. The severer shall on or before the last day of the month succeeding the end of each calendar quarter prepare a return for the preceding quarter, upon forms furnished by the Borough, and pay the tax due. In the event the last day of the month falls on a legal holiday, the return may be filed and payment made on the first business day following. Any tax not paid when due shall be deemed delinquent.

C. The return shall, at a minimum, contain the following information:

1. The legal description of the properties from which natural resources were severed, and the name, address and contact numbers of the owner(s) of the properties;

2. The name, address and contact numbers of the severer, and the severer's State of Alaska and Borough business license numbers;

3. The amount of units severed from all properties during the quarter, and, in the case of severance of metallic and nonmetallic mineral product, the market value of those units; and

4. The name, address and contact numbers of the first purchaser(s) of the resource, and the number of severed units purchased by each such purchaser.

D. The return shall be signed and its completeness and accuracy sworn to by the severer under penalty of perjury.

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

1. penalties due, beginning with the oldest penalty;
2. interest due, beginning with the interest due on the oldest quarter; and
3. tax due, beginning with the tax due from the oldest quarter.

F. Any severer, whose return and payment for any quarter is timely, is entitled to a discount, equal to ten percent (10%) of the tax due or the sum of one thousand dollars, whichever is less, in the form of a deduction from the amount of the tax due, provided that:

1. The severer files a return and remits the tax due in compliance with all other provisions of this Chapter; and
2. The severer does not exhibit a manifest failure to maintain proper accounting records and returns of the tax due.

6.56.060 Delinquencies and Penalties.

A. A penalty equal to fifteen percent (15%) of the tax due shall be imposed upon delinquency.

B. In addition to the penalty provided above, interest shall accrue at the rate of fifteen percent (15%) per annum on the delinquent tax from the date of delinquency until paid in full.

C. If a severer fails to make payment in accordance with this Chapter, the Borough Finance Director may, in addition to any and all other remedies available by law, make an assessment of the tax due against the severer, with the assessment based upon historical data and the best information available, and institute civil action to recover the amount of the tax.

D. Knowingly failing to file a tax return required under this Chapter, or knowingly making a false statement on a tax return relative to the amount, location, kind or value of activities subject to taxation, shall constitute a violation of the Code of the City and Borough of Yakutat and shall be punishable by a penalty of not more than One Thousand Dollars (\$1,000.00) which may be imposed in addition to injunctive and compensatory relief. Each day that a violation continues constitutes a separate violation.

6.56.070 Tax as Lien. The tax, interest and any penalties imposed under this Chapter, and any administrative costs, including attorney fees and litigation costs, incurred by the

Borough to collect the tax, shall constitute a lien in favor of the Borough upon all the real and personal property of the severer. The lien arises upon delinquency and continues until the liability is satisfied or the lien is foreclosed. A notice of lien may be filed in the office of the recorder for the Juneau Recording District. The Borough may also, at its discretion, file a notice of lien in any other recording district. The lien may be foreclosed by the Borough in the same manner as any other lien against real or personal property. These lien rights are in addition to, and not in lieu of, any other legal remedies available to the Borough.

6.56.080 Confidentiality of Records. All tax returns filed under this Chapter, all data obtained from such tax returns, and all financial information obtained from an inspection of records or audit conducted under this Chapter are confidential and may not be released by the Borough except upon court order or when necessary to enforce the provisions of or to collect the taxes due under this Chapter. The Borough may publish at any time the names of delinquent taxpayers and the amounts and periods of delinquency.

6.56.090 Recordkeeping and Audit.

A. A severer shall retain for a period of six years all reports, returns, forms, records and supporting schedules as may be required by the Borough.

B. The Borough Finance Director may from time to time cause to be performed an audit of any individual or entity conducting or believed to be conducting severance activities within the Borough. Under this audit, the Borough may examine the books, records and files of any severer or purchaser, and conduct hearing(s) and compel the attendance of witnesses thereat.

C. Upon written notification and request by the Borough, mailed to the severer at the severer's last known address, a severer shall present at a specified date and time and deliver to the Borough the books, papers, records and any other documentation of the activities as requested. Said documents may include, but are not limited to, the following: Sales journals, production reports, general ledgers, bank statements, income statements, balance sheets, charts of account, and federal and/or state income tax returns.

D. Failure by the severer to comply with the provisions of paragraph C above shall constitute a violation of the Code of the City and Borough of Yakutat and shall be punishable by a penalty of not more than One Thousand Dollars (\$1,000.00) which

may be imposed in addition to injunctive and compensatory relief. Each day that a violation continues constitutes a separate violation.

6.56.100 Protest and Appeal.

A. If a severer believes that a transaction is exempt or otherwise not subject to the tax imposed under this Chapter or believes that a penalty or interest is not owing, but has been informed by the Borough that such transaction is subject to the tax imposed under this Chapter or such penalty or interest is owing, the person may protest the tax, penalty or interest by paying the sums the Borough states are owed and filing with the Borough at the time of such payment a statement of protest setting out all relevant facts and clearly explaining why the severer believes the transaction is not subject to this Chapter or the penalty or interest should not be imposed. The payment and statement of protest must be received by the Borough on or by the date the tax or charge is otherwise due under 6.56.050. Failure to file a statement of protest and to pay the amount claimed by the Borough as owing within the time permitted under this subsection constitutes a waiver of the right to protest the tax or charge under this Chapter and is a waiver of the right to appeal the protest, or to appeal or otherwise challenge the tax or charge in any judicial or other proceeding.

B. The Borough Manager shall issue a written ruling on each severer protest within thirty (30) days of receipt of the protest by the Borough. The person from whom the tax is due has the burden of proof. The Borough Manager may permit or require the protestor to provide additional information relevant to the protest. The ruling must set forth the reason for the grant or denial of the protest. The ruling will be sent to the protestor at the address given on the protest, and shall be effective upon mailing.

C. If a protest is granted, the Borough Manager shall cause to be refunded to the person the tax or other charge paid to the Borough that was not subject to the tax or charge levied.

D. If a protest is denied, the protestor may, within thirty (30) days of the date of the notice of denial, request that the protest be referred to the Borough Assembly. The Assembly shall receive such additional information, whether written or oral, as the protestor may desire to present. The Borough shall render a decision in writing to the protestor. A protestor who is dissatisfied with the Assembly's decision may appeal that decision to the superior court within thirty (30) days of issuance of that decision, and otherwise in accordance with the Alaska Appellate Rules of Procedure. The protestor's

failure to timely appeal in accordance with those rules constitutes a waiver of appeal rights and the Assembly's decision becomes final.

Chapter 6.60

YAKUTAT PERMANENT FUND

Sections:

- 6.60.010 Creation of the Fund.
- 6.60.020 Deposits into the Fund.
- 6.60.030 Management of the Fund and Delegation of Authority.
- 6.60.040 General Objectives.
- 6.60.050 Authorized Investments and Expenditures.
- 6.60.060 Asset Allocation and Target Return Guidelines.
- 6.60.070 Distribution of Fund Earnings.

6.60.010 Creation of the Fund. A permanent fund is hereby created. The Fund shall be maintained separate and apart from all other funds and accounts of the Borough.

6.60.020 Deposits into the Fund. The following proceeds shall be deposited into the Fund:

(A) Net proceeds of future sales of municipal real property. For purposes of this section, 'net proceeds' are defined as the sale price of the property, minus expenses incurred incident to the sale, including but not limited to closing costs, recording fees, escrow fees, and a pro rata share of attorney fees and administrative overhead related to the borough land sale. For sale proceeds received via installments, all expenses shall be deducted upfront, and in full, prior to any deposit into the Fund;

(B) Payments received for reimbursement to the Borough of monies expended from the Fund under CCBY 6.60.050(C)(2) for construction and installation of roads and utilities, including interest accruing thereon;

(C) Taxes remitted under Chapter 6.56 of the Borough Code; and

(D) Any additional funds appropriated by the Assembly, at its discretion.

6.60.030 Management of the Fund and Delegation of Authority.

(A) The Assembly may hire one or more investment advisers to develop an initial investment plan in accordance with sections .040 - 060 of this Chapter. Following initial plan development, the adviser shall communicate to the Assembly any

significant changes to economic outlook, recommended investment strategy, or any other factor which may affect the investment plan. The initial investment plan, and any amendments or changes thereto, shall be approved by the Assembly.

(B) The Assembly may thereafter hire one or more investment managers, to whom the Assembly delegates the authority to manage the Fund in accordance with the approved investment plan, and the discretion to make specific investment decisions to meet the investment plan's investment objectives. The authority and responsibilities of the manager include:

1. Discretionary investment management, including decisions to buy, sell, or hold individual securities and investments in accordance with section .050 of this chapter and the investment plan, and to alter asset allocation within the guidelines established in section .060 of this chapter;

2. Monitoring of Fund investments and providing to the Assembly, as needed and at least quarterly, an analysis of the status of the current Fund portfolio and investment performance results; and

3. Voting proxies, if requested by the Assembly, on behalf of the Borough, and communicating such voting records to the Assembly on a timely basis.

(C) Any investment adviser or manager hired by the Assembly shall be appropriately licensed by the Financial Industry Regulatory Authority (FINRA). Nothing herein is intended to prevent an investment adviser from also acting as an investment manager.

6.60.040 General objectives. The primary investment objectives of the Fund are to i) grow the principal to provide an income stream to the Borough general fund; and ii) provide funds to be used to construct and install roads and utilities for real property owned by the Borough, including parcels to be sold by the Borough at a land sale.

The primary objectives, in priority order, of the investment activities shall be growth, income and safety:

(A) Growth. Any investment plan for the Fund should provide for growth through investment in assets that have the probability of appreciating in value, while avoiding excessive risk.

(B) Income. Any investment plan for the Fund should produce sufficient current and continuing income from investment returns to inflation-proof the Fund and support transfers to the general fund and for construction and installation of roads and utilities under CCBY 6.60.050(C)(2).

(C) Safety. Any investment plan for the Fund shall place sufficient limitations on risk through diversification across asset categories and specific issuers and business sectors, and the establishment of specific quality standards. The plan shall establish specific acceptable credit ratings for investments, and set forth a policy regarding investments which sustain a subsequent rating downgrade.

6.60.050 Authorized Investments and Expenditures.

(A) Authorized Investments in the Fund are as follows:

1. Cash/Cash equivalents: treasury bills, money market funds, and AMLIP.

2. Equity Securities: Common stocks, Convertible notes and bonds, Convertible preferred stocks, American Depository Receipts (ADRs), Ordinary shares of foreign companies, and Exchange traded funds.

3. Fixed income securities: Treasury notes and bonds, Corporate notes and bonds, Mortgage backed bonds, TIPS, Fixed income securities of foreign governments, High yield debt and Certificates of deposit.

4. Alternatives: Hedge funds, Real Estate Investment Trusts, and Commodity-linked public traded securities.

5. Mutual funds. Funds which invest in authorized investments set out in subparagraphs (1) through (4) above. If some portion of a Fund is invested in a prohibited investment, as defined below, investment in that Fund is prohibited.

6. Deeds of Trust and other security documents executed pursuant to Borough land sales, as further set out in paragraph (C)(2) below.

(B) Prohibited investments.

1. Options.

2. Exchange traded funds that use leverage or are inverse.

3. Private equity.

4. Short positions.

5. I/O, P/O, or inverse mortgage related instruments.

6. Commodity and/or futures contracts.

7. Private placements.

(C) Authorized Expenditures from the Fund.

1. Money from the Fund transferred into the General Fund under 6.60.070(B) may be used for any purpose appropriate to a general fund expenditure.

2. Money from the Fund, including principal and earnings, may be expended for construction and installation of

roads and utilities for Borough real property; this includes property to be retained by the Borough and property to be included in a Borough land sale or other conveyance made under Chapter 7.16 of this Code.

a. If money is expended from the Fund prior to sale or other conveyance of the affected property, the costs of such construction and installation shall be included in the minimum bid price or the other consideration due upon transfer.

b. At the discretion of the Assembly, as set forth by separate resolution, the Borough may expend money from the Fund as part of, and pursuant to, a land sale or other conveyance, in order to advance a purchaser's costs of construction and installation of road and utilities; in such event, repayment of the money from the purchaser shall be secured by collateral in an amount and of a type deemed sufficient by the Assembly. Any payments made by installment or otherwise over time to reimburse the Borough for the costs of such installation and construction shall bear interest at a rate to be established by the Assembly, and shall be paid into the Fund as set forth in CCBY 6.60.020(B).

6.60.060 Asset Allocation and Target Return Guidelines. Investment management of the assets of the Fund shall be in accordance with the following asset allocation guidelines, with a target return of 4% above inflation:

<u>Type</u>	<u>Target %</u>	<u>Minimum/Maximum</u>
U.S. equity	30	20/40
Foreign equity	15	10/20
Fixed Income	40	30/50
Alternatives	10	00/15
Cash/Cash equivalent	05	02/20

6.60.070 Distribution of Fund Earnings. The distribution of Fund earnings shall be as follows:

(A) The Fund shall be protected from inflation by retaining in the Fund each year earnings equal to the amount of inflation from the previous calendar year, adjusted to reflect any reductions in principal due to authorized expenditures under CCBY 6.60.050(C)(2). The percent of inflation shall be calculated by the annual percent change in the Anchorage Consumer Price Index - All Urban (CPI-U) for that year. The amount that should be in the Fund through inflation proofing is cumulative from the date of initial investment by the Fund. In the event that there is not enough earnings to inflation proof

the Fund in a given year, no earnings may be distributed under (B) below until the inflation proofing for that year, and all previous years, is satisfied.

(B) After the Fund is inflation proofed, any earnings from the previous calendar year which total up to four percent (4%) may be distributed to the Borough general fund. A distribution made under this paragraph shall be timed so as to minimize the possibility of a loss occasioned by the sale of a security necessary to meet such a distribution.

(C) Except for expenditures authorized under CCBY 6.60.050(C)(2), any Fund earnings in a calendar year in excess of the inflation proofing required by (A), and a permitted distribution to the general fund under (B), shall be retained in the Fund for growth.

(D) New deposits made into the Fund during any calendar year pursuant to the provisions of section 6.60.020 shall not be deemed to be "earnings" for purposes of that year's annual retention and distributions under paragraphs (A)-(C) above.

Title 7

ACQUISITION AND DISPOSAL OF
BOROUGH PROPERTY

Chapters:

<u>7.04</u>	<u>Real Property Acquisition</u>
<u>7.08</u>	<u>Eminent Domain -- Adverse Possession</u>
<u>7.12</u>	<u>(Reserved)</u>
<u>7.16</u>	<u>Real Property Sales by the Borough</u>
<u>7.20</u>	<u>Lease of Borough Lands</u>
<u>7.24</u>	<u>Disposition of Borough-Owned Personal Property</u>
<u>7.28</u>	<u>(Reserved)</u>
<u>7.32</u>	<u>Borough Tidelands</u>
<u>7.34</u>	<u>Yak-Tat Kwaan 14(c)(3) Conveyance to the Borough</u>

Chapter 7.04

REAL PROPERTY ACQUISITION

Sections:

- 7.04.010 Acquisition and Ownership -- Authority.
- 7.04.020 Real Property Defined.
- 7.04.030 Acquisition -- Form.
- 7.04.040 Ownership -- Form.
- 7.04.050 Acquisition and Ownership -- Rights and Powers.
- 7.04.060 Acquisition -- Dedication by Plat.
- 7.04.070 Industrial Sites.
- 7.04.080 Federal and State Aid.
- 7.04.090 Real Property as Security.

7.04.010 Acquisition and Ownership -- Authority. The Borough may acquire, own and hold real property within or outside the Borough boundaries by purchase, gift, devise, grant, dedication, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, adverse possession, condemnation or declaration of taking, annexation or by any other lawful means or conveyances.

7.04.020 Real Property Defined. As used in this Chapter, "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.

7.04.030 Acquisition -- Form.

A. The Borough may acquire, own and hold real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale, plat dedication, lease, tax deed, will or any other lawful method or mode of conveyance or grant. Real property shall be held in the name of "The City and Borough of Yakutat." Any instrument requiring execution by the Borough shall be signed by the Mayor and attested by the Borough Clerk. The form of any conveyance shall be reviewed by the Borough Attorney.

B. All acquisitions not otherwise provided by law shall be by resolution approved by a majority vote of the Borough Assembly. The resolution shall set forth the terms, conditions and manner of acquisition. This Chapter does not

apply to property acquired by tax foreclosure or condemnation proceeding.

C. No Assembly approval is necessary to acquire any easement, right-of-way, permit, license or other interest in real property if necessary for a utility or public improvement where the utility or public improvement has been authorized and approved by the Assembly.

D. Prior to Assembly approval, the Mayor is to furnish the Assembly with an abstract of title, the value assessed by the Borough tax assessor or other appraisal of the real property, and a review of any problems in acquisition, but the failure to furnish the Assembly with any such material shall not affect the validity of any acquisition or purchase of real property by the Borough.

E. Unless otherwise provided by the Assembly, the Borough shall purchase marketable title in the real property. Unless otherwise provided by resolution, or upon Assembly approval of a purchase, the Mayor is authorized to obtain title insurance, to execute any instruments and to take all steps necessary to complete and close the purchase and acquisition of the real property.

7.04.040 Ownership -- Form. The Borough may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy, with any other person or governmental body for any public purpose. The Borough may hold real property in trust for any public purpose.

7.04.050 Acquisition and Ownership -- Rights and Powers. The Borough shall have and may exercise all rights and powers in the acquisition, ownership and holding of real property as if the Borough were a private person.

7.04.060 Acquisition -- Dedication by Plat. The Borough may not acquire any real property by means of a dedication by plat unless the dedication of the real property is accepted in writing and signed by the Mayor.

7.04.070 Industrial Sites. The Borough may acquire, own and hold real property, either inside or outside the Borough boundaries, for sites available for new industries which will benefit the Borough.

7.04.080 Federal and State Aid. The Borough may apply for, contract, and do all things necessary to cooperate with the United States Government and the State of Alaska for

the acquisition, holding, improvement or development of real property within and outside the Borough boundaries.

7.04.090 Real Property as Security. The Assembly may pledge, mortgage or otherwise secure Borough real property for the payment of Borough bonded or other indebtedness when required, as authorized by law.

Chapter 7.08

EMINENT DOMAIN -- ADVERSE POSSESSION

Sections:

- 7.08.010 Eminent Domain.
- 7.08.020 Adverse Possession.

7.08.010 Eminent Domain. The Borough may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the Borough, in accordance with AS 09.55.240 through 09.55.460.

7.08.020 Adverse Possession. The Borough cannot be divested of title to real property by adverse possession.

Chapter 7.12

(Reserved)

Chapter 7.16

REAL PROPERTY SALES BY THE BOROUGH

Sections:

- 7.16.010 Power to Dispose of Real Property.
- 7.16.020 Sale or Disposal -- Form.
- 7.16.030 Sale or Disposal -- Rights and Powers.
- 7.16.040 Disposition Procedures.
- 7.16.050 Property Exchanges.
- 7.16.060 Grants to Governmental Units and for Federal and State Programs.
- 7.16.065 Direct sales of borough properties.
- 7.16.070 Sale or Disposal of Industrial Sites.
- 7.16.080 Change of Use.
- 7.16.090 Utilities.
- 7.16.100 Release of Easements.
- 7.16.110 Conditions of Disposal.
- 7.16.120 Purchase Agreement.
- 7.16.130 Sale -- Employment of Broker.
- 7.16.140 Reservation of Easements and Rights-of-Way.
- 7.16.150 Borough Manager Regulations.
- 7.16.160 Disposition by Lottery or Outcry Auction.
- 7.16.170 Easements Revocable at Will by the Borough.
- 7.16.180 Over the Counter Sales of Borough Real Property.

7.16.010 Power to Dispose of Real Property. The Borough may sell, convey, exchange, transfer, donate, dedicate, direct or assign to use, or otherwise dispose of Borough-owned real property by any lawful means or conveyances.

7.16.020 Sale or Disposal -- Form. The Borough may sell or dispose of real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale, plat dedication, lease, tax deed or any other lawful method or mode of conveyance or grant. Any instrument requiring execution by the Borough shall be signed by the Mayor or the Borough Manager and attested by the Borough Clerk. The form of any instrument shall be reviewed by the Borough Attorney. Leases of Borough real property are additionally governed by the provisions of Chapter 7.20 of this Code.

7.16.030 Sale or Disposal -- Rights and Powers. The Borough shall have and may exercise all rights and powers in the sale or disposal of real property as if the Borough were a private person. The Borough may sell or dispose of any real property, including property acquired or held for or devoted to a public use, when in the judgment of the Borough Assembly it is no longer required for municipal purposes.

7.16.040 Disposition Procedures. The Borough may dispose of an interest in any real property which is no longer necessary for municipal purposes as follows:

1. The Borough Assembly shall initiate any disposal of an interest in real property by resolution. This Chapter does not apply to property acquired by tax foreclosure or condemnation proceeding.

2. All disposals shall be made at current assessed value or at current appraised value unless otherwise determined by a resolution or ordinance of the Assembly. Exceptions may be made where the Assembly finds that a particular disposition will be in the public interest.

3. Except as provided by in Sections 7.16.060 through .080, all disposals of interests in real property shall be by sealed bid to the highest responsible bidder, provided however that the Borough Assembly may reject all bids within two weeks of the date of the bid opening.

4. A notice of the proposed disposal of any interest in real property shall be posted in at least three public places in the Borough not less than thirty days before the date of the bid opening or not less than thirty days before the date of the passage of the resolution authorizing the disposal. The published notice shall include a legal description of the property and shall describe the Borough's interest, the method of disposal, the value of the interest according to current assessment or current appraisal, the date of the proposed disposal and the time, place and manner in which the bids shall be submitted and opened, or the proposed disposal shall occur.

5. Sealed bids shall be received by the Borough Clerk within the time set in the published notice for submission of bids. All bids shall be opened publicly.

7.16.050 Property Exchanges. The Assembly may approve, after public notice, the conveyance and exchange of a parcel of Borough property for an equivalent parcel of property owned by another person, subject to such conditions as the Assembly may impose on the exchange, whenever in the judgment of

the Assembly it is advantageous to the Borough to make the property exchange.

7.16.060 Grants to Governmental Units and for Federal and State Programs. Notwithstanding the provisions of 7.16.040, the Assembly may grant or devote real property no longer held for public purpose to the United States, the State of Alaska, a local subdivision or an agency of any of these governments (and including a tribal government) for a consideration agreed upon between the Borough and the grantee (including for an amount less than current assessed or appraised value) and without a bidding process, if the grant or devotion is for a public purpose and the Assembly determines it is advantageous to the Borough. Any Assembly approval of a federal or state program providing for the participation or cooperation of the Borough by grant or devotion of the real property is a sale of that real property for the consideration stated in the program.

7.16.065 Direct sales of borough properties.

A. Notwithstanding the provisions of 7.16.040 and where the Assembly considers it advantageous to the Borough, the Assembly may dispose of borough-owned real property not held for a public purpose by direct sale to a qualified buyer, without a bidding process, where 1) a property has an assessed or appraised value which does not exceed Fifteen Thousand Dollars (\$15,000); or 2) the Assembly finds that the potential buyers of a property are limited to owners of directly adjacent properties due to access, topography or like matters which otherwise restrict development or sale of the borough-owned property, provided that all directly adjacent owners shall be provided written notice of a potential sale.

B. The sale price of any borough-owned property sold hereunder must equal or exceed the most current assessed or appraised value for the property, and the sale price must be paid in full to the Borough at the time of conveyance.

C. Application for a direct sale shall be made to the Borough Planner on forms provided by the Borough. An application shall be reviewed first by the Borough Planning and Zoning Commission, and the Commission's recommendation conveyed to the Assembly.

7.16.070 Sale or Disposal of Industrial Sites. Notwithstanding the provisions of 7.16.040, the Borough may sell, lease or dispose of sites acquired for new industries benefiting the Borough without a bidding process upon the terms and conditions as the Borough Assembly considers advantageous to

the civic welfare of the Borough, to a person who agrees to install, maintain and operate a beneficial new industry.

7.16.080 Change of Use. Real property acquired or purchased for one Borough purpose may be appropriated, transferred, assigned or directed without public sale to another Borough purpose, whenever the Borough Assembly determines that the purpose for which the property was acquired or purchased no longer exists, or the property is no longer used or useful for the purpose. No formal conveyance is necessary to dispose of the real property to another Borough purpose, and the disposition may be made to another purpose with or without legal consideration for the disposition.

7.16.090 Utilities. The Borough may sell, convey or otherwise dispose of real property no longer used or useful in the operation of a Borough owned utility. Real property no longer needed for the purpose for which the real property was acquired or purchased, or utility property no longer used or useful in the operation of the Borough owned utility, is no longer property owned, held for or devoted to a public use, and may be sold or disposed of as provided in this Chapter if the Assembly determines the real property is not useful to the Borough for any other purpose.

7.16.100 Release of Easements. The Mayor or the Borough Manager, with prior approval of the Assembly, may at any time convey, quitclaim, release, cancel or otherwise relinquish any real property easement, right-of-way, permit or license the Borough may have or hold for the purpose of installing, constructing, or maintaining a public improvement, whenever the interest is no longer used or useful for that purpose.

7.16.110 Conditions of Disposal. In the resolution authorizing the disposal of real property, the Assembly shall set forth the terms and conditions of the public sale. The Assembly reserves the right to reject any and all bids received at the public sale, if the highest bid is below the minimum acceptable offer and costs of sale or is not made by a responsible bidder. The ordinance or resolution shall provide if the sale is for cash, or cash deposit and a purchase agreement. If the sale is for a cash deposit and a purchase agreement, the Borough Manager shall prescribe the form of the purchase agreement. The Borough Assembly shall approve all public sales of real property, and shall approve any purchase agreement prior to its execution by the Borough. The approval

of any public sale by the Assembly authorizes the Borough Manager to take all steps and execute all instruments to complete and close the sale. The Borough Manager or his designee shall conduct the sale, and shall give to the buyer a receipt of all moneys received by the Borough. A purchaser at a public sale who fails to make such other cash payments within the times required by the ordinance or resolution shall forfeit any cash deposit paid to the Borough.

7.16.120 Purchase Agreement. A purchaser of real property from the Borough may purchase the real property by purchase agreement if provided in the ordinance or resolution for the sale. Unless otherwise provided in the ordinance or resolution for the sale, a purchase agreement shall be in the form of a deed of trust. The purchase agreement shall be executed by the Mayor or the Borough Manager attested by the Borough Clerk and reviewed as to form by the Borough Attorney.

7.16.130 Sale -- Employment of Broker. The Borough may employ a broker for the sale of real property and may pay the broker a commission for the sale. The employment shall be in the resolution or ordinance for the sale of the real property and any contract of employment shall be first approved by the Borough Assembly, unless the Borough Assembly authorizes the Borough Manager to execute the contract without the approval.

7.16.140 Reservation of Easements and Rights-of-Way. The Borough may reserve any easement or right-of-way to be used for public improvements and purposes before selling or disposing of Borough-owned real property. The Borough Assembly may make such restrictions, limitations, reservations, reversions or other covenants it may find advantageous to the Borough even if the appraised value of the property is affected. The effect of these reservations may be considered in determining the appraised value of the property.

7.16.150 Borough Manager Regulations. The Borough Manager may provide by regulation for the procedures and forms as to applications, surveys, appraisals, auction, bidding, form of substance of purchase agreement or any other matter involving the sale or disposition of Borough property not inconsistent with, and to implement the intent and purpose of, this Title. The absence of a regulation or an inconsistent regulation shall not invalidate any public sale procedure or conveyance executed

or to be executed by the Borough, where the requirements of this Chapter have been otherwise satisfied.

7.16.160 Disposition by Lottery or Outcry Auction. Notwithstanding any other provision of this Chapter, the Assembly may provide by ordinance for the disposition of real property by lottery or outcry auction rather than by sealed bid in cases where sealed bids would otherwise be required. Such disposition must be consistent with all other provisions of this Chapter, except that the action providing for disposition by lottery or outcry auction must be taken through enactment of an ordinance, rather than by resolution.

7.16.170 Easements Revocable at Will by the Borough. The disposition requirements and procedures of this Chapter shall not apply to easements across Borough land given to a grantee for use exclusively as a driveway to a residence or providing utilities to a residence, provided such easement is revocable at will in the discretion of the Borough.

7.16.180 Over the Counter Sales of Borough Real Property. Notwithstanding any other provision of this Chapter, surplus real property owned by the Borough may be disposed of by over the counter sales conducted upon the following terms and conditions:

(1) The property must have previously been included for sale in a land sale conducted by the Borough under section .040 (sealed bid) or section .160 (lottery or outcry auction) of this Chapter.

(2) The Assembly ordinance or resolution authorizing the land disposal under section .040 or section .160 must specifically authorize over the counter sales for parcels not purchased at the land sale. Such authorization may include all unsold parcels or specific unsold parcels.

(3) The sale price of a parcel sold under this section shall be the required sale price (under a lottery) or the minimum bid price (under a sealed bid or outcry auction) set forth in the original resolution or ordinance authorizing the sale of the parcel, and the sale shall be made upon the same terms, conditions and restrictions as set forth in that original resolution or ordinance.

(4) A parcel shall be sold under this section to the first potential buyer who delivers in person to the Borough, at Municipal Hall during regular business hours, a contract of sale for the parcel signed by that buyer. The contract of sale shall be in the same form as the contract of sale utilized in

the original land sale. If more than one signed contract of sale for a parcel is received by the Borough on the same business day and for the same sale price, then the contracts shall be deemed to have been received simultaneously and the buyer of the parcel shall be determined by lot, conducted by the Borough Manager, or his or her designee, on the following business day.

(5) Any contract of sale submitted by a potential buyer more than sixty days from the date of the original land sale authorized by resolution or ordinance must be submitted to the Assembly at its next regularly scheduled Assembly meeting. The Assembly may reject the submitted contract of sale if in the judgment of the Assembly 1) the sale price would result in the Borough receiving less than full and fair value for the parcel or 2) the parcel is then required for municipal purposes. The contract of sale shall be deemed accepted if not rejected by the Assembly at that meeting.

(6) Any contract of sale must be submitted by a potential buyer no later than one year from the date of the original land sale authorized by resolution or ordinance.