



CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS
330 Harbor Drive
Sitka, AK
(907)747-1811

Meeting Agenda

City and Borough Assembly

*Mayor Gary Paxton
Deputy Mayor Steven Eisenbeisz,
Vice Deputy Mayor Kevin Mosher,
Kevin Knox, Dr. Richard Wein, Valorie Nelson, Thor Christianson*

*Interim Municipal Administrator: Hugh Bevan
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson*

Tuesday, January 14, 2020

6:00 PM

Assembly Chambers

WORK SESSION - 5:00 PM

[20-007](#) Work Session: Marine Service Center

Attachments: [Memo and Discussion Items](#)
[As-Built Survey](#)

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

IV. CORRESPONDENCE/AGENDA CHANGES

[20-013](#) Reminders, Calendars, and General Correspondence

Attachments: [Reminders and Calendars](#)
[Business Friendly Action Plan Update](#)
[PW Assembly Update 13_010620 Final](#)

V. CEREMONIAL MATTERS

None.

VI. SPECIAL REPORTS: Government to Government, Municipal Boards/Commissions/Committees, Municipal Departments, School District, Students and Guests (five minute time limit)

VII. PERSONS TO BE HEARD

Public participation on any item off the agenda. All public testimony is not to exceed 3 minutes for any individual, unless the mayor imposes other time constraints at the beginning of the agenda item.

VIII. REPORTS

a. Mayor, b. Administrator, c. Attorney, d. Liaison Representatives, e. Clerk, f. Other

IX. CONSENT AGENDA

All matters under Item IX Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- A** [20-003](#) Approve the minutes of the December 19 and December 23 Assembly meetings

Attachments: [Consent and Minutes](#)

- B** [20-004](#) Approve a liquor license renewal application for Sitka Golf Association, Inc. dba Sea Mountain Restaurant & 19th Hole

Attachments: [Motion and Memos](#)

[606 LGB Notice - City of Sitka Borough of Sitka](#)

[606 Complete Renewal Application](#)

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

- C** [20-005](#) Reappoint Scott Wagner to a three-year term on the Local Emergency Planning Committee in Category 5 (Owners/Operators of Facilities)

Attachments: [Motion and Application Wagner](#)

- D** [20-006](#) Reappoint Chris Spivey to a three-year term on the Planning Commission

Attachments: [Motion and Application Spivey](#)

XI. UNFINISHED BUSINESS:

- E** [ORD 19-43](#) Making supplemental appropriations for Fiscal Year 2020 (Cross Trail Project Phase 6)

Attachments: [Motion Ord 2019-43](#)

[Ord 2019-43](#)

XII. NEW BUSINESS:

New Business First Reading

- F [ORD 20-01](#) Making supplemental appropriations for Fiscal Year 2020 (Airport Entry Doors Replacement Project)
- Attachments:** [Motion Ord 20-01](#)
 [Memo and Ord 20-01](#)

Additional New Business Items

- G [20-002](#) Discussion / Direction on a process to update the City and Borough of Sitka seal
- Attachments:** [Discussion Direction CBS Seal](#)
 [1 - City Seal Update - Proposed Process](#)
 [2 - Timeline](#)
 [3 - Draft City Seal Contest](#)
 [4 - SE Seals Example Sheet](#)
 [5 - Seal Adoption Minutes 1971](#)
 [6 - SGC Use of City Seal](#)
- H [20-008](#) Discussion / Direction / Decision on a list of priority requests to be submitted to the Alaska State Legislature
- Attachments:** [Priority Requests to Alaska State Legislature](#)
- I [20-009](#) Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to gift cards
- Attachments:** [Motion and Memo Item I](#)
 [Sales Tax Interpretation Item I](#)
 [Addendum A Item I](#)
 [Supplemental Definitions Item I](#)
- J [20-010](#) Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the sales of food containers and condiments
- Attachments:** [Motion and Memo Item J](#)
 [Sales Tax Interpretation Item J](#)
 [Addendum A Item J](#)
 [Supplemental Definitions Item J](#)

- K** [20-011](#) Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the application of the taxable transaction limit to long-term service and construction contracts

Attachments: [Motion and Memo Item K](#)

[Sales Tax Interpretation Item K](#)

[Administrative Guidelines Single Service Exemption Cap](#)

[Addendum A Item K](#)

[Supplemental Definitions Item K](#)

- L** [20-012](#) Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the definition of the term resale

Attachments: [Motion and Memo Item L](#)

[Sales Tax Interpretation Item L](#)

[Addendum A Item L](#)

[Supplemental Definitions Item L](#)

XIII. PERSONS TO BE HEARD:

Public participation on any item on or off the agenda. Not to exceed 3 minutes for any individual.

XIV. EXECUTIVE SESSION

Not anticipated.

XV. ADJOURNMENT

Note: Detailed information on these agenda items can be found on the City website at <https://sitka.legistar.com/Calendar.aspx> or by contacting the Municipal Clerk's Office at City Hall, 100 Lincoln Street or 747-1811. A hard copy of the Assembly packet is available at the Sitka Public Library. Assembly meetings are aired live on KCAW FM 104.7 and via video streaming from the City's website. To receive Assembly agenda notifications, sign up with GovDelivery on the City website.

Sara Peterson, MMC, Municipal Clerk

Publish: January 10

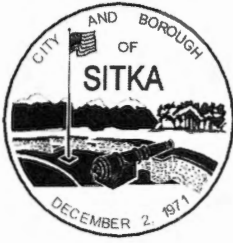


CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-007 **Version:** 1 **Name:**
Type: Item **Status:** AGENDA READY
File created: 1/7/2020 **In control:** City and Borough Assembly
On agenda: 1/14/2020 **Final action:**
Title: Work Session: Marine Service Center
Sponsors:
Indexes:
Code sections:
Attachments: [Memo and Discussion Items](#)
[As-Built Survey](#)

Date	Ver.	Action By	Action	Result
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City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Gary Paxton and Assembly Members

From: Hugh Bevan, Interim Municipal Administrator *AB*

Date: January 4, 2020

Subject: Marine Services Center

Background

The Marine Services cold storage was constructed in 1991. Funding included a Federal EDA grant in the amount of \$1M and a State grant in the amount of \$1.5M. Neither funding agency has a lien against the property, both mandatory lien periods have expired.

The gross area of the building is 21,000 square feet. About 16,500 square feet are leased to two fish processors. The remaining area consists of mechanical and refrigeration equipment rooms, a small office and a restroom.

Approximate 10% of the cold storage area is reserved for public use. The public area presently has about 22 active accounts that are managed by Seafood Producers Cooperative, one of the MSC two prime tenants.

The property is named Tract A Port Development, a portion of ATS 15. The land area is about 72,774 square feet. Of this area about 33,200 square feet is a level, gravel lot located on the NW side of the cold storage. The property is zoned Waterfront District.

The seaward side of the property is supported by a steel sheet pile retaining wall that was built in 1976. It is approximately 356 feet long. The wall has significant deferred maintenance needs.

In December 2016 the Assessor valued the property at \$3,975,000 which was broken down as follows:

- \$3,225,000 for the building and
- \$750,000 for the land (includes a 30% devaluation for the condition of the seawall)

Revenue from the SPC lease is about \$110,880 per year. Their lease expires June 20, 2023.

The North Pacific Seafoods lease is month to month at a rate of \$10,627 per month.

Each tenant pays its share of the utilities.

The seawall generates about \$30,000 per year in moorage revenue that includes freighters, various work boats and small cruise vessels.

The seawall has a small electric/hydraulic hoist that generates about \$4,000 in revenue per year.

The average annual operating cost of the facility is \$106,000. This amount varies significantly from year to year depending upon the amount of maintenance work that is required. The facility is maintenance intensive.

The Marine Services Center is owned and operated by the City of Sitka under an Enterprise Fund financial model. At the present time the Fund has about \$1.9 million in Working Capital.

Analysis

In July 2019 the Assembly approved an Action Plan "To determine the highest/best use of the Cold Storage" This Action Plan includes the development of an RFP to put the property in private ownership.

The Action Plan also called for the City to hold two meetings with interested individuals to discuss options. To my knowledge these meetings have not been held to date.

Perhaps the Assembly will allow public input at this work session to gain insight into the potential for selling the facility.

Marine Services Center
Assembly Work Session Discussion Items
January 14, 2020

1. Keep or sell the facility?
2. If the decision is to sell:
Is the gravel parking lot included in the sale?
Is the sea wall included in the sale?

A fresh survey of the property is advised to confirm property corners.
A fresh appraisal is advised to establish a sale price baseline

3. Should an amount of City owned tidelands be included in the sale or should the tidelands be leased instead? (Tidelands in front of the seawall)
4. If the decision is to sell the facility, an RFP will be brought to the Assembly agenda in the future for formal action.

A proposed budget for survey and appraisal work will also be presented to the Assembly for approval.

Curve 2 (CALCULATED)
Delta = 75°07'
R = 477.46'
L = 66.13'
CHD. = 66.07'
CHD. BRC. = S 52°04'07" E

KATLIAN AVE.



BACK OF
CURB

BASIS OF BEARINGS

N 65°57' E
322.44 (M) 322.34' (R)

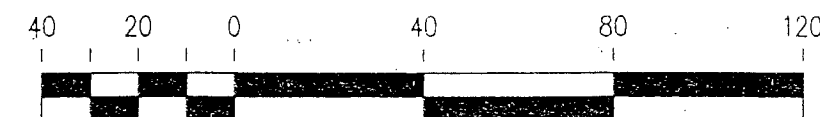
WCMC C11
USS 2542 A & B

LEGEND

-  GLO/BLW PRIMARY BRASS CAP (RECOVERED)
 REBAR AND ALUMINUM CAP (RECOVERED)
(R) RECORD DATA
(C) COMPUTED DATA
(M) MEASURED DATA

PLAT NOTES

1. THIS PLAT IS NOT TO BE SCALED FROM, USE GIVEN DIMENSIONS ONLY.
2. UNDERGROUND UTILITIES, IF ANY, ARE NOT SHOWN ON THIS PLAT.



SCALE IN FEET

O'NEILL

SURVEYING AND ENGINEERING

P.O. BOX 1849 SITKA, ALASKA 99835

AS-BUILT SURVEY

TRACT A
PORT DEVELOPMENT
PORTION OF ATS 15

DRAWN BY: GDS/ACAD
CHECKED BY: PKO
DATE PLATTED: 6-17-99
DATE SURVEYED: 6-15-99
SCALE: 1"=40'
SURVEYOR: PATRICK K. O'NEILL
PROJ NO.: 30014-24

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY DESCRIBED ON THIS PLAT. I DECLARE THAT IMPROVEMENTS AND VISIBLE ENCROACHMENTS HAVE BEEN ESTABLISHED TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF. THIS SURVEY IS FOR THE USE OF LENDING INSTITUTIONS SPECIFICALLY TO SHOW ANY CONFLICTS BETWEEN EXISTING STRUCTURES AND PLATTED LOT LINES OR EASEMENTS. UNDER NO CIRCUMSTANCES SHOULD THE DATA HEREON BE USED FOR POSITIONING ADDITIONAL STRUCTURES, BUILDING FENCES OR, LOCATING BOUNDARY LINES. IT IS THE RESPONSIBILITY OF THE OWNER TO VERIFY THAT IMPROVEMENTS IMPROVEMENTS SITUATED ON THIS PARCEL MEET ALL SUBDIVISION COVENANTS AND ZONING ORDINANCES. 0 CORRS. SET.

6/21/99
DATE

PATRICK K O'NEILL LS 6304





CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-013 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/8/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Reminders, Calendars, and General Correspondence

Sponsors:

Indexes:

Code sections:

Attachments: [Reminders and Calendars](#)
[Business Friendly Action Plan Update](#)
[PW Assembly Update 13_010620 Final](#)

Date	Ver.	Action By	Action	Result
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REMINDERS

<u>DATE</u>	<u>EVENT</u>	<u>TIME</u>
Tuesday, January 14	Work Session <i>Marine Service Center</i>	5:00 PM
Tuesday, January 14	Regular Meeting	6:00 PM
Thursday, January 23	Special Meeting <i>Budget</i>	6:00 PM
Tuesday, January 28	Work Session <i>CAFR/Audit</i>	5:00 PM
Tuesday, January 28	Regular Meeting	6:00 PM
Thursday, January 30	Joint Work Session <i>with GPIP Board re: Marine Haul Out</i>	6:00 PM



Assembly Calendar

2019 Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec 2021

January 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
29 <u>Dec</u>	30	31	1 Jan	2	3	4
Eisenbeisz	Eisenbeisz	Eisenbeisz	Eisenbeisz HOLIDAY	Eisenbeisz	Eisenbeisz	Eisenbeisz
5	6	7	8	9	10	11
Eisenbeisz	Eisenbeisz Paxton	Eisenbeisz Paxton	Eisenbeisz Paxton 6:00pm Library Commission - Liaison Christianson 6:00pm Port & Harbors Commission - Liaison Knox 6:00pm School Board - Liaison Mosher	Eisenbeisz Paxton 12:00pm LEPC - Liaison Nelson 1:30pm Health Needs & Human Services - Liaison Wein 6:00pm Work Session: 17 acres of land at 4951 Halibut Point Road	Eisenbeisz Paxton	Paxton
12	13	14	15	16	17	18
Paxton	Paxton	Paxton 12:00pm Parks & Rec - Liaison Knox 5:00pm Work Session: Marine Service Center 6:00pm Regular Assembly Mtg	Paxton 7:00pm Planning Commission - Liaison Mosher	Paxton	Paxton	Paxton
19	20	21	22	23	24	25
Paxton	Paxton 6:00pm Historic Preservation - Liaison Mosher	Paxton 12:00pm Tree & Landscape - Liaison Wein	6:00pm Police and Fire - Liaison Nelson	Knox 6:00pm Special Budget Meeting	Knox	Knox Eisenbeisz
26	27	28	29	30	31	1 <u>Feb</u>
Knox Eisenbeisz	Knox Eisenbeisz	Eisenbeisz 5:00pm Work Session: CAFR / Audit 6:00pm Regular Assembly Mtg	Eisenbeisz	Eisenbeisz 6:00pm Joint Work Session with GPIB Board: Marine Haulout	Eisenbeisz	

Assembly Calendar

2019 Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec 2021

February 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
26 Jan	27	28	29	30	31	1 Feb
Knox Eisenbeisz	Knox Eisenbeisz	Eisenbeisz 5:00pm Work Session: CAFR / Audit 6:00pm Regular Assembly Mtg	Eisenbeisz	Eisenbeisz 6:00pm Joint Work Session with GPIB Board: Marine Haulout	Eisenbeisz	
2	3	4	5	6	7	8
			6:00pm Library Commission - Liaison Christianson 6:00pm School Board - Liaison Mosher 7:00pm Planning Commission - Liaison Mosher	6:00pm Special Budget Meeting		
9	10	11	12	13	14	15
		12:00pm Parks & Rec - Liaison Knox 5:00pm Work Session: Community Purpose Property Tax Exemption 6:00pm Regular Assembly Mtg	6:00pm Historic Preservation - Liaison Mosher 6:00pm Port & Harbors Commission - Liaison Knox	Knox 12:00pm LEPC - Liaison Nelson 1:30pm Health Needs & Human Services - Liaison Wein	Knox	Knox
16	17	18	19	20	21	22
Knox	Knox Paxton	Paxton 12:00pm Tree & Landscape - Liaison Wein	Paxton 7:00pm Planning Commission - Liaison Mosher	Paxton 6:00pm Special Budget Meeting	Paxton	Paxton
23	24	25	26	27	28	29 Mar
Paxton		6:00pm Regular Assembly Mtg	6:00pm Police and Fire - Liaison Nelson			



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Gary Paxton and Assembly Members
From: Hugh Bevan, Interim Municipal Administrator *HB*
Date: December 30, 2019
Subject: Assembly Action Plan – Business Friendly Sitka

Background

In July 2019 the Assembly approved six Action Plans, one of which is "To make the City and Borough of Sitka more business friendly"

Two action items in the plan were:

- Take a confidential survey of City employees to solicit ideas for maximizing CBS's role in supporting economic development.
- Do a general public on-line survey and solicit ideas for economic development and general business friendly comments as they relate to doing business with local government.

Analysis

Both surveys were completed during October and November 2019. The results are attached for Assembly information.

On a parallel path SEDA was tasked with completing a confidential survey of local business owners and ask them what could be done to make their interactions with CBS government more conducive to business expansion.

A link to the SEDA survey is on their webpage at www.sitka.net.

Future Actions

The Assembly Action Plan calls for CBS staff to implement a program to engage with customers to develop processes to streamline CBS functions that enhance economic development such as reducing turnaround times for land development proposals, building permits, legal review of documents, etc.

Recommendation

This spring we will organize a committee of CBS staff to review the SEDA business survey, the on-line public survey and the employee survey. The committee can then make recommendations to the Administrator on guidelines to achieve the goals listed in the Action Plan.

The Action Plan calls for Assembly review of those guidelines.

Employee Survey October 2019

In your opinion, is the CBS "business friendly?" That is, in the interactions between business clients and the CBS, are CBS employees helpful to

Response 1	Response 2	Response 3	Response 4	Response 5	Response 6	Response 7	Response 8	Response 9	Response 10	Response 11	Response 12	Response 13	Response 14	Response 15
5	5	4	5	5	4	5	4	5	2	1	4	3	5	5
Response 16	Response 17	Response 18	Response 19	Response 20	Response 21	Response 22	Response 23	Response 24	Response 25	Response 26	Response 27	Response 28	Response 29	
4	3	5	4	2	3	3	4	5	5	4	4	4	3	

Comments:

1. Within the scope and confines of the SGC, CBS employees are extraordinarily business friendly. Incidents of being "non-business friendly" are often attributable to enforcing the provisions of the code.

2. None

3. I think some employees/departments have better customer service skills/accessibility than others. In terms of are we "business friendly."

The problem is that that can mean different things to different people.

4. Answer based on customer service I have witnessed, as opposed to whether I feel CBS policies are business friendly. For instance, we have some business unfriendly policies discussed to the public in a helpful manner.

5. By and large CBS employees care a great deal about the welfare of Sitka's citizens and businesses. A majority of CBS employees plan on calling Sitka our home for life and as such we all have a large stake in Sitka's future. To this end for the most part CBS employees strive to assist citizens and business owners in fulfilling their goals in what ways we can whenever possible.

6. None.

7. Running a business is pretty straight forward. CBS helps people get their paperwork correct.

8. Yes. It is a double edged sword. I see a hard working, understanding staff that cares but is told to enforce code and are reminded that code is the law and they are obligated to enforce.

9. Library staff works hard to accommodate everyone who comes into the library.

10. Some departments go above and beyond. Others could improve.

11. No

12. None.

13. None.

14. None.

15. I think the city does very well to assist businesses, with the amount of limited man power we have to accomplish all the things that are

16. None.

17. None.

18. I feel that all city employees do their best to be as helpful as possible.

19. None.

20. Loosen up on code regulations for building and food carts.

21. we put on the appearance of being business friendly, however, taxes and utilities are too high to support new industries coming to town.

There is huge a shortage of low and medium cost housing for new employees. City infrastructure (water, sewer, electricity, roads) is failing, which will lead to existing companies to leave town.

22. Fill vacant positions.

23. I always try to be helpful when speaking with business clients. In my position I have a lot of opportunities to speak with CBS clients.

24. None.

25. CBS employees generally are very business friendly. CBS code, policy, procedures (or lack of) are very unfriendly.

26. None.

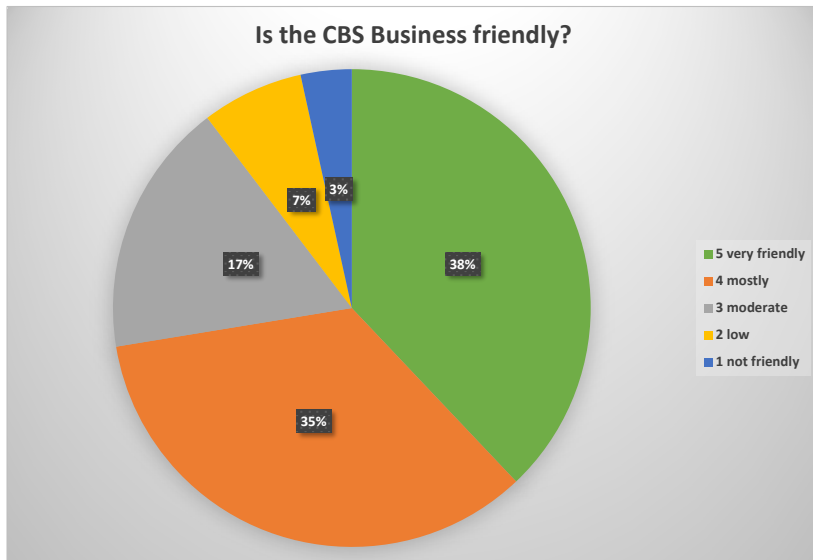
27. I feel the CBS staff work hard at trying to communicate and be as direct as possible. One problem is CBS operation is complex for even staff. Sometimes trying to find the correct avenue is held up by the process itself.

28. None.

29. Most employees work really hard to be helpful. Unfortunately in many cases they are working with rules and organizational structure that

Employee Survey October 2019

In your opinion, is the CBS "business friendly?" That is, in the interactions between business clients and the CBS, are CBS employees helpful to



Employee Survey October 2019

In general, when there are interactions between CBS Employees and the Business Clients, and things seem to go wrong, in your opinion, is it the fault of the CBS employee or the Business Client?

	Response 1	Response 2	Response 3	Response 4	Response 5	Response 6	Response 7	Response 8	Response 9	Response 10	Response 11	Response 12	Response 13	Response 14	Response 15
client	95%	50%	50%	95%	0%			50%	95%	50%	100%			70%	50%
employee	5%	50%	50%	5%	0%			50%	5%	50%	0%			30%	50%

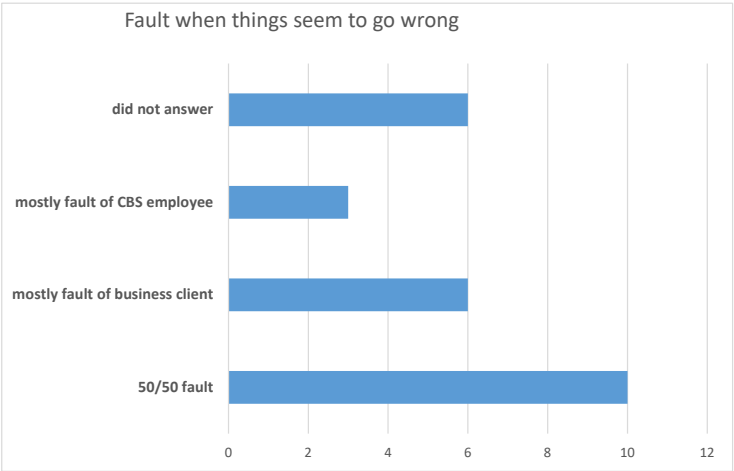
	Response 16	Response 17	Response 18	Response 19	Response 20	Response 21	Response 22	Response 23	Response 24	Response 25	Response 26	Response 27	Response 28
client	50%	50%	50%	50%	40%	75%	40%	0%	0%		50%		40%
employee	50%	50%	50%	50%	60%	25%	60%	0%	0%		50%		60%

Comments:

1. Most difficult situations arise when a CBS employee must enforce some provision of the code that a citizen doesn't like, such as turning off power or non-payment. Very rarely does an employee attitude serve as the basis of a conflict. An ambiguous general code and clumsy, inefficient process for changing and improving it is the center point of many conflict interactions.
2. This is hard to judge. It could be skewed another way in some cases.
3. Miscommunication usually requires both parties to have a least some culpability.
4. Again, my response is based on customer service observations. I find public works staff to be consistently friendly and professional.
5. I do not believe this question has a good answer even in generalities, placing blame on one group or another will not bring a positive outcome and we all need to work together for the benefit of our city. Most negative interactions between CBS employees and business owners/citizens arise from misunderstandings on the part of either the employee or the citizen (or both). In most of these instances if level-headed and open-minded conversations occur understanding can be achieved and agreeable results arise. All people have good and bad days, CBS employees and citizens alike, the best way we can avoid these conflicts is to be aware that yourself or the person you are interacting with may not be having a great day and we need to act in a manner that will allow open dialogue.
6. We all make mistakes. I do not have an opinion on percent of fault.
7. Neither. Every situation is different.
8. As it has been explained to me, the code is the code and it is illegal not to enforce it. I don't believe that the public understand this. A business friendly/citizen friendly movement to change code would be the solution in my view.
9. Business client is unaware of library policies and rules for usage - this is the main cause of problems.
- 10 through 19. None.
20. We should be working to make it easier for business to get started. Not make them jump thru a bunch of hoops to get started.
21. The city is full of cutthroat capitalists and the city is the biggest "pigeon" for those who "want to make their million." Many complaints are from contractors who, being strictly held to their contracts, are not able to bleed the city to the extent that they want. Others are from capitalists who were unsuccessful in getting the city to subsidize their adventure with free/reduced city services. Others are from politically connected who can't get the city to give them land and subsidized water/power/sewer for their latest real estate investment.
22. None.
23. As CBS employees we generally have more knowledge and information regarding city policies, procedures, and operations. We are slightly more responsible for how we relay that information.
24. 9x out of 10 it's a misunderstanding.
25. With unclear CBS code, policy, or procedures that are followed the path ahead for approval/conclusion becomes very slow and unclear.
26. None.
27. I see that CBS staff are attempting to do what is best for the community as a whole following or attempting to follow best practices. Industry standards and fairness. Often businesses/contractors may not fully understand the process and/or don't want to go by said process for their own interests.
28. Lack of information for business clients. Lack of information provided by cabs employee.
29. The very nature of this question shows a negative brand of leadership and understanding of good/positive customer training with staff. Great leaders don't waste time trying to last fault. Great leaders take responsibility to lead it and provide training/resources.

Employee Survey October 2019

In general, when there are interactions between CBS Employees and the Business Clients, and things seem to go wrong, in your opinion, is it the fault of the CBS employee or the Business Client?



Employee Survey October 2019

The Assembly has identified Economic Development as one of its highest priorities. What do you believe can be done by CBS Management, CBS Employees, the Assembly, and the Business Community to improve the prospects of actually growing our economy?

Comments:

1. You have to spend money first to make money. Economic development will not magically happen for free. Also, pinning hopes for economic development on 1 or 2 actions is naïve. It will take a concerted effort among all sections of the city (business community, school district, real estate developers, transportation, communication) to make Sitka the most attractive place to invest or start a business, as compared to competitors/alternatives. The CBS needs to invest substantially in an economic development (SEDA is inadequate) authority, identify realistic opportunities for outside investment, identify barriers to this investment (i.e., lack of trained work force, lack of commercial/residential real estate, poor communication, infrastructure), seek a public/private partnership to overcome or mitigate barriers, identify government financial inducements needed to attract business, then target business sectors and aggressively advertise/recruit that Sitka is open for business. Finally, keep the Assembly out of the process as much as possible. Recognize that private industry sees the public process as a hindrance to be avoided if at all possible. Recognize that private business takes place in private, not in a public forum.
2. We live on a island so this puts some restriction on us. We need another fiber connection in town. Then we can attract some online tech services.
3. a. Define what "business friendly" actually means. Please stop using this vague term and expecting everyone to have the same interpretation of it as change the way we work accordingly. Set actual, specific achievable goals i.e., fee changes, policy changes, customer interaction, etc. b. Staff city hall appropriately. One of the business and citizen complaints is that offices are closed at odd hours or phones aren't answered. Its not because we don't want to - we're understaffed and can't. Having more city staff available to answer questions and guide business to navigate "the bureaucracy." c. When polling the business community, ask for more specific feedback on how CBS could be better - focus on policy changes, not a general sense of "are you happy with..." because most of the time, the answer will be no (people will always hate rules and taxes). d. Thru policy changes, allow CBS staff to make discretionary calls when code doesn't apply/fit, but do it in a way where there is still transparency, oversight, fairness, and documentation. We often have to follow the letter of the law, even if it holds back a good idea because otherwise, we personally (or our bosses) will be taken to the mat by the Assembly. e. Hire a grant manager to chase down available dollars for economic development, housing, and infrastructure needs. f. Random ideas: businesses involving recycling or use of recycled materials manufacturing plastic products from plastic waste and/or having Sitka become the consolidation hub for SE AK recycling to add value to products shipped south. Both ideas have the added benefit of reducing waste disposal cost. Hydroponics/aquaponics for limited drop growth - utilize GPIP buildings/infrastructure for summer workers that could also be used by SEARHC or the schools during the winter - SEDA report states we need more seasonal housing. g. Better relationship between CBS staff and Assembly. CYA culture that has been bred by this tension is bad for everyone.
4. Thorough review of Sitka General Code to determine if our guiding principles make sense. Change what is needed.
5. For Sitka's positive economic development to continue CBS staff positions that directly (and indirectly) affect economic growth availability and possibility must be filled and possibly augmented. Both the Planning Department and Building Department are directly associated with development and growth and need to be fully staffed with competent personnel. Paramount priority at this time should be to obtain the services of an experienced Planning Director. Additionally, under our current staffing schedule both of these departments seem short-handed and it appears to me that they both could easily keep a third staff member busy thus reducing turn-around time for requests of all types.
6. Customers complain that it's confusing to start a new business. We need a clean, step by step process for policy and procedures.
7. Educate and motivate. Some people are intimidated to start a business. If more educational pamphlets were available giving people steps it might help.

8. For instant impact: When there is a gray area regarding interpretation of a code or policy, go with the less restrictive of costing (to the citizen of business) option. That is, side with the citizen/private sector.

9. Positive promotion of all that Sitka currently has to offer needs to be increased (Visitor Bureau's support) as well as taking a "researched" risk in new start up ideas. There are many things happening now - how much support does the city currently provide?

10. First of all, thank you for the opportunity to respond to the business friendly employee survey. It certainly feels like Sitka's economy is in critical condition. It's alarming to see so many businesses closing down or being advertised for sale. It's also alarming to hear that businesses are looking at other SE communities for their business opportunities rather than considering Sitka as a possible location to own or operate a business. I've lived in Sitka my entire life and I've never seen our community this divided or fractured. The morale of the city organization and community appear to be very low and it's imperative that we work to rectify that conditions. I believe there are some key fundamental issues that should be addressed in Sitka. To start with, the basis of a good relationship is trust; the taxpayers of Sitka should be able to trust the Assembly and the Assembly should be able to trust the administration and staff etc. If the Assembly doesn't trust or have confidence in the administration or staff there needs to be a change. Trust needs to be earned by being honest and truthful on all issues by all involved. Administration and staff need to admit failures and take steps to resolve problems. It's ok to fail, nobody is perfect, as long as we learn from it and improve. During my career, I've been told that it's not being dishonest, it's just politics! Politics will never justify dishonesty; that's not acceptable. Being honest and treating each other with respect and kindness would go a long way toward sustaining Sitka's future. All organizations can improve and I believe it's imperative for our city government to be honest with the taxpayers of Sitka; "transparent government". Along with trust, there needs to be respect. Differences in opinion take place on every topic but treating each other with respect as we disagree is a basic foundation for success in a community. Punishing those that we disagree with will never be a healthy solution and may create our next problem. There is a need for stability in city leadership and one that establishes a positive sound direction. One that works together with our constituents and partners in economic development to provide for Sitka's success in the future. Over the years I've heard some alarming discussions. The administration needs to embrace the reality of our economy in Sitka. It is not the administration's job to punish the taxpayers because a tax increase wasn't voted in. In fact, the administration should work overtime to be more efficient and effective. Many of our taxpayers are living paycheck to paycheck and can't afford to pay more and the administration should respect that. Is there a way to be more efficient? Always! And we should be working towards the cuts that can be made where it's felt the least rather than where it's felt the most so as to not punish the taxpayers. How do we attract and support additional businesses to increase the revenue rather than increase taxes? Support economic development. Philosophically, as a government employee, I'm merely the caretaker of the community's assets, I don't own them etc. It is our job as employees to live within the means and to maintain the community's infrastructure to the best of our abilities. It is our job to ensure that Sitka is getting the best possible product for the dollars spent. Projects should be monitored and inspected to ensure that the best quality is achieved for longevity, reduced maintenance and overall success. Contractors should take pride in their workmanship and provide the city with the best possible product and quality workmanship should be rewarded. Poor work should never be accepted and the contractor should be held accountable for such. We need to be honest, kind, and business friendly. Sitka needs to build a business friendly reputation. The administration and staff should work to better assist those trying to start a business as well as support our current businesses. What can we do to generate new business to increase revenue etc.? How can we be more efficient and effective in providing current services? Can the building official and planner assist with solutions to code issues? Can our public works departments better assist with services? We can always do better! These are just a few thoughts, thanks again for the opportunity.

11. Get new Assembly people must get Mosher, Wein, and most definitely the cry baby Nelson out!!

12. Making sure that CBS is hiring and keeping those employees that are invested in the community and not keeping the employees who have alternative motives or who only care about bettering themselves and their own agenda.

13. Focus on sustainability, not growth.

14. None.

15. Figure out whose job it is to spur that growth along. Maybe it is nobody's job at this time. SEDA seems to be limited to the industrial park too much.

16. None.

17. Push to make it a tourist friendly town, and address a boat haul-out for the fishing fleet.

18. Be open minded, and willing to change. Listen to the wants/needs of the community and try to do our best to help ideas become reality.

19. None.

20. Loosen up code regulations on business, building, and food carts.

21. 1. Run the city more efficiently. Lower taxes. Ensure everybody pays their share. The rule should be "we supply services at cost, not a penny less." 2. Eliminate all tax giveaways to SEARHC, NSRAA, Silver Bay Seafood, tourism, harbors and others. 3. Stop all the "giveaways" to politically connected (too numerous to list). 4. The Administrator and Assembly need to get a handle on city finances. Cut the unnecessary. 5. Establish a long term capital plan for all city departments based on reality, not financial delusion. 6. Ensure that all city employees put in "a fair days work for a fair day's pay. "Don't pay for work twice, once when they surf the internet and a second when they actually do it.

22. Fill vacant positions.

23. We need to identify a vision for our economic future, make a plan to achieve the goal, and implement the plan. Personally, I feel our vision should focus around the tourism

24. It's always a gamble, people need to understand that it will cost something to make it work.

25. With many Assembly votes 4-3 the Assembly does not appear to have a clear vision. Growth for just do something? Or growth for sustainable growth.

26. Harvest timber.

27. Come up with an achievable vision, give direction and contract that plan to be executed by a professional business organization to build or produce with set parameters and key milestone goals.

28. Develop a long term plan, and secure some real investors. Decide if we need start relying on something other than the fishing industry. Look more to develop year round

29. Don't spend time trying to prove, blame, convince, and start investing in resources with a proven track records to yield results. The code & charter are significantly outdated and policy and procedures are mostly nonexistent. The Assembly needs to invest in the professional resources to come in and modernize our structure to best practice of being business friendly with good training, policy, procedures so the change is lasting and is not open to lots of staff interpretation.

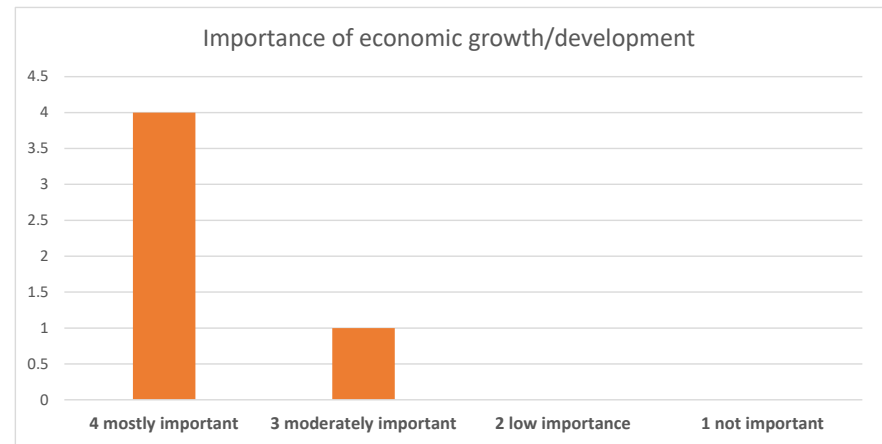
Employee Survey October 2019

Is Economic Growth and Development important to you?

	Response 1	Response 2	Response 3	Response 4	Response 5	Response 6	Response 7	Response 8	Response 9	Response 10	Response 11	Response 12	Response 13	Response 14	Response 15	
	5	5	5	5	5	5	5	5	5	4	5	5	4	3	4	5
Response 16	Response 17	Response 18	Response 19	Response 20	Response 21	Response 22	Response 23	Response 24	Response 25	Response 26	Response 27	Response 28	Response 29			
	5	5	5	5	5	4	5	5	5	5	5	5	5	5		

Comments:

2. None
3. CBS employees are Sitka residents too. We have just as much to gain, or lose, as everyone else in town if the health of the economy is poor. We want a stable population, affordable housing, affordable utilities, good schools, and good infrastructure too.
4. 5 in a vacuum. Not necessarily relative to a competing interest, like revenue generation (taxation, user fees...). It would be good to have more opportunity in town.
5. Economic growth and development is essential to ensure that Sitka continues to thrive. I, as do many of my fellow CBS employees, intend to call Sitka my home for life and so economic growth and development here in Sitka is very important to me.
6. None.
7. When a city is booming, the energy of the city is a positive one.
8. None.
9. Would rather see small business development than an increase in cruise ships. The latter is only seasonal and so are the resulting jobs. We need to develop business that works year round and some that include Sitka as a "destination" for conferences, meetings, education, research, retreats, festivals, etc.
- 10 through 17. None.
18. Economic growth is important to all members of the community.
19. None.
20. Yes, it is a very large portion of our tax base.
21. There is no easy solution to economic development. The hard solution is to build a first class city infrastructure, as a base for business growth. Stop investing city money in "dream" pursuits like the Baranof Brewery and Bulk Water. Live with reality; the city's population hasn't changed much in 30 years. The most likely form of significant economic development will come from government: a) SEARHC expansion, b) expanded Coast Guard presence, c) a Navy base or d) other new government offices. The main criteria for government growth is a first class city infrastructure.
22. None.
23. I love Sitka, but fear I won't be able to stay here if our economy continues to struggle. I know many families in the same boat.
24. None.
25. Provided economic growth = sustainable growth. Building, building, building, by spending savings and using loans may lead to foreclosure, not sustainability.
26. \$
27. Without a clear vision plan on where Sitka as a whole community wants to go, it is difficult to have a common goal or direction that we are heading as one. Yes there are "plans" but not clear manageable plans that are followed by all. Where are we going and what to be in 20, 30, 50 years.
28. None.
29. Where do you see this in code, policy, job description, standards, budget, etc.? Without it integrated in our structure, it is not likely to happen. Invest in it and invest in your framework and people and it will happen.



Survey Monkey Results from public survey on Economic Development and Friendliness
October/November 2019. 53 responses.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

1. Cost of living needs to be brought to an affordable level so that more entrepreneurs can afford to launch a business.

2. We, to a degree, need to find a way to attract some form of large industry that can perpetuate a large number of jobs

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Be mindful of its citizens

Q3

Is economic growth and development important to you?

(no label)

2 - Slightly important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Have an open mind, develop cruise ship tourist activities, spend money on aging/failing infrastructure

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Open land for development

Q3

Is economic growth and development important to you?

(no label)

5 - Very important



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

We need to do something to fix the affordable housing issue, many young people and families cannot afford the higher cost of housing, utilities and food. We can not control all of these things but if housing was not such a nightmare it would help. We should also prevent people from turning rentals into Airbnb's because this decreases the availability of rentals for year round workers. The cost of utilities is also a huge issue, we pay more every year. We could also consider a higher minimum wage for the city which many other HCOL places have done. We also should look at developing more services for boats, we don't have a decent haul out or ship yard. The city could also make more money by building docks that would accommodate the massive tender fleet that currently struggles to find good anchorage spots inside the breakwater at Elliason harbor. Another idea is to have tax incentives for fish processing facilities that produce value added products such as smoked fish, fillets, etc. Shellfish farming should also be encouraged as a way to use our natural resources (clean water) in a manner that is not detrimental to the environment (ie logging).

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important

Comments::

We would like to see the City of Sitka remain a great place with opportunities so that our kids and grandchildren can choose to live here someday. However, economic development should not be pursued at the expense of the environment.



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

stop raising rates on practically everything

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Comments::

City employees do their best to help the citizens of sitka achieve what they want. There are some restrictions in codes.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Open up land for sale for housing and businesses. Offer classes on "how to's". How to start a business, how to pay taxes, how to apply for permits to add an extension onto the house, etc. all these how to's are once a year.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

A citizens task force should be started to advise the assembly on what and how to achieve economic development in Sitka.



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Make it easier to start businesses, open up land and areas to be business friendly, work with businesses and entrepreneurs to find creative ways to expand sitka business to appeal to broader marketsand serve our community at large. Starter programs, small business groups that are actually listened too. No crazy restrictions

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

Please just don't make this a dead end survey. Listen and actually commit to action. No empty promises.



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Make new business feel welcome and not like they are a burden on the city

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Make property avail

And sell the leases to leaseholders

City should not be a landlord

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

I have been disappointed to hear of delays when C.B.S. has been working on projects with various organizations in town. I think staff turnover has been a problem - it can lead to delays while new employees play "catch up." If you're swimming just to stay afloat it can be hard to do all the aspects of a job which would be helpful to the public and to businesses.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Keep working to hire in the vacant department head positions.

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Comments::

I'm not concerned with growing Sitka so much as maintaining good jobs for middle class working adults. If Sitka were to actually grow significantly, it would put our rural designation for subsistence & what not in jeopardy. I do think we are facing a challenge with Sitka aging especially with the senior sales tax exemption & a drop in school enrollment. Housing & childcare are especially important for gen Xers, millennials, and gen Z's. A lot of us have much less income and much higher housing and healthcare costs than our parents faced at the same age. Plus, with the population demographics of the whole country changing, fewer kids are being born. We are inevitably going to have to combine schools and I worry about managing the public perception of a school closure. That might be in 5 years or 15, but I foresee it happening.



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Diversify - Stop looking to poor business plans

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important

Comments::

Demographics shifting away from working families to retirees. Drop sales tax on food, raise millage and invest in infrastructure.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Comments::

Some employees act like we are bothering them. Curt, impolite.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Encourage and support new businesses.

Q3

Is economic growth and development important to you?

(no label)

2 - Slightly important

Comments::

I feel that Sitka should not become a "tourist trap" too much. Regulate tourist shops - we don't need more of those.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

In the last few years I have seen the City make more local purchases, however, I am aware that there is much more that the City could purchase locally. I don't get the point of this question.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Cut senseless regulations required of businesses, i.e. planning and building. Evaluate City management positions and cut the obvious "dead wood". Develop a Sitka solid waste management facility for Sitka and for use by the surrounding communities to reduce cost to ship trash off island and to generate jobs and income from other communities waste.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

Sitka is economically deteriorating. We need good ideas like the one suggested above to begin turning this decline around. There are many more good ideas out there which are ignored by the Assembly's focus on inconsequential minutiae in comparison to the real problems we have. Our debt service is out of control and the tax base to provide finances to service it is dwindling. State & Federal money is not a reliable resource; local business i.e. marine repair services, or hold a contest to solicit ideas for generating jobs and income from outside money for Sitka.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

SEDA should NOT just be about industrial park - they don't really look at the big picture.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

A small business center with resources and training on-site. A career center that SSD closed down because you need to grow your staff.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Excellent

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Helping with loans to allow mid income families to start business and housing. Cost of buy a home for an average family is outrageous

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

The assembly may identify economic development as important but when it comes to building and getting through the permitting process, it is prohibitive and beyond friendly.

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Quit doing special favors for friends of department heads. Everyone should be treated equally.

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

find ways to reduce cost of electricity. residents are having a hard time and many are leaving because of cost of basic necessities

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Excellent

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

First, the goal must be to ensure that locals are prioritized as the primary beneficiaries of any economic development, that locals are not displaced in any way by economic development and that any new economic development is sustainable and widely supported by a majority of the community

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Comments::

Its how its done that's of utmost import to me



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Comments::

Field employees are generally good, managers and admin loose sight of solutions when confronted with making pragmatic decisions.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Recognizing that the City is the largest contributor to inflation by its operation of public owned, union managed, monopolies. The union's purpose is full employment with the best benefits. Costs are passed on to consumers (of which union members are consumers), which leads to the unions asking for higher wages to cover the cost increases. This form of economic cycle smart business can see and your dreaming if the current model is acceptable to human and capital investment in this community.

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Comments::

I look forward to finding out what the purpose of this question is.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Comments::

On a project level basis, city staff often impede progress. For example, suddenly condemning a parcel of property that was up for sale, and ignoring other similar properties that were not for sale.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Eliminate the electric incentive ordinance and replace with a simple incentive rate in the regular utility rate schedules. Aggressively market the fact we have excess electric energy capacity on a regional basis.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

We desperately need marine services and an electric incentive rate, that works, could stimulate that private investment.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Realize that Sitka is on an island in Alaska, and be honest and realistic about our capabilities and limitations. Trying to run Sitka like Portland or Seattle is putting Sitka businesses at a disadvantage. We should focus on what we do have, and Portland doesn't have, which is we are on a Island in Alaska! We should to the greatest extent possible, focus on the last frontier mentality in Sitka. Sitka did best as a remote frontier town when it was a blank slate in the 50's 60's and 70's. A mill being built, oil, fishing, mining, and cheap available land without burdensome restrictions and high taxes. Besides the natural beauty, the other things that tourists want to see and experience is the traditional Alaskan type trades that made the State famous in the first place. No one would want to come here to see a microchip being made or health care being provided. In short, if you want to help the Sitka economy you need to let wealth be created. You need to stand back and let private industry do it's thing.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

City employees are more helpful now.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

1- Help promoting existing "for profit " businesses. On city web site or in the paper or both. That is a huge cost for any but especially small business is to advertise. Feature the owner, product or service, challenges and ideas. Featuring couple a week will help the business and the City- when new people are considering Sitka they will see that the City is promoting start up's and is business friendly. Remember that most people want to be in business to make profit.

2. Provide a business liaison, a person that would help an individual that never had a business to get all the legal paper work to get started.

3. Process to get a conditional use permit should be simplified and shortened for simpler, short term start ups (like mobile carts/trailers.)

4. City can provide an area with spaces to rent monthly for mobile start ups. There is no small store front spaces to rent in Sitka, only large and expensive which will kill profit of a start up business.

Old city shops as an example is perfect spot. It's sitting empty and it could bring revenue and help business community. It's already flat so create designated spaces along the perimeter with parking in center , provide power only and advertise it for low lot rent (eg. \$300). This will help people get their idea for making \$ off the ground. AND advertise it so people coming or thinking about coming to town see there are opportunities to make \$. If City is not interested in getting involved with that they should sell it with stipulation of "start up business spaces area" . I think that idea alone would get people excited and motivated to get started.

5. Not everyone comes here for fishing or tourism business (they usually are seasonal) so that needs to be remembered and focus more on people that want to live and do business here year round.

6. It's very common practice for Cities to entice large business give them tax, rate, power breaks. But most economic growth comes from small businesses which are being ignored- City leadership Should focus more on helping them with a boost so growth can occur. Not give them \$\$\$\$ because if they don't succeed we're stuck holding a large empty bag, but create small "breaks" that will boost the morale and hope for success.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

I'm a for profit Business 20 years running. If businesses doesn't grow it's dying. When there is no opportunities for growth business moves (how many did we loose to Hoonah in last 5 years), for business to grow I need to risk my \$ in hopes of a return - that means I look for needs to be filled. This is why it's important to expose challenges businesses have here in Sitka so solutions can be found. Bottom line is a healthy return on investment- that means Profit. Profit returns back to the community in many ways and its worth promoting . This survey was an hour of my time and I hope it was a good investment . I can be reached @ hmrepairguy@gmail.com

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Build a boat storage facility at SMC, support businesses that lead to improved climate and environmental concerns and lead to some jobs that keep the needed infrastructure going, enable electric dept. to succeed in supporting such jobs with clean energy jobs, fill position vacancies at the City, update and strengthen the city's climate action plan so it can support strengthening of businesses that are clean climate friendly, find ways so that people who can afford to pay their taxes, create or encourage jobs program that improves our recycling situation, seriously look into the ideas and needs that Sitkan's identify for job creation

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

i would like to see the city be more community friendly. we don't need anymore short term rentals or tee shirt shops. be more supportive of businesses that provide services for year round residents.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

a full service boat yard should be the #1 priority for economic development. require businesses to stay open year round.

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Comments::

residents need services not more tourists.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Find ways to reduce cost of living

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Simplify and streamline processes for permit approval. Help people be successful don't hinder.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

More jobs and money from sales and property taxes.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Affordable housing.

Diverse industry.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Comments::

All employees in the electric department are friendly.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Affordable housing.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Respondent skipped this question

Q3

Is economic growth and development important to you?

(no label)

2 - Slightly important

Comments::

Cross walk needed at bank and library. Reduce speed to and from bridge. Increase no parking zone. People can't see and step out on the road.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

Planning Department did not send one pertinent material in regards to a subdivision in our neighborhood - only after a phone call was accurate info provided.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Get a new manager for SEDA. Mr. White is not effective. Too much time dreaming about water while Sitka falls behind. Tiny home consultant not the answer to economic development - people remain in areas where there are jobs not for housing.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

Sitka is shrinking - no new families - business leaving - can't blame that all on internet sales. Need embrace tourism more as it's all we have - fish are taking a hard hit.



Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Comments::

Kind, considerate

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Respondent skipped this question

Q3

Is economic growth and development important to you?

Respondent skipped this question

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Excellent

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Grow from within

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆ Very good

Comments:: None

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Support education and the environment.

Q3

Is economic growth and development important to you?

(no label) 4 - Fairly important

Comments:: None

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

Comments:: The phrasing of this question is disingenuous at best. There is a big difference whether a city employee is friendly and helpful to the business people they interact with, and whether the policies under which city employees and businesses must operate are helpful and user-friendly. The question, in fact, requires two answers. I've had many business related interactions with city staff over several decades and with very few exceptions city staff consistently rate very good even excellent at times, However, they can only be helpful within the limitations of city policy. If in order to get something done, city policy requires me to fill out a 10 page form and pay a fee to submit it, the employee can get me the form, can answer my questions i have about filling out and can send me to another department where i can pay the fee. That's helpful and probably friendly. If I question whether the form and or the fee makes sense in my situation all they can say is that city policy. for example, if i want to bid on a city project i have to use a web based service (Bid Express) to submit my bid. To quote the city website bid express registration is required. When I checked a few years ago, I had to pay to subscribe to the service. Another example. To get a building permit for construction you have to submit construction plans. No problem there, that's reasonable. The problem is that in many cases the building official still can't tell you whether your plans meets city code unless you submit an engineered set of plans that are stamped by the appropriate kind of engineer. This is expensive. In many cases the cost and trouble is enough to kill any interest in pursuing a construction project. And if you already have a plan that is certified by an engineer as meeting the uniform building code, why do you also have to pay the city to approve it? Please do not choose to misunderstand me here. I've always found the building dept. staff to be enormously helpful, and always friendly. This isn't their fault. These examples are not unique either. in my view they reflect a culture of unintended obstructionism at the highest levels of city government. To say it in a different way - if there's a hoop that can possibly be jumped through, the city will insist that you jump through it. So if you ask for my opinion on the question is the CBS business friendly? I have to rate it poor. I'd rather it semi-hostile but that isn't an option. Five stars for the staff. No stars for the res.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

First stick with city business. Whether or not a merchant wants to give paper or plastic bags to their customers is not a legitimate business of the city assembly. Their job is to run the city, not to solve the world's problems or to run the businesses that operate here. Second stay out of private sector. No business can compete with a tax subsidized enterprise fun, tax subsidized housing, or tax subsidized hydropower sold at a cut rate prices to large users. Third don't build stuff we can't afford to maintain. It just results in higher taxes, which increases the cost of good and services, which discourages people from patronizing local business. Fourth consider backing off on all the free federal and state money. Even if it doesn't require matching local funding, free money comes with strings attached. The ADA regulations for example are threatening to turn Lincoln St., repaving project into what amounts to an access restriction project for downtown. Look at the plans for the intersection of Katlian and Lincoln Street for example. Then imagine two of those big AK coach tour busses trying to turn in opposing directions at the same time., Then throw in a tractor trailer hauling fish from SPC or SSS. Just for fun, sprinkle in a few bicycles and a lot of pedestrians. Why don't we just repave the street instead of trying to re-envision the world? What's happening instead is that access to the downtown area is becoming ever more difficult for larger vehicles trying to bring goods to downtown merchants, or to provide them with services. Parking is an ever larger problem too. It seems like every upgrade of the downtown area results in a loss of parking spaces. It's bad enough that passenger vehicles have fewer and fewer places to park; but the service vehicles that bring in the goods that businesses sell also have to park somewhere while they load and unload. Restricting downtown parking not only keeps customers away, it makes it harder for businesses to operate. Restricting downtown traffic to bicycles, pedestrians, and small vehicles might make downtown look more attractive to tourists, but this is a survey about a business friendly environment. In my opinion, current policies and plans are making things harder for businesses not easier. Then there is the delicate subject of tourism. There is little doubt that tourism is an important part of our economy. From my perspective on the street through it seems like the city administration sees it as the only important part. There seems to be a lot of momentum toward building up tourism as the motive force behind our whole local economy. That's where a lot of our tax dollars seem to be going. Tourism has a dark side though. Most of the jobs are seasonal, and they don't pay all that much. Year round, living wage jobs are harder and harder to find. The ones you can find are often government jobs, and those jobs don't increase city tax revenues, they just recycle them. If you increase government, you only have two choices for how to pay for it. Raise taxes, or find more taxpayers who don't have city jobs. Looking forward, any effort to become more business friendly should consider that growth in government consumes revenue streams without generating any new ones, and relying on tourism alone as a way to the future gets us closer and closer to becoming a seasonal theme park where no one can afford to live year round.

Q3

Is economic growth and development important to you?

Comments::

What is economic growth and development anyway? More seasonal jobs, more low-wage service jobs, more government jobs? Technically, maybe the answer is yes maybe that counts as growth but I don't want to see that happen. Growth for its own sake is not necessarily a good thing. Think about cancer, for example. If economic growth involves manufacturing, we are in a poor position to do much of anything. Transportation costs will prevent anything more than small scale efforts. Natural resource extraction? Well we have natural resources, but let's look at how we've handled one of the biggest ones we have, fishing. In an effort to increase revenue, we've raised the sales tax cap to the point that there is no longer an incentive for large fishing boats to resupply here. They can't save money even on their really large purchases anymore. Harbor rates are so high that some fishermen are mooring their boats elsewhere. The herring fleet all anchor out now, rather than tying up in the harbors. It's not that easy to spend money in town when you are on a boat at anchor. We put a fish box tax on charter fishermen too. We're doing our best to send this group of resource extractors somewhere else to do business. How about bulk water? Transportation costs are going to keep this from happening for awhile; but if it ever does take off, the profit from it should not go into the general fund. In my view it should go straight to the citizens. Maybe like the state permanent fund. If the city needs money, it should have to ask for it. It should never get it automatically. That way citizens can decide how well the city is doing its job, and if they trust it to have more of their money. Is economic growth and development important? Maybe, but it depends on what kind, and how you go about promoting it. What's more important, in my opinion, is that the city get out of the way of the kinds of growth and development that happens naturally when people believe they'll be able to keep the profits they ear from the investments they make in a business. For that to happen, they have to trust that the city will tread very tightly in the business sector, and won't unduly interfere with private commerce. Further, if there is a real interest in being business friendly the city should take extraordinary care not to spend public money to compete with private enterprise. The city will always win that battle because it doesn't have to make a profit. It doesn't even have to cover its cost of doing business. When the city gets into business, it risks converting tax paying private sector jobs into tax consuming public sector jobs. That's not good for anyone in the long run.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆	Good
Comments::	business friendly = fair for residential small business. is good for non residential business i.e. tourism lodges 2nd homes out of stat owners.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

More focus on year round business. Tourism is a 3 month season. Trolling is 85% residential. Longlining has an 8 month season. Year round pedestrian downtown - encourage more street entertainment benches, tables, music, carts, etc.

Q3

Is economic growth and development important to you?

(no label)	2 - Slightly important
Comments::	Be aware of overtourism. Too much growth in this sector could easily backfire - over harvesting fish, a limited resource - becoming a summer vacation town. Driving up the cost of living and driving out locals. No winter work and a high cost of living. Being a traditional fishing town sustainability is important. Fish are cyclic but when well managed can be sustainable. Continued growth (increase fishing) kills sustainability.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆	Good
Comments::	Interactions with city employees have been limited to a few areas the last couple years.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Listen to fishermen. Boat haul out and repair needed many years ago. Question start ups - only tourists? What about us locals without ferries? Maybe get current wants and recommendations from every sector of the economy. Don't always wait for them to come to you.

Q3

Is economic growth and development important to you?

(no label)	3 - Important
Comments::	Balance - balance. Only as it promotes a fun healthy community to live in. There needs to balance in politics strong assembly and strong city supervisors. Some taxation within reason and respect for senior citizens and care and education for children.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Comments::

Special people get special treatment anything is possible for the favored.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Do you know how much bottled water is selling for today? Crystal Geyser - \$18.76 for 36 bottles but I don't want to drink chlorine and fluoride.

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Comments::

Jobs for locals; I applied with city of sitka - totally not considered. Age, looks, race even us old fogies need work these days

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Never give up. It will get better.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Fair

Comments::

Some depts are more business friendly than others in that some people in the depts are more friendly, helpful than others.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Lower prices overall.

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important

Comments::

More opportunities for the public to have more than 3 grocery stores - so there's actual competition and possibly lower prices - plus more than 2 pharmacies (owned by the same family) so again there's actual competition and possible lower prices. I honestly can't/don't purchase from local clothing stores and pharmacies because I can't afford it.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

tourism

Q3

Is economic growth and development important to you?

(no label)

4 - Fairly important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

shitcan codes

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

have uncover building permit undertaken and report to assembly

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Comments::

Because the police officers are not fair and believed this one drug addict women against my daughter pulled out there guns like she was a hardened criminal in front of her 4 children she said my daughter was stalking her. i was with my daughter when she pulled up in front of the 4 way at Keet and stopped in front of all ears in front of my daughters vehicle. It makes me sad.

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Respondent skipped this question

Q3

Is economic growth and development important to you?

Respondent skipped this question

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

Mostly good, but who is left in City Hall?

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Common sense rule-making

Q3

Is economic growth and development important to you?

(no label)

3 - Important

Comments::

Common sense development no big growth

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Comments::

Why is Cummins taxi allowed to skip 10-20 k in moorage bills

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Respondent skipped this question

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Poor

Comments::

Obviously not when old time business' are closing down :(

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Need young people going into business

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Support and help to start private business or joint-venture from other regions/countries.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Very good

Comments::

The employees are very helpful... the policies are not so much!

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

Assembly - allowing use of local natural resources like land for purchase wood for lowering utilities, etc.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

City government involvement has directly led to poor business decisions (brewery, the farm, etc). the city government is poor at analyzing risk.

Q1

In your opinion, is the City and Borough of Sitka "business friendly"? That is, in the interactions between the public and the city, are city employees helpful?

☆

Good

Comments::

There are good efforts, but not enough we started to see more businesses clothing and that is sad!

Q2

The Assembly has identified economic development as one of its highest priorities. What do you believe can be done by the city management, employees, Assembly, and the business community to improve the prospects of actually growing our economy?

1. Consider lowering city taxes. 2. Open a discussion with business owners.

Q3

Is economic growth and development important to you?

(no label)

5 - Very important

Comments::

We are all in it together. When a business closes, many of us are losing.



PUBLIC WORKS ASSEMBLY UPDATE
WORK COMPLETED THROUGH DECEMBER 2019

Wastewater Treatment Plant (WWTP) Rehabilitation (CONSTRUCTION PHASE)

Milestones This Period

- Bid period – prepared and published Addenda to the Bid Documents in response to bidder questions
- Bids opened on December 5, 2019.
- One bid received in the amount of \$7,686,000 from MCG Constructors, Inc./Dawson Construction, Inc.- Joint Venture (JV). This lone bid is within the project budget and allows for the required construction contingency. Engineers estimate prior to bid opening was \$7 million.
- Notice of Award was issued to MCG Constructors/Dawson Construction J-V on December 17, 2019.
- Short term land lease application was approved by Alaska Department of Transportation (ADOT) for Parcel D - Airport property, which is adjacent to the WWTP, to be utilized by the Contractor for construction materials staging, tool storage containers, and field offices. The permit is in the process of being executed.

Future Milestones

- January and February 2020 relocate water lab to UAS campus and WWTP office spaces to Sealing Cove Business Center. Relocations are required to be completed prior to March 6, 2020.
- Execute construction contract and issue Notice to Proceed January 6, 2020.
- Project product submittals and contractor mobilization, January - March 2020.
- Exterior siding demolition and abatement (construction) start up late February 2020.
- Exterior wall framing installation, May and June, 2020.
- Mechanical and electrical work to begin July 2020.
- Anticipated project Substantial Completion May 20, 2021.

Background

The Wastewater Treatment Plant was built in the early 1980's and many of the building systems, including the building envelope (exterior siding, windows and doors), electrical, plumbing and mechanical, including the HVAC (ventilation air) system, have failed or are past their useful life and require replacement. The air quality within the building is inadequate and corrosive, and as a result the exposed piping and metal within the building have corroded.

Total project cost is estimated at \$10 million. Funding for this project is provided by the following sources:

\$263,000 – WW Fund Working Capital
<u>\$9,737,000 – DEC Loans</u>
\$10,000,000 – Total Available Project Funding

Current Contracts: McCool Carlson Green (design)	\$898,284
MCG Constructors, Inc./DCI Joint Venture	\$7,686,000

Crescent Harbor Float Replacement – Phase I (CONSTRUCTION PHASE)

Milestones This Period

- Final Lump Sum Price approval of \$12,999,045 with Turnagain Construction (Design-Builder) November 8, 2019.
- Harbor vessels have been moved to other berthing locations.
- Fully executed State Harbor Matching Grant Agreement received December 2, 2019.
- Endangered Species Concurrence from National Marine Fisheries Service Received November 15, 2019.
- Corp of Engineers permit received, dated November 26, 2019.
- Construction project startup (electrical demo) scheduled for December 15, 2019.
- Requested quotation from Contractor critical repairs to the Crescent Harbor High Load Dock/Net Shed and Lightering Dock – expected late December.

Future Milestones

- Pile and float demolition to begin, January 4, 2020.
- Pile driving scheduled to begin, January 20, 2020.
- Cathodic protection (anodes) scheduled for installation, February 19, 2020.
- Substantial Completion of piles and floats, March 15, 2020.
- Total Substantial Completion required, per contract, by May 1, 2020 with vessels likely permitted to enter back into the harbor in late April.

Background

The physical condition of Crescent Harbor has deteriorated to point where in-house repairs are no longer sufficient to adequately maintain the facility. Harbor Department staff and Public Works Department engineers have determined the harbor now presents an operational and safety risk due to floats sinking, decay of wooden beams, corrosion of metal fixtures and failure of walk-down ramps to meet ADA accessibility requirements.

The project has an estimated total cost of \$13 million for design and construction. Funding for this project is provided by the following sources:

\$1,000,000 – Harbor Fund Working Capital
\$5,000,000 – AK DOT Harbor Matching Grant
\$8,025,000 – Harbor Revenue Bonds
\$14,025,000 – Total Available Project Funding

Current Contracts: Jacobs (project admin & Plan review)	\$154,531
PND, Inc (construction inspection)	\$189,455
Moffatt and Nichol (third party estimating)	\$79,948
Turnagain Marine Design-Build Contract	\$12,999,045

Thomsen Harbor (DESIGN PHASE)

Milestones This Period

- Design Contract signed with PND Engineers, Inc. (in progress).

Future Milestones

- Design to be completed January 2020.
- Construction advertisement January/February 2020.
- Harbor Matching Grant agreement after award of construction contract.
- Construction planned – Spring 2020.

Background

The Old Thomsen Harbor was originally built in 1976. In 2006, the CBS replaced the Old Thomsen Harbor floats with new timber floats as part of a comprehensive capital improvement program. At the time of construction, a cathodic protection system was considered, but not installed due to financial considerations. This project will install cathodic protection on all of the steel pipe piles in Thomsen Harbor in the form of sacrificial anodes welded to the piles. These anodes are designed to protect the piles for 20 years, thereby extending the life of this important and expensive harbor facility.

The project has an estimated total cost of \$406,000. Funding for this project is provided by the following sources:

\$203,000	– Harbor Fund Working Capital
<u>\$203,000</u>	– AK DOT Harbor Matching Grant
\$406,000	– Total Available Project Funding

Current Contracts: PND Engineers, Inc. (pending)

\$17,870

Sitka Seaplane Base (SPB) (PLANNING PHASE)

For more information and history on this project, visit the City website at:

www.cityofsitka.com > Public Works Department > Public Works Projects > New Sitka Seaplane Base – or go directly to:

<https://www.cityofsitka.com/government/departments/publicworks/SitkaSeaplaneBaseSitingStudy.htm>

Milestones This Period

- Kicked off the environmental and planning phase with a meeting (December 11 & 12) for stakeholders and public to engage in the details of the process and concept plan. We understand there are concerns over the length of the process especially as it relates to these initial grant phases of work for the Environmental Assessment.
- The kickoff meeting was important to help clarify and brainstorm options in navigating the required federal process as well as to provide an opportunity to give comments and ask questions, before the project proceeds into the permitting phase.
- Some key takeaways from the meeting and/or comments we received:
 - Most who attended the meeting were generally supportive of the project and moving forward as quick as possible.

- Essential project for access to Sitka especially with reduced ferries and growth in health care needs.
- How will the CBS pay for the 6.25% match?
- At least 24 people attended the public meeting on December 11.
- Concerns were raised about harbor users subsidizing the facility and operations.
- Concerns about the length of the process and wanting to move forward with the land acquisition ahead of the Federal funding.
- Sound impacts were raised as a concern wanting it to be included in the study.
- Additionally we received comments/concerns from the following entities:
 - Corp of Engineers (permitting advice)
 - NOAA (permitting advice)
 - ADEED (land siting and operational impacts for MEHS and noise)
 - DNR (highlighted key tideland acquisition considerations)
 - SEARHC (expressed concerns over increased traffic and noise)
- For detailed meeting notes and presentation materials, visit the project web page at the link above.

Future Milestones

- Permitting: DRAFT NEPA Environmental Assessment (EA) prepared and ready for Public Review: Fall 2020.
- DRAFT planning for the facility layout, land acquisition, and business plan: Fall 2020.
- Public Meeting and/or input on drafts EA, facility layout, and business plan: Fall 2020
- Prepare and submit AIP grant applications to FAA for next phase Design/Land Acquisition: Fall 2021 (depends on federal funding cycle).

Background

The existing Seaplane Base has been operating for 65 years and is at the end of its useful life. The Assembly passed an action plan to construct a new facility just inside the breakwater on Japonski Island (end of Seward Street) making this a top priority to secure Federal Funding, land, and ultimately construction. Federal funding is anticipated to cover 93.75% of the cost of construction and another \$150k per year in operational maintenance. For this reason it is essential for the project development to follow the required Federal funding process anticipated to span four years.

There are 5 main phases required to complete to be eligible to proceed to the next stage and receive Federal funding:

1. Planning and Environmental Review (current funded stage):
Complete early 2021
2. Layout plan (current funded stage): Complete early 2021
3. Land acquisition (not funded until EA is completed and approved):
Complete Summer 2022
4. Design/Final Permitting (must build or give back FAA funds):
Complete Summer 2022
5. Construction: 2023-2024

The preliminary total project cost is estimated at \$16 million. Funding for this project is provided by the following sources:

\$842,629 – FAA AIP Grant (E/A & Planning Grant)
\$56,176 – General Fund Working Capital (Req'd CBS Match @ 6.25%)
\$898,805 – Total Available Project Funding

Current Contracts: DOWL (E/A & Aviation Planning) \$707,079

Sitka Sea Walk Phase 2 (PLANNING & DESIGN PHASE)

Milestones This Period

- Conducted project kickoff and scoping meeting with funding agency and consultant on November 20, 2019.

Future Milestones

- Draft preliminary scoping report due from Western Federal Lands, January 2020.
- Western Federal Lands (WFL - granting agency) to determine project delivery agent, February 2020 – project likely to be delivered (managed) by WFL.
- Design phase to kick off in early 2020 with plans for multiple meetings throughout the process.
- Construction is estimated to begin in Summer 2021.

Background

The project includes extending the Sitka Sea Walk from the Sitka Public Library toward (and under) O'Connell Bridge and terminating at the west end of Lincoln Street at its intersection with Harbor Way. Phase 2 of the Sea Walk, an 8-foot wide handicap accessible multi-use path, will continue the same theme as the first phase of the Sea Walk that extends from Harrigan Centennial Hall East through Crescent Harbor Park toward Sitka National Historical Park. The project is being delivered (managed) by Western Federal Lands (WFL), will be designed in 2020 and construction is expected to begin Summer 2021. Multiple rounds of public involvement are anticipated throughout the design process. The current funding plan is as follows:

\$ 1,674,713 – Grant from Western Federal Lands
\$158,060 – CBS GF and/or CPET Funds
\$1,832,773 – Total Available Project Funding

Current Contracts: No CBS contracts at this time.

Critical Secondary Water Supply (DESIGN PHASE)

For more information and history on this project, visit the City website at:

www.cityofsitka.com > Public Works Department > Public Works Projects > Critical Secondary Water Supply – or go directly to:

<https://www.cityofsitka.com/government/departments/publicworks/projects.html>

Milestones This Period

- Reviewed responses to filtration equipment RFP. Recommend award to Pall Water, the firm that provided rental filter units during the Blue Lake Dam project.
- Advanced negotiations with Pall to provide water filtration equipment.
- Hired a local consulting firm to help us pursue a \$3 million Dept. of Commerce Economic Development Administration grant.
- Scheduled a January meeting with the EPA and BlankRome, our lobbying firm, to pursue other project funding.

Future Milestones

- Finalize negotiations with Pall and award Notice to Proceed, January 2020.
- Design water treatment plant around selected filtration equipment. Receive 35 percent design package: January 2020.
- Solicit construction bids: November 2020.
- Substantial Completion for secondary water source project anticipated in December 2021.

Background

The project is for design and construction of a secondary water source, for when the primary water source – Blue Lake water treated with ultraviolet (UV) radiation – is unavailable. Blue Lake water will not be available when the Electric Department inspects and maintains the penstock providing water from the dam to the power plant. Blue Lake water may also require filtration – not just UV treatment – if turbidity levels continue to exceed regulatory thresholds.

Total project cost is estimated at \$18 million. Funding for the project is provided by:

\$150,000 – Working Capital
\$380,000 – transferred from UV Disinfection project Working Capital
\$17,620,000 – Alaska Clean Water Fund loan
\$18,150,000 – Total Available Project Funding

Current Contracts:	CRW Engineering Group (design)	\$362,780
	Uproar Consulting (grant-writing)	\$1,000

Peterson Storm Sewer Rehabilitation (DESIGN PHASE)

Milestones This Period

- Received 95% design submittal for Peterson Street culvert.

Future Milestones

- USFW NEPA Evaluation, January 2020.
- Bid construction project, August 2020.
- Complete construction work, November 2020.

Background

The project includes replacement of deteriorated 60" corrugated metal culvert crossing under Peterson Street, allowing for fish passage. Peterson Street is a collector street that provides critical access to side streets and local residences as well as to Sitka High School.

Total project cost is estimated at \$1,215,000. Funding for the project is provided by:

\$150,000 – General Fund FY2019 Working Capital
\$220,000 – General Fund FY20 Working Capital
(\$50,000) – transferred to Davidoff Street Sewer Rehab project
\$55,000 – National Fish & Wildlife Foundation design grant
\$60,000 – U.S. Fish and Wildlife Service Fish Passage construction grant
\$80,000 – U.S. Fish & Wildlife Service Fish Passage construction grant
\$515,000 – Total Available Project Funding

Note: Additional project funding required. Up to \$700,000 may be requested with upcoming FY21 General Fund Capital Projects Budget.

Current Contracts: DOWL (design) \$78,072

Brady, Channel and Eagle Way Lift Station Rehabilitation (BIDDING PHASE)

Milestones This Period

- Received stamped drawings and specifications from design consultant.
- Awarded contract to DXPE (Alaska Pump & Supply) to provide Flygt pumps for the Brady and Eagle Way lift stations.
- Awarded contract to Boreal Controls, Inc., to provide electrical and control equipment for all three lift stations.
- Secured temporary construction easements needed to build the project.
- Project posted to Bid Express, December 27, 2019.

Future Milestones

- Construction bid period: December 27 to January 30, 2020.
- Construction notice-to-proceed: February 2020.
- Rehabilitate lift stations: February through June 2020.

Background

Eagle Way Lift Station is responsible for pumping all sewage east of Eagle Way toward the Wastewater Treatment Plant (WWTP). Brady Lift Station is responsible for all sewage north of Brady Street. Channel Lift Station is responsible for an apartment complex and one private residence on Halibut Point Road. All three lift stations require excess maintenance due to corrosion and/or outdated pumping equipment. Project will rehabilitate lift stations, re-using existing infrastructure to the extent feasible.

The estimated construction cost for the project is approximately \$1.6 million. Funding for the project is provided by:

\$250,000 – DCCED grant (Eagle Way Life Station)
\$220,000 – Wastewater Fund Working Capital (Eagle Way Lift Station)
\$217,400 – ACWF loan (Brady Lift Station)
\$165,000 – Wastewater Fund Working Capital (Brady Lift Station)
\$100,000 – Wastewater Fund Working Capital (Channel Lift Station)

\$350,000 – ADEC loan for Brady and Channel remaining from larger loan
\$550,000 – Wastewater Fund Working Capital remaining from completed projects
\$1,827,400 – Total Available Project Funding

Current Contracts:	DOWL (design)	\$128,930
	DXPE (supply pumps)	\$110,444
	Boreal Control (supply electric/control equipment)	\$194,900

Airport Terminal Improvements (DESIGN PHASE)

Milestones This Period

- Applied to TSA for an amendment to the grant for additional time and additional costs due to delays caused by the Federal Government Shutdown last year and changes required by TSA to the 30% design for TSA related work only.

Future Milestones

- Complete the 35% revisions for the rest of the terminal improvements design and move into the Design Development Phase (65%) where the improvements will be developed and defined in separate phases for construction and funding, March 2020.
- Resolve the remaining 30% TSA design submittal issues for the TSA Baggage Screening Area.
- AK DOT involvement 65%, especially regarding potential FAA AIP funding & Improvement staging.
- Other funding sources for terminal improvements beyond the PFC/Bonding and AIP grant requests are being developed for consideration, including airport terminal user fees and TSA grants for screening/security improvements.
- Phased construction has been delayed to at least 2021 through 2023, due to the Federal Government shutdown at the end of 2018 and the lack of project funding.
- Still awaiting and anticipating the State of Alaska DOT sending the CBS information about the upcoming parking lot management changes and options.

Background

The Airport Terminal Improvement Project is intended to remedy some of the existing critical problems identified in the Airport Terminal Master Plan 2008-2011, including working conditions in the baggage make-up area and TSA baggage screening area, as well as problems with congested passenger queuing, screening, baggage, fish boxes, waiting areas and passenger flow. CBS accepted a TSA design grant in the amount of \$158,569.25 to design specific improvements to the TSA Baggage Screening Area. Other areas impacted by these design changes are ineligible for the TSA design funding. The Assembly approved moving forward to the 65% Schematic Design Milestone for the preferred concept plan that was presented in the Assembly work-session August 8, 2017. Passenger Facility Charges (PFC) were applied for and approved by ADOT and FAA. Collection of the PFCs began May 1, 2018. The total anticipated revenue collection over the 20-year period of collection is \$6,840,000.00, which will finance the \$4,025,000 revenue bond along with its fees and debt service.

The estimated cost for the project as identified is approximately \$15-million. The current funding plan outlines the following components:

- | | | |
|-------------------------------------|--------------|--------------|
| • Passenger Facility Charge Revenue | \$4,025,000 | Bond secured |
| • TSA Funding | \$3,397,500 | Unsecured |
| • Eligible AIP Grant Request | \$10,283,954 | Unsecured |

Current contracts: MCG Architects (design) \$449,069

Lincoln Street Paving – Harbor Way to Harbor Drive (DESIGN PHASE)

Milestones This Period

- Conducted Assembly work session on project status and alternatives, December 10, 2019.
- Project currently on hold, pending direction from Administrator and Assembly.

Future Milestones

- Assembly Discussion and Direction item coming in January or February 2020.

Background

The project includes replacing non-ADA-compliant curb ramps, failing storm drain, limited curb, gutter and sidewalk and all asphalt pavement on Lincoln Street from approximately Harbor Way to Harbor Drive. Water and sewer utilities will be installed on Cathedral Way, which will also be re-paved.

Funding for the project is provided by:

\$1,760,000 – General Fund
\$105,000 – CPET Funding
\$20,000 – Water Fund
\$20,000 – Sewer Fund
\$1,905,000 – Total Available Project Funding

Current Contracts: Professional and Technical Services, Inc. \$383,290
(Lincoln portion of Lincoln & Katlian contract)

Nelson Logging Road Upgrades (CONSTRUCTION PHASE)

Milestones This Period

- Added safety barrier with delineators at HPR intersection.

Future Milestones

- DNR Survey by North 57 Surveying to prepare easement plan completed by January 2020.
- Utilize remaining State grant funds, approximately \$60,000 to complete additional improvements (emergency phone line to shooting range, guardrail at HPR intersection, turnaround area at new bridge), March 2020.
- Final Project Closeout, Summer 2020.

Background

The project includes replacing both inadequate bridges, realignment at HPR intersection to raise the road elevation out of the stream floodplain, upgrading Nelson Logging Road to include drainage improvements, resurfacing, widening, and pedestrian amenities.

Funding for the project is provided entirely by a \$2,343,000 State of Alaska Department of Commerce Community and Economic Development Grant.

Current Contracts: LEI Engineers & Surveying (design)	\$471,120
K & E Alaska, Inc (construction)	\$1,544,280

MAINTENANCE ACTIVITIES

Streets

- Graded gravel roads.
- Training and prepping equipment for snow removal.
- Worked on water leak on Price Street.
- Removed abandoned vehicles from town to the Scrapyard.
- Ditching.
- Cleaned storm drains.
- Scrapped boats for Harbors, hauled to CD Landfill.
- Hauled recycled glass to Landfill.
- Buried approx. 80yds of Bio Solids from Wastewater Plant.
- Filled potholes.
- Put away spray patching and paint equipment for season.

Central Garage

- 34 repairs on vehicles and equipment.
- Manufactured gate for Building Maintenance for the Library.
- Repaired playground equipment for Parks and Recreation.
- Researched many different vehicle tracking systems. Have narrowed them down to the following best candidate for our fleet that provide vehicle tracking, driver habit tracking, and virtual mechanic.
 - Vehicle Gateway - \$37,560 per year for 71 units
 - Vehicle Tracking Solutions – Silent Passenger - \$27,240 per year for 71 units
 - Harman Spark (limited to passenger vehicles only) - \$6,530 for the first year for 51 units out of 71 vehicles fleet (\$80 one time purchase of unit & \$48 annual fee per unit)
 - Units that are significantly cheaper appear to have reliability concerns.

Scrapyard

- Shipped 6 gondolas, totaling 117,470lbs (58.735 tons).
- Received 5 abandoned vehicles from Streets and 3 vehicles impounded from Police Department.

Grounds Maintenance

COMPLETED:

- Fall/Winter seasonal rotation/maintenance on grounds and athletic fields. 2 PMs, 17 Reactive/Requested (Still working on entering PMs into the work order system).
- Holiday Décor & Tree Lights Down Town
- New Grounds Maintenance Specialist Training on operations and duties. Chad Mulligan Started 12/2/2019.
- Herring Cover, volunteer lead site cleanup by Al & Gal Galo. THANK YOU! - Grounds Team took refuge to Transfer Station on 12/10/2019.
- De-ice Seawalk prior to Saturday 12/14 community 5K run from Centennial through Totem Park.
- Herring Cover, Beaver Lake Trail – 12/16/19 One large 3' diameter tree broken and pitched over trail, Crew dropped tree for safety along with removing 3 additional trees from across the trail that were blown over with exposed roots.
- Repair damaged wayfinding sign – downtown West Mark location

ONGOING:

- Lower Moller East Playground – ongoing work to re-open playground (site old surfacing material removed, repairs and replacement started on remaining playground equipment, new drainage catch basin installed, landscape fabric and edging for p-stone material starting to go down.
- Goddard Hot Springs needs repair to hot water supply line.
- Working on security cameras for the Moller Complex.

Building Maintenance

COMPLETED:

- Preventive maintenance schedule – Normal Operations 20 PMs.
- Reactive/Requested Work Orders – 11.
- Airport – Weather Event Prep- Alaska Airline requested facility to remain open overnight. Plan was in motion. Flights ended up getting in/out.
- Winter Intern/temp Hired (College Break) Assist with Assists in Work Order System and Operation Manual Updates.
- Long Term Care Facility, New Outpatient Space on lower level.

ONGOING:

- Tom Young Cabin – Reported problems with the oil stove and outhouse door.
- Goddard Hot Springs – Reported problem with bottom tub not getting hot water persons felt there is a clogged line.
- City State Main pneumatic controller failed. Bypass put in place to allow system to operate while quotes come in replacement pneumatic control box.
- Fire Hall, overhead door spring broke – special order replacement, wrong spring was shipped.

- Library – Water infiltration during NE wind driven rain. Investigation underway. Team will be investigating with contractor to troubleshoot issue.
- Fire Hall range –replacement required. Sent out motherboard to be rebuilt – repairs to motherboard did not solve problem. Replacement Range Estimate 7-8K. Fire Hall also looking into alternative ranges that will cover their needs.
- Police Department –Original Contractor has not followed through therefore moving onto next in line to replace two broken windows.
- Police Department – HVAC Plan for short term solution and long term planning. Discussion Meeting set for January.
- Airport – luggage cart maintenance.
- Centennial Hall – Gutter membrane installation – Contractor scheduled spring 2020.
- Library – interior LED lighting issues: restroom corridor, bathrooms, and other fixtures.
- Marine Service Center – Condenser Replacement, Work Scheduled Mid-February
- Senior Center – kitchen hood suppression – Work Scheduled for January 14th, 15th, and 16th Assist with Airport Leases/Space (Legal).

MONITORING:

- WWTP boiler circulation pump 1 has leaking flanges (we are going to monitor due to renovations). Pump can be isolated, if needed. We have back up circulation using pump 2.
- WWTP fan unit 2 failed and temporary fan was installed (we will continue to monitor until renovation). Fan unit is for storage area exhaust.
- Harrigan Centennial Hall – tile floor cracking common areas.

Old Sitka Rocks Lift Station Repair

The discharge piping at the Old Sitka Rocks Lift Station developed a leak due to corrosion. In order to replace the corroded piping a temporary discharge line was installed so the corroded piping could be inspected and repaired or replaced. During the early morning hours of Dec 13th the temporary line failed causing the dry well to fill with sewage. Approximately 13,200 gallons of sewage needed to be pumped to the ocean while the crew fabricated a discharge into the force main utilizing our portable bypass pump. The solids settled into the wet well and there was no sheen or debris visible at the discharge location. The incident was reported to both the federal and state regulatory agencies.

The wastewater crew has since been working on bringing the lift station back to life. This includes drying and inspection of the electric pump motors, repair of the discharge piping, and relocating the electrical panel to an above ground location to improve operator safety and reduce potential damage should the dry pit experience a flood in the future. A portable generator has remained on scene to power heaters and fans to aid in drying of lift station. The portable bypass pump continues to pump sewage into the force main. Crews expect to have the lift station up and running the 2nd week of January.

2019 WATER/WASTEWATER HIGHLIGHTS

Water operators flush the water distribution system on an annual basis. In preparation for the annual flushing the main line valve boxes were cleaned and valves are verified to be operable. The flushing takes about two weeks. During the flushing, water mains are isolated a section at a time and the water is flushed out via hydrants and water blow-offs. By isolating water mains a section at a time, the velocity in the pipe increases which allows a scouring action to take place that removes sediment and film that may have accumulated in the pipes.

The wastewater division completed the annual cleaning of the lift station wet wells. The Camel (vacuum truck) is used to remove grease, grit, sludge and debris.

The Water/Wastewater division is making a concerted effort to implement a geographic information system (GIS). GIS is a system designed to capture, store, manipulate, analyze, manage, and present spatial or geographic data. GIS analyzes spatial location and organizes layers of information using maps which will reveal a deeper insight into data, such as patterns, relationships, and situations which will help us make smarter decisions. A few of the GIS milestones this year include:

- Built and populated the GIS Reference Document System (drawings)
- Created and implemented GIS workflows to support data currency
- Created and populated GIS layers representing vertical plant information

Critical assets are defined as assets that sustain our water and wastewater systems' performance. Determining the criticality of assets is based on an asset having a high risk of failure and major consequences if it does fail. The water and wastewater divisions have developed a list of critical assets, where they are located and if spares are available. This is one of the steps in developing a fully functioning asset management program which is a project that the water/wastewater division has been working on.

Throughout the year the wastewater division has been working to clean up/out the wastewater treatment plant so it's ready for the rehabilitation project. Historical files are boxed and ready to be scanned, obsolete parts and equipment have been scrapped and other parts and equipment have been inventoried. During construction the wastewater division will move their offices to the Shee Atika Office Building on Alice Loop. UAS is graciously allowing us to use their lab for our water and wastewater analyses. Our lab tech will be working with DEC to get the temporary lab certified for our regulatory compliance monitoring. The wastewater plant needs to remain fully functional during the rehabilitation so significant coordination between the contractor and wastewater division will be necessary.

Throughout the year the water division repaired 13 water leaks. The leaks occurred on a mix of copper services and ductile iron pipe of various sizes. Corrosion was the common theme amongst the leaks.

The water and wastewater divisions are a team of highly skilled individuals. It's because of this that we are able to complete most of our repairs and rehabs in-house. Most of the projects are to replace obsolete equipment and often require fabrication, welding, masonry, carpentry, electrical, and most importantly ingenuity. Some of the special projects that were completed in 2019 include:

- Replacement of corroded sludge line at the wastewater treatment plant
- Reconfigure and replacement of the soda ash piping at the corrosion control facility
- Installation of new online turbidimeter at the Blue Lake water plant
- Replacement of the scum concentrator pump and drive at the wastewater plant
- Installation of a backflow preventer and water line at the Granite Creek lift station
- Removal of obsolete parts and unnecessary bends in the water line on Alice Loop
- Installation of new pumps and electrical equipment at Thomsen Harbor lift station
- Installation of new generators at Sandy Beach and Halibut Point lift stations
- Installation of a blower for the sludge thickener at the wastewater treatment plant
- Installation of new pump and discharge elbow at lift station #7
- Replacement of the scum line plug valve at the wastewater treatment plant
- Exterior painting of the Blue Lake water treatment plant
- Replacement of pump and check valve at the Wortman booster station
- Replacement of UVT analyzer parts at the UV treatment plant
- Replacement of the corroded discharge line at the Old Sitka Rocks lift station
- Replacement of the corroded level control at the Granite Creek lift station
- Installation of valve actuator at the Harbor Mountain water tank

For more information about the projects listed above or to learn more about the work the water and wastewater divisions do please contact the Environmental Superintendent at 747-4060.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-003 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Approve the minutes of the December 19 and December 23 Assembly meetings

Sponsors:

Indexes:

Code sections:

Attachments: [Consent and Minutes](#)

Date	Ver.	Action By	Action	Result
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CONSENT AGENDA

POSSIBLE MOTION

**I MOVE TO APPROVE THE CONSENT AGENDA
CONSISTING OF ITEMS A & B**

I wish to remove Item(s) _____

**REMINDER – Read aloud a portion of each item being
voted on that is included in the consent vote.**

Should this item be pulled from the Consent Agenda the following motion is suggested:

POSSIBLE MOTION

I MOVE TO approve the minutes of the
December 19 and December 23 Assembly
meetings.



CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS
330 Harbor Drive
Sitka, AK
(907)747-1811

Minutes - Draft

City and Borough Assembly

*Mayor Gary Paxton
Deputy Mayor Steven Eisenbeisz,
Vice Deputy Mayor Kevin Mosher,
Kevin Knox, Dr. Richard Wein, Valorie Nelson, Thor Christianson*

*Interim Municipal Administrator: Hugh Bevan
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson*

Thursday, December 19, 2019

6:00 PM

Assembly Chambers

SPECIAL MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

IV. PERSONS TO BE HEARD

None.

V. NEW BUSINESS:

A 19-266

Review of the FY20 Municipal Budget and Discussion / Direction / Decision on parameters for the FY21 Municipal Budget

Interim Municipal Administrator Hugh Bevan reviewed the FY21 budget meeting schedule and stated the goal for this meeting was to review the FY20 budget, become familiar with structure and terminology, and receive feedback from the Assembly on key points for FY21.

Controller Melissa Haley began by providing an overview of the FY20 General Fund budget as adopted highlighting General Fund services, subsidization to other funds, support to the School District and repair of infrastructure (capital projects). She spoke of significant anticipated variances (no loss of raw fish tax, first quarter sales tax revenue had exceeded the budget, and personnel expenses were on track with only 78% of the budget expended) and noted the unknowns were: the PILT amount, when vacant positions would be filled, and the impact of online remittances for October to December. Haley listed top revenue sources for the City of sales tax (45% of total

revenue) and property tax (23%). An analysis of school funding was provided. Members gave direction to fund to the cap as defined by the State. Haley provided a summary on General Fund debt; it was requested detailed information be provided at a future budget meeting. Haley reviewed the FY20 General Fund staffing levels and vacancies. Some members wished to discuss adding back in the Community Affairs Director position to the FY21 budget while others did not. FY20 donations were reviewed: non-profit grants, Sitka Historical Society, SEDA, SAFV, and the Ride. Lastly, Haley reviewed the Enterprise Funds, challenges associated with each, and proposed rate increases.

The following direction was given for development of the FY21 budget:

- * Assume State revenue sharing will be the same as previous year
- * Assume Federal PILT revenue will be \$600,000
- * Assume State fish tax revenue will be \$900,000
- * Assume Federal Secure Rural Schools revenue will be \$500,000
- * Assume State contribution to school bond debt repayment will be the same as previous year
- * Include the Community Affairs Director position in the FY21 budget for discussion and modify the job description to include grant writing
- * Assume status quo for City staff levels
- * Assume a 2% increase in water rates
- * Assume a 2% increase in sewer rates
- * Assume a 5.5% increase in solid waste rates
- * Assume a 3% increase in harbor rates
- * Assume school funding will be to the cap as defined by the State with the out-of-cap funding the same as previous year

VI. PERSONS TO BE HEARD:

George Paul spoke to the Assembly about various issues. He stated he disagreed with the recent resolution passed regarding the Roadless Rule, hoped the Congressional Delegation stood firm in reopening the Tongass, and stressed a need for industry in Sitka. Paul expressed concern with the increased cost of living in Sitka and noted his family was trying to determine whether to stay in Sitka.

VII. EXECUTIVE SESSION

None.

VIII. ADJOURNMENT

A motion was made by Christianson to ADJOURN. Hearing no objections, the meeting ADJOURNED at 8:28 p.m.

ATTEST: _____
Sara Peterson, MMC
Municipal Clerk



CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS
330 Harbor Drive
Sitka, AK
(907)747-1811

Minutes - Draft

City and Borough Assembly

*Mayor Gary Paxton
Deputy Mayor Steven Eisenbeisz,
Vice Deputy Mayor Kevin Mosher,
Kevin Knox, Dr. Richard Wein, Valorie Nelson, Thor Christianson*

*Interim Municipal Administrator: Hugh Bevan
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson*

Monday, December 23, 2019

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 6 - Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

Telephonic: 1 - Christianson

IV. CORRESPONDENCE/AGENDA CHANGES

19-279 Reminders, Calendars, and General Correspondence

Knox stated agenda item M was worded in such a way that it appeared a decision was going to be made this evening. He believed further discussion was needed prior to making any decision. Other members stated it was worthwhile to keep the item on the agenda and discuss.

**A motion was made by Knox to POSTPONE item M to the January 14 meeting.
The motion FAILED by the following vote.**

No: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

V. CEREMONIAL MATTERS

None.

VI. SPECIAL REPORTS: Government to Government, Municipal Boards/Commissions/Committees, Municipal Departments, School District, Students and Guests (five minute time limit)

19-267 **Special Report: Greater Sitka Chamber of Commerce / Visit Sitka - Rachel Roy and Laurie Booyse**

Rachel Roy and Laurie Booyse of the Chamber of Commerce / Visit Sitka provided an update. Booyse reviewed the upcoming conferences they were assisting with, said the 2020 cruise ship calendar had been published, and stated approximately 220,000 cruise ship passengers were expected in 2020. Roy told of work on the FY21 budget plan.

VII. PERSONS TO BE HEARD

None.

VIII. REPORTS

a. Mayor, b. Administrator, c. Attorney, d. Liaison Representatives, e. Clerk, f. Other

Mayor - Paxton wished everyone a happy holiday season.

Interim Administrator - Bevan stated a Planner I had been hired, recruitment efforts were still in place for a Utility Director, and the Library Director applicant had declined a recent hire offer. Bevan noted work had started on Crescent Harbor and Phase 6 of the Cross Trail project.

Attorney - Hanson told of the projects he and Senior Engineer David Longtin had completed over the last few weeks.

Liaison Representatives - Knox spoke to the recent public meeting regarding the seaplane base. Wein told of his attendance at the seaplane base meetings and Planning Commission meeting.

Clerk - Peterson stated the next regular meeting was January 14.

Other - Wein said he enjoyed attending the City employee holiday party.

IX. CONSENT AGENDA

A motion was made by Nelson that the Consent Agenda consisting of items A, B, C, & D be APPROVED. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

A 19-269 Approve the minutes of the December 10 Assembly meeting

This item was APPROVED ON THE CONSENT AGENDA.

B 19-276 Approve a liquor license renewal application for House of Liquor at 705 Halibut Point Road Suite D

This item was APPROVED ON THE CONSENT AGENDA.

C 19-277 Approve a liquor license renewal application for the Longliner Lodge and

Suites at 485 Katlian Street

This item was APPROVED ON THE CONSENT AGENDA.

- D 19-278 Approve a liquor license renewal application for Sitka Jet Center, Inc dba Sitka Hotel at 118 Lincoln Street

This item was APPROVED ON THE CONSENT AGENDA.

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

None.

XI. UNFINISHED BUSINESS:

- E ORD 19-41 Making supplemental appropriations for Fiscal Year 2020 (Administration - Personnel / Contract Services)

Interim Administrator Hugh Bevan explained the Human Resources Director position remain unfilled. He stated the \$20,000 appropriation covered funding for outside counsel Kimberly Gearity to provide oversight of Human Resources until April at which time the new Administrator could decide how to proceed. Wein wondered what the status of the Prothman contract was with regards to the Human Resources position. Bevan stated according to Prothman they had fulfilled their duties.

A motion was made by Knox that this Ordinance be APPROVED on SECOND AND FINAL READING. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

- F ORD 19-42 Clarifying the Sitka General Code by amending Title 4 "Revenue and Finance" Chapter 4.09 "Sales Tax" and amending Title 15 "Public Utilities" Chapter 15 "Electric Utility Policies" (Clerical Inaccuracies)

A motion was made by Nelson that this Ordinance be APPROVED on SECOND AND FINAL READING. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

XII. NEW BUSINESS:

New Business First Reading

- G ORD 19-43 Making supplemental appropriations for Fiscal Year 2020 (Cross Trail Project Phase 6)

Interim Administrator Hugh Bevan stated the appropriation accounted for money the City had accepted from Sitka Trail Works for money raised for Phase 6 of the Cross Trail Project. Lynne Brandon of Sitka Trail Works thanked financial contributors.

A motion was made by Knox that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

Additional New Business Items

- H RES 19-28** Adopting an alternative allocation method for the FY20 Shared Fisheries Business Tax Program and certifying that this allocation method fairly represents the distribution of significant effects of fisheries business activity in FMA 18: Central Southeast Area

Chief Finance and Administrative Officer Jay Sweeney explained the State of Alaska collected fisheries business taxes from processors and people who exported unprocessed fishery resources from Alaska. Sweeney said a portion of the revenue generated from the tax was then distributed to municipalities and noted Sitka was required to choose an application method. He stated in the past, Sitka had selected the alternative application method.

A motion was made by Knox that this Resolution be APPROVED on FIRST AND FINAL READING. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

- I 19-273** Approve hire offer for Larry Reeder as Assessor

Wein wished to know what qualities had made Reeder the best candidate. Interim Administrator Hugh Bevan stated besides his knowledge, Reeder had a good personality, was enthusiastic, and a good fit for Sitka. Wein asked Bevan to explain what the level 3 state license requirement consisted of. Bevan commented Reeder would need to demonstrate to the State that he had studied Alaska law.

A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

- J 19-272** Approve a letter of support for Leo's Hope

Cosponsor Knox explained this letter of support was specific to the work of Leo's Hope. Leo Jimmy explained the level 3.5 intensive inpatient treatment service was equivalent to the care provided formerly by the Bill Brady Healing Center.

A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

- K 19-268** Approve Amendment No.2 to the Payment for Services Agreement between the Sitka Tribe of Alaska and the City and Borough of Sitka

Municipal Attorney Brian Hanson explained in 1998 the Assembly had entered into a Memorandum of Understanding (MOU) with Sitka Tribe of Alaska. Hanson said part of the MOU addressed how the two governments were to cooperate on matters related to taxes and agreements regarding payments in lieu of taxes. In 2001, the Payment for Services Agreement (PSA) was entered into between the two governments. In the

PSA, there was a process outlined for STA to receive relief from taxes upon acquiring real property. Hanson stated the amendment before the Assembly was to account for property at 204 Siginiika Way that Sitka Tribe of Alaska had acquired in 2019. He noted the STA received a break on real property taxes because their government provided other forms of consideration to the public for the way they run their government. Knox wondered in the future if there was a mechanism to make this decision administratively rather than having to make an amendment each time there was a property change. Hanson stated that was a possibility, however, would need to be discussed by the two governments. Wein wondered of the values of the property and noted the information he received was incomplete. Hanson reminded the action before the Assembly was not to review the property in the PSA, however, could be done so at another time.

A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

L 19-270

Approve proceeding with a Request for Proposals for the Cruise Ship Passenger Transit Services between Old Sitka Dock and Harrigan Centennial Hall parking area for FY21 and FY22

Chris McGraw of Halibut Point Marine Services, owner of Old Sitka Dock, noted the City had been funding a portion of the transportation for the cruise ship passengers from Old Sitka Dock to Harrigan Centennial Hall through an request for proposal (RFP) process since 2013. Each passenger paid a \$5 tax to the State of Alaska which in turn was funneled to the City through CPET funds. McGraw recommended the Assembly proceed with the RFP process.

Christianson said initially the 2013 RFP process was a chance for the Dock to get going and wondered if the process was still appropriate. Wein concurred with Christianson and stated the estimated number of passengers expected in 2020 was 190,000 equating to contract appropriation of \$204,000. For the second year of the contract, the passenger count was anticipated to be 240,000 an appropriation of \$257,000. He reminded buses had an impact on infrastructure and stressed a need for oversight of the project. Nelson spoke in support and stated economically it was important to get tourists to the downtown area. Mosher agreed. Knox and Eisenbeisz suggested basing the RFP numbers on actual numbers rather than the manifest. In addition, they spoke to traffic issues and environmental concerns - e.g. oil spills at Harrigan Centennial Hall. Bevan noted the recommended changes from the Assembly: contractor responsibility for oil spills and billing based on actual number of passengers.

A motion was made by Nelson that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Christianson, Eisenbeisz, Knox, Paxton, Mosher, and Nelson

No: 1 - Wein

M 19-271

Update on the proposal for a marine haulout at the Gary Paxton Industrial Park / land trade followed by Discussion / Direction / Decision to proceed with a Request for Proposals for approximately 17 acres of Lot 1 USS 3670 known as 4951 Halibut Point Road

Interim Administrator Hugh Bevan stated Halibut Point Marine had submitted a proposal to finance and construct a haul out at the Gary Paxton Industrial Park (GPIP) in exchange for a 17 acre parcel of land at 4951 Halibut Point Road. The Legal

Department had come to the conclusion that such a trade was not allowed under the Sitka Home Rule Charter and Sitka General Code but rather a competitive process was needed. Bevan noted the GPIB Board had done a lot of research with regards to a haulout.

Assembly Discussion

Mosher spoke in support of a RFP process. Eisenbeisz understood the need for a RFP but didn't want to see it so narrowly focused that there was only one response received. Nelson suggested there be two RFPs - one for the land and one for the haulout. Wein stated it was a complex issue and believed it to be premature to move forward with a RFP. Christianson spoke in support of an RFP for review at a work session.

Public Testimony

The Municipal Clerk read a written statement submitted by Christian Fabian speaking to a haulout and the need to ensure such a decision would be profitable. Kelly Warren spoke in support of a marine shipyard and separating the issues into two RFPs. Chris McGraw stated Halibut Point Marine would be closing the boatyard prior to the 2021 summer season, explained the property at 4951 Halibut Point Road could be used for shore excursions with minimal development. Mike Poutney, a resident living near Old Sitka Dock, spoke in support of the marine haulout, two RFPs, and told of the impacts of living near the dock. Caven Pfeiffer commented the current shipyard was inadequate, spoke in support of a shipyard, to proceed quickly but cautiously. Jeff Farvour stated a need for a haulout and suggested a taskforce be created to explore the best facility for Sitka. Mike Nurco spoke in support of forming a workgroup to assist in identifying needs. John Murray stressed the need for a planning process and not to rush. Bonnie Richards believed the current proposal circumvented the bidding process and urged the Assembly to take their time. Cale LaDuke stressed the need for the formation of a committee to explore Sitka's shipyard needs in order to build the best facility possible. Jeremy Serka spoke in support of a haulout and said a shipyard could be more than just a place for working on boats but also a place for tradesmen to work. Eric Jordan spoke in support of a haulout, the creation of a taskforce, two RFPs, and the consideration of multiple sites. Tom Gamble while supportive of the marine industry, believed the discussion of a landtrade to be premature.

Assembly Consensus

Assembly direction to the Interim Administrator was to develop two RFPs - one for the land and one for the haulout and hold a work session on each issue. Final RFPs would then come back to the Assembly for discussion.

- N 19-274** Discussion / Decision on sending an Assembly Member to attend the Seatrade Cruise Global event in Miami, FL April 20-23

Concurrence of the Assembly was to send Valorie Nelson to Seatrade Cruise Global.

- O 19-275** Discussion / Decision on adding select staff to the "assembly@cityofsitka.org" group email address

Knox believed it would be helpful for the Administrator, Attorney, and Clerk to see the correspondence in order to help be prepared to speak to items and help facilitate business. Christianson agreed. Others believed the additions would create a lack of transparency.

A motion was made by Christianson to add the Municipal Administrator, Municipal Attorney, and Municipal Clerk to the "assembly@cityofsitka.org"

group email address. The motion FAILED by the following vote.

Yes: 3 - Christianson, Knox, and Paxton

No: 4 - Eisenbeisz, Wein, Mosher, and Nelson

XIII. PERSONS TO BE HEARD:

None.

XIV. EXECUTIVE SESSION

None.

XV. ADJOURNMENT

A motion was made by Mosher to ADJOURN. Hearing no objections, the meeting ADJOURNED at 9:05 p.m.

ATTEST: _____

Sara Peterson, MMC
Municipal Clerk



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-004 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Approve a liquor license renewal application for Sitka Golf Association, Inc. dba Sea Mountain Restaurant & 19th Hole

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Memos](#)
[606 LGB Notice - City of Sitka Borough of Sitka](#)
[606 Complete Renewal Application](#)

Date	Ver.	Action By	Action	Result
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Should this item be pulled from the Consent Agenda the following motion is suggested:

POSSIBLE MOTION

I MOVE TO approve a liquor license renewal application for Sitka Golf Association, Inc. dba Sea Mountain Restaurant & 19th Hole and forward this approval to the Alcoholic Beverage Control Board without objection.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Paxton and Assembly Members
Hugh Bevan, Interim Municipal Administrator

From: Sara Peterson, Municipal Clerk

Date: January 7, 2020

Subject: Approve a liquor license renewal application for Sea Mountain Restaurant & 19th Hole

Our office has received notification of the following liquor license renewal application:

Lic #: 606
DBA: Sea Mountain Restaurant & 19th Hole
License Type: Beverage Dispensary
Licensee: Sitka Golf Association, Inc.
Premises Address: 301 Granite Creek Road

A memo was circulated to the various departments who may have a reason to protest the renewal of this license. No departmental objections were received.

Recommendation:

Approve the liquor license renewal application for the Sitka Golf Association, Inc. dba Sea Mountain Restaurant & 19th Hole and forward this approval to the Alcoholic Beverage Control Board without objection.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Utility Billing Clerk – Diana
Collections - Carolyn
Municipal Billings – Lindsey
Sales Tax/Property Tax - Justin
Fire Department
Police Department
Building Official(s)

From: Sara Peterson, Municipal Clerk

Date: December 19, 2019

Subject: Liquor License Renewal Application – Sea Mountain Restaurant & 19th Hole

The Municipal Clerk's Office has been notified by the Alcohol and Marijuana Control Office of the following liquor license renewal application submitted by:

Lic #: 606
DBA: Sea Mountain Restaurant & 19th Hole
License Type: Beverage Dispensary
Licensee: Sitka Golf Association Inc.
Premises Address: 301 Granite Creek Road

Please notify no later than **noon on Tuesday, December 24** of any reason to protest this renewal request. This request is scheduled to go before the Assembly on January 14.

Thank you.



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

**Department of Commerce, Community,
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE

550 West 7th Avenue, Suite 1600

Anchorage, AK 99501

Main: 907.269.0350

December 19, 2019

Sitka, City and Borough

Via Email: sara.peterson@cityofsitka.org ; melissa.henshaw@cityofsitka.org

Re: Notice of 2020/2021 Liquor License Renewal Application

License Type:	Beverage Dispensary	License Number:	606
Licensee:	Sitka Golf Association Inc		
Doing Business As:	Sea Mountain Restaurant & 19th Hole		

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Klinkhart".

Glen Klinkhart, Director

amco.localgovernmentonly@alaska.gov



Alaska Alcoholic Beverage Control Board

Form AB-17: 2020/2021 Renewal License Application**What is this form?**

This renewal license application form is required for all individuals or entities seeking to apply for renewal of an existing liquor license that are due to renew by December 31, 2019. All fields of this form must be complete and correct, or the application will be returned to you in the manner in which it was received, per AS 04.11.270 and 3 AAC 304.105. The Community Council field only should be verified/completed by licensees whose establishments are located within the Municipality of Anchorage or outside of city limits within the Matanuska-Susitna Borough.

This form must be completed and submitted to AMCO's main office before any license renewal application will be reviewed. Receipt and/or processing of renewal payments by AMCO staff neither indicates nor guarantees that an application will be considered complete, or that a license will be renewed.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to have its license renewed. If any populated information is incorrect, please contact AMCO.

Licensee:	Sitka Golf Association Inc	License #:	606
License Type:	Beverage Dispensary		
Doing Business As:	Sea Mountain Restaurant & 19th Hole		
Premises Address:	301 Granite Creek Road		
Local Governing Body:	City & Borough of Sitka		
Community Council:	None		

Mailing Address:	301 Granite Creek Road		
City:	Sitka	State:	AK
		ZIP:	99835

Enter information for the individual who will be designated as the primary point of contact regarding this application. This individual **must be a licensee** who is required to be listed in and authorized to sign this application.

Contact Licensee:	Tom Mattingly	Contact Phone:	907-738-3135
Contact Email:	seamountaingolf@gmail.com		

Optional: If you wish for AMCO staff to communicate with an individual who is not a licensee named on this form (eg: legal counsel) about this application and other matters pertaining to the license, please provide that person's contact information in the fields below.

Name of Contact:		Contact Phone:	
Contact Email:			

**Form AB-17: 2020/2021 Renewal License Application****Section 2 – Entity or Community Ownership Information**

Licensees who directly hold a license as an individual or individuals should skip to Section 3. General partnerships and local governments should skip to the second half of this page. All licensees that are **corporations** or **LLCs** must complete this section. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations, Business & Professional Licensing (CBPL). The CBPL Entity # below is **neither** your EIN/tax ID number, **nor** your business license number. **You may view your entity's status or find your CBPL entity number by using the following site:** <https://www.commerce.alaska.gov/cbp/main/search/entities>

Alaska CBPL Entity #:	63716 D
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You must ensure that you are able to certify the following statement before signing your initials in the box to the right: Initials

I certify that this entity is in good standing with CBPL and that all current entity officials and stakeholders (listed below) are also currently and accurately listed with CBPL.

This subsection must be completed by any **community** or **entity**, including a corporation, limited liability company, partnership, or limited partnership, that is applying for renewal. If more space is needed, please attach additional completed copies of this page.

- If the applicant is a **corporation**, the following information must be completed for each **shareholder who owns 10% or more** of the stock in the corporation, and for each **president, vice-president, secretary, and managing officer**.
- If the applicant is a **limited liability organization**, the following information must be completed for each **member with an ownership interest of 10% or more**, and for each **manager**.
- If the applicant is a **partnership**, including a limited partnership, the following information must be completed for each **partner with an interest of 10% or more**, and for each **general partner**.

Important Note: The information provided in the below fields (including spelling of names, specific titles, and percentages held) must match that which is listed with CBPL. If one individual holds multiple titles mentioned in the bullets above, all titles must be listed for that individual on this application and with CBPL. Failure to list all required titles constitutes an incomplete application. **You must list ALL of your qualifying officials, additional copies of this page or a separate sheet of paper may be submitted if necessary.**

Name of Official:	Tom Mattingly				
Title(s):	President	Phone:	907-738-3135	% Owned:	Ø
Mailing Address:	301 Granite Creek Road				
City:	Sitka	State:	AK	ZIP:	99835

Name of Official:	Richard Mulligan				
Title(s):	Vice President	Phone:	907-738-5035	% Owned:	Ø
Mailing Address:	301 Granite creek Road				
City:	Sitka	State:	AK	ZIP:	99835

Name of Official:	Colin Kempton				
Title(s):	Vice President	Phone:	907-738-3381	% Owned:	Ø
Mailing Address:	301 Granite Creek Rd				
City:	Sitka	State:	AK	ZIP:	99835

**Form AB-17: 2020/2021 Renewal License Application****Section 3 – Sole Proprietor Ownership Information**

Entities, such as corporations or LLCs, should skip this section. This section must be completed by any licensee who directly holds the license as an **individual or multiple individuals** and is applying for license renewal. If more space is needed, please attach a separate sheet that includes all of the required information.

The following information must be completed for each licensee and each affiliate.

This individual is an: ☐ applicant ☐ affiliate

Name:				Contact Phone:	
Mailing Address:					
City:		State:		ZIP:	
Email:					

This individual is an: ☐ applicant ☐ affiliate

Name:				Contact Phone:	
Mailing Address:					
City:		State:		ZIP:	
Email:					

Section 4 – Alcohol Server Education

This section must be completed only by the holder of a beverage dispensary, club, or pub license or conditional contractor's permit. The holders of all other license types should skip to Section 5.

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

Initials

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check identification of a patron have completed an alcohol server education course approved by the ABC Board and keep current, valid copies of their course completion cards on the licensed premises during all working hours, as set forth in AS 04.21.025 and 3 AAC 304.465.

Section 5 – License Operation

Check a **single box** for each calendar year that best describes how this liquor license was operated:

2018 2019

The license was regularly operated continuously throughout each year.

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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The license was regularly operated during a specific season each year.

<input type="checkbox"/>	<input type="checkbox"/>
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The license was only operated to meet the minimum requirement of 240 total hours each calendar year.

If this box is checked, a complete copy of Form AB-30: Proof of Minimum Operation Checklist, and all necessary documentation must be provided with this application.

<input type="checkbox"/>	<input type="checkbox"/>
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The license was not operated at all or was not operated for at least the minimum requirement of 240 total hours each year, during one or both of the calendar years.

If this box is checked, a complete copy of Form AB-29: Waiver of Operation Application and corresponding fees must be submitted with this application for each calendar year during which the license was not operated for at least the minimum requirement, unless a complete copy of the form (including fees) has already been submitted for that year.

<input type="checkbox"/>	<input type="checkbox"/>
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**Form AB-17: 2020/2021 Renewal License Application****Section 6 – Violations and Convictions****Applicant violations and convictions in calendar years 2018 and 2019:**

Yes No

Have any notices of violation (NOVs) been issued for this license in the calendar years 2018 or 2019?☐ ☒

Has any person or entity named in this application been convicted of a violation of Title 04, of 3 AAC 304, or a local ordinance adopted under AS 04.21.010 in the calendar years 2018 or 2019?

☐ ☒

If "Yes" to either of the previous two questions, attach a separate page to this application listing all NOVs and/or convictions.

Section 7 – Certifications**Read each line below, and then sign your initials in the box to the right of each statement:**

Initials

I certify that all current licensees (as defined in AS 04.11.260) and affiliates have been listed on this application, and that in accordance with AS 04.11.450, no one other than the licensee(s) has a direct or indirect financial interest in the licensed business.

I certify that I have not altered the functional floor plan or reduced or expanded the area of the licensed premises, and I have not changed the business name or the ownership (including officers, managers, general partners, or stakeholders) from what is currently approved and on file with the Alcoholic Beverage Control Board.

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

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Alcoholic Beverage Control Board or AMCO staff in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned to me as incomplete.

Signature of licensee

Signature of Notary Public

Printed name of licensee

Notary Public in and for the State of AlaskaMy commission expires: 02-22-2020Subscribed and sworn to before me this 17th day of November, 2019.Seasonal License? Yes ☐ No ☒

If "Yes", write your six-month operating period: _____

License Fee:	\$ 2500.00	Application Fee:	\$ 300.00	TOTAL:	\$ 2800.00
Miscellaneous Fees:					
GRAND TOTAL (if different than TOTAL):					



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-005 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Reappoint Scott Wagner to a three-year term on the Local Emergency Planning Committee in Category 5 (Owners/Operators of Facilities)

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Application Wagner](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO reappoint Scott Wagner to a three-year term on the Local Emergency Planning Committee in Category 5 (Owners/Operators of Facilities).

State of Alaska
LOCAL EMERGENCY PLANNING COMMITTEE
INDIVIDUAL APPLICATION FORM FOR MEMBERSHIP ON LEPC

LEPC name: Sitka Local Emergency Planning Committee

Applicant name: Scott Wagner

Mailing address: [REDACTED]

Residence address: Same

Day phone: [REDACTED] Home Phone (optional): [REDACTED]

Where employed: NSRAA Job title: Operations Manager

LEPC category/seat that applicant seeks: 5 Owners/Operators of Facilities

Categories: 1) Elected local officials, 2) Law Enforcement, Civil Defense, Fire Fighting, First Aid, Local Env't/Hospital, and Transportation Personnel, 3) Media/Broadcast, 4) Community Groups, 5) Owners/Operators of Facilities, 6) Members of the Public, 7) LEPC Information Coordinator/SERC liaison

New applicant ☐ Renewal ☒ Regular member ☐ Alternate member ☐

Qualifications for this category: See letter of Interest.

Organizations in which applicant participates (that are pertinent to the application): NSRAA + GPIP board

Please provide enough information to demonstrate an applicant's eligibility or suitability for a particular seat on the LEPC. For the Public At Large position, please state whether an applicant qualifies for any other category on the LEPC.

Please note: all information submitted will be made public and published online. Appointments are normally made during open session of an Assembly meeting, however, Assembly members may vote to discuss applicant(s) in closed executive session. In this case, do you wish to be present when your application is discussed? ☐ Yes ☒ No

I hereby certify that the above information is correct and that I have not misrepresented myself.

Scott Wagner
Signature

12/19/19
Date

→ To be considered, your application must be complete AND be accompanied by either a letter of interest or resume. Return to:

Melissa Henshaw, Deputy Clerk
100 Lincoln Street
Fax: 907-747-7403
Email: melissa.henshaw@cityofsitka.org

NORTHERN



SOUTHEAST REGIONAL AQUACULTURE ASSOCIATION, INC.

December 19, 2019

To: Local Emergency Planning Committee

Letter of Interest for the open position on committee:

I would like to be considered for the open position on the LEPC as a category 5 member (Owners/Operators of Facilities). I have been a resident of Sitka for over 20 years and employed with NSRAA for 20 years. I am currently Operations Manager at NSRAA and feel that I would be a well qualified candidate for any open position.

NSRAA is already involved with emergency planning with the city due to the location of our hatchery locations at Sawmill Cove Industrial Park and Medvejie. We are a primary contact in the City of Sitka's Blue Lake Emergency Action Plan. In addition it would be beneficial for NSRAA to be involved with emergency planning at the city level due to our widely scattered location of projects. During an emergency (tsunami, earthquake, etc...) we may have anywhere from 20 to 30 people at remote hatcheries and field camps who may need assistance in the event of a disaster.

Thank you for your time and consideration for a position on the LEPC.

Scott Wagner

Operations Manager



LOCAL EMERGENCY PLANNING COMMITTEE

NAME	CONTACT NUMBERS		TERM STARTS	EXPIRES	CATEGORY
DAVE MILLER, CHAIR	747-1860	dave.miller@cityofsitka.org	Permanent	Fire Chief*	2
GEORGE BENNETT JR. 225 Tongass Drive	966-8916	gbennett@searhc.org	3/28/17	3/28/20	2
SHANNON FREITAS 222 Tongass Drive	966-8511	shannonf@searhc.org	3/28/17	3/28/20	2
ALAN STEVENS 2606 Sawmill Creek Road	747-8848 738-8237	astevenssit@gmail.com	1/23/18	1/23/21	2
DAVID BIRKY 611 Airport Road	966-5525 503-510-3401	david.a.birky@uscg.mil	11/8/18	11/8/21	2
DONNA CALLISTINI 208 Lake Street #2G	747-7107 w 747-5494	donna.callistini@yahoo.com	10/26/10, 11/12/13 1/23/18	10/26/13, 11/12/16 1/23/21	3
GAYLE HAMMONS 210 Kruzof Street	738-3028 c	kghammons@gmail.com	7/28/15	7/28/18 11/8/21	3
BECKY MEIERS 2 Lincoln Street Ste. B	747-5877	generalmanager@kcaw.org	12/11/18	12/11/21	3
AMY ZANUZOSKI 113 Metlakatla Street	966-8237	amyz@scpsak.org	6/12/18	6/12/21	4
TRISH WHITE 117 Granite Creek Road	747-8006X202 w; 747-5976 h	trish@whitesalaska.com	3/10/09, 3/13/12 3/24/15, 3/27/18	3/10/12, 3/15/15 3/24/18, 3/27/21	5
SCOTT WAGNER 304 Nicole Drive	747-3791 h 738-2729 c	scott_wagner@nsraa.org	11/12/13 12/27/16	11/12/16 12/27/19	5
MARY ANN HALL 2037 Halibut Point Road	738-0753	jaryberry77@gmail.com	8/23/11, 8/12/14 8/8/17	8/23/14, 8/12/17 8/8/20	6
ROBERT BATY	747-3245	robert.baty@sitkapd.org	Permanent	Interim Police Chief*	2
LANCE EWERS	747-3245	lance.ewers@sitkapd.org	Permanent	Law Enforcement*	2
CRAIG WARREN	747-3233	craig.warren@cityofsitka.org	Permanent	LEPC Coordinator*	7
VALORIE NELSON	747-4589	assemblynelson@cityofsitka.org	Non-Voting	Assembly Liaison	1
Gail Johansen Peterson 3511 Halibut Point Road	747-7646	scribeinkservices@gmail.com		Secretary	

*The police and fire chiefs and the LEPC Coordinator are permanent appointments; whoever is serving in that capacity will be appointed to the commission. Minimum of seven members, 3-year terms; Established by Resolution 89-406; Amended by Resolution 89-441 and 99-727. Meeting: Second Thursday, noon – Fire Hall. **Quorum Requirement:** At least one member from four different categories must be present. **Categories as follows:** 1) Elected local officials 2) Law Enforcement, Civil Defense, Fire Fighting, First Aid, Local Environmental/Hospital, and Transportation Personnel 3) Media/ Broadcast 4) Community Groups 5) Owners/Operators of Facilities 6) Members of the Public 7) LEPC Information Coordinator/ SERC liaison

Revised: October 14, 2019



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-006 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Reappoint Chris Spivey to a three-year term on the Planning Commission

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Application Spivey](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO reappoint Chris Spivey to a three-year term on the Planning Commission.



**Application for Appointment to Boards, Committees, and Commissions
City and Borough of Sitka**

Board/Commission/Committee: Planning & Zoning Commission
Name: Christopher "Chris" Squirey Preferred Phone: [REDACTED]
Address: [REDACTED] Alternate Phone: _____
Email Address: _____ Fax Number: _____
Length of Residence in Sitka: 15 Yrs Registered to vote in Sitka? ☒ Yes ☐ No
Employer: Petro Marine
Organizations you belong to or participate in:

ELKS Member

Explain your main reason for applying:

See Attached

What background, experience or credentials will you bring to the board, commission, or committee membership?

Previously sat on Chamber Finance Board

Sat on Planning Commission since 2012

Please disclose any potential conflicts of interest that may arise from your appointment. These may include but are not limited to:

- A substantial financial interest of \$1000 annually that could be influenced by your appointment.
- An immediate family member employed within the scope of this appointment.

Please attach a letter of interest, outline, or resume which includes your education, work, and volunteer experience that will enhance your membership.

→ (To be considered, your application must be complete AND be accompanied by one of the above supporting documents.)

Date: 1/2/20

Signature: [Signature]

Your complete application and resume should be returned to the Municipal Clerk's Office by noon on the Wednesday prior to an advertised Assembly meeting.

Please note: all information submitted will be made public and published online. Appointments are normally made during open session of an Assembly meeting, however, Assembly members may vote to discuss applicant(s) in closed executive session. In this case, do you wish to be present when your application is discussed? ☐ Yes ☐ No

Return to:

Melissa Henshaw, Deputy Clerk/Records Specialist, 100 Lincoln Street
Fax: 907-747-7403 Email: melissa.henshaw@cityofsitka.org

Memo

To: Sitka Assembly Members
From: Christopher Spivey
Date: 1/2/20
Re: Planning and Zoning Commission Appointment

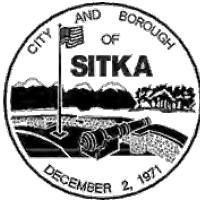
Please accept this as my letter of interest to continue serving on the Planning and Zoning Commission.

Since becoming a part of the commission in 2012, I have enjoyed serving Sitka in the commission's capacity. I have learned a great deal and been honored to be elected chairman. I have enjoyed working on and updating Sitka's Comprehensive Plan. I look forward to continuing working to grow our great community based on the plan and the code.

I thank you and appreciate your time and service to our community. I hope you will grant my request in continuing serving our great community.



Christopher Spivey



PLANNING COMMISSION

NAME	CONTACT NUMBERS	TERM STARTS	EXPIRES	CATEGORY
CHRIS SPIVEY 109 Lillian Drive	738-2524 c spi3050@yahoo.com	12/11/12	2/8/14 1/28/17 1/24/20	CHAIR
DARRELL WINDSOR PO Box 1973	738-4046 c dwindsor@gci.net	6/28/11	6/28/14 6/24/17 7/25/20	VICE CHAIR
RANDY HUGHEY 220 Lakeview Drive	738-2999 c randywhughey@gmail.com	2/24/15	10/23/15 10/13/18 10/23/21	
VICTOR WEAVER PO Box 2034	907-461-2031 alaskanengineer@gmail.com	11/27/18	4/26/19 5/14/22	
STACY MUDRY PO Box 1366	738-8693 stacym@sitkareadymix.com	8/27/19	8/27/22	
Amy Ainslie Planning Director	747-1815 amy.ainslie@cityofsitka.org			Staff Liaison
Andy Corak Planner I	747-1814 andy.corak@cityofsitka.org			Secretary
Kevin Mosher 100 Lincoln Street	752-0467 assemblymosher@cityofsitka.org			Assembly Liaison
Kevin Knox PO Box 6415	738-4664 assemblyknox@cityofsitka.org			Alternate Assembly Liaison

5 members from public, 3-year terms

Established by Ordinance 74-118/SGC2.18 & Charter Article VIII

Must be registered to vote

First and Third Wednesday at 7:00 p.m. – Harrigan Centennial Hall, 330 Harbor Drive

CONFLICT OF INTEREST FORMS OATHS OF OFFICE

Revised: January 6, 2020



CITY AND BOROUGH OF SITKA

Legislation Details

File #: ORD 19-43 Version: 1 Name:

Type: Ordinance Status: AGENDA READY

File created: 12/18/2019 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Making supplemental appropriations for Fiscal Year 2020 (Cross Trail Project Phase 6)

Sponsors:

Indexes:

Code sections:

Attachments: [Motion Ord 2019-43](#)
[Ord 2019-43](#)

Date	Ver.	Action By	Action	Result
12/23/2019	1	City and Borough Assembly		

POSSIBLE MOTION

I MOVE TO approve Ordinance 2019-43 on second and final reading making supplemental appropriations for Fiscal Year 2020 (Cross Trail Project Phase 6).

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2019-43
AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA MAKING SUPPLEMENTAL
APPROPRIATIONS FOR FISCAL YEAR 2020
(Cross Trail Phase 6)

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. **PURPOSE.** The purpose of this ordinance is to make a supplemental capital appropriation for FY2020.

4. **ENACTMENT.** In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the Assembly hereby makes the following supplemental appropriation for the budget period beginning July 1, 2019 and ending June 30, 2020.

<u>FISCAL YEAR 2020 EXPENDITURE BUDGETS</u>
CAPITAL PROJECTS
Cross Trail Multimodal Pathway Phase 6 Project #90814: Recognize revenue from Sitka Trail Works and increase appropriations in the amount of \$142,596.

EXPLANATION

Sitka Trail Works has raised funds to match the federal grant funding phase 6 of the Cross Trail Project. In order to simplify the tracking, expending of, and reporting on the matching funds, Sitka Trail Works will disburse these funds to the City and Borough of Sitka.

Total supplemental appropriations to date for the General Fund in FY2020 totals \$823,085. Increases of operating budgets in the amount of \$571,924.23, to comply with Charter provisions pertaining to non-lapsing of encumbered funds at the end of a fiscal year ("Year-end soft close"), are not included in this amount.

5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 14th Day of January, 2020.

ATTEST:

Gary L. Paxton, Mayor

Sara Peterson, MMC
Municipal Clerk

Sponsor: Interim Administrator
1st reading 12/23/19
2nd and final reading 1/14/20



CITY AND BOROUGH OF SITKA

Legislation Details

File #: ORD 20-01 Version: 1 Name:

Type: Ordinance Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Making supplemental appropriations for Fiscal Year 2020 (Airport Entry Doors Replacement Project)

Sponsors:

Indexes:

Code sections:

Attachments: [Motion Ord 20-01](#)
[Memo and Ord 20-01](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO approve Ordinance 2020-01 on first reading making supplemental appropriations for Fiscal Year 2020 (Airport Entry Doors Replacement Project).



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Gary Paxton and Assembly Members

From: Hugh Bevan, Interim Municipal Administrator

Date: January 8, 2020

Subject: Airport Entry Doors - Replacement

Background

The four automatic doors at the main entrance of the Airport Terminal were installed in 2003. These doors are worked very heavily, and we are experiencing more equipment failures with them and parts are hard to find.

The double door entry at the Nugget Restaurant was installed in 1987 and it is also becoming unreliable.

I recommend that we replace both sets of entry way doors before the intense visitor season is fully underway.

Normally I would wait and present such a capital request during the budget process, but I don't want these doors to become a problem for the airlines and building security this summer.

Fiscal Note

The proposed budget is:

Main entry way, automatic doors	\$ 88,000
Nugget entry, manual doors	<u>\$ 12,000</u>
Total	\$100,000

The Airport Enterprise Fund working capital balance as of June 30, 2019 was \$814,942.

Recommendation

Approve the replacement of certain doors at the Sitka Airport Terminal at the budgeted amount of \$100,000.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2020-01

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA MAKING SUPPLEMENTAL
APPROPRIATIONS FOR FISCAL YEAR 2020
(Airport Entry Doors Replacement Project)**

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. **PURPOSE.** The purpose of this ordinance is to make a supplemental capital appropriation for FY2020.

4. **ENACTMENT.** In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the Assembly hereby makes the following supplemental appropriation for the budget period beginning July 1, 2019 and ending June 30, 2020.

<u>FISCAL YEAR 2020 EXPENDITURE BUDGETS</u>
CAPITAL PROJECTS
Fund 760 - Airport Entry Doors Replacement Project: Increase appropriations in the amount of \$100,000 for the replacement of the Airport Terminal Entry Doors. The funds will come from the Airport Terminal Fund working capital.

EXPLANATION

The purpose of this supplemental appropriation is to replace the entry doors at the Airport Terminal. The Automatic doors along with the doors by the Nugget entry have been failing since the beginning of the Fiscal Year and replacement parts are hard to acquire.

There haven't been any supplemental appropriations to date for the Airport Terminal Fund in FY2020.

5. EFFECTIVE DATE. This ordinance shall become effective on the day after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 28th Day of January, 2020.

ATTEST:

Gary L. Paxton, Mayor

Sara Peterson, MMC
Municipal Clerk

1st reading 1/14/2020
2nd and final reading 1/28/2020



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-002 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Discussion / Direction on a process to update the City and Borough of Sitka seal

Sponsors:

Indexes:

Code sections:

Attachments: [Discussion Direction CBS Seal](#)

- [1 - City Seal Update - Proposed Process](#)
- [2 - Timeline](#)
- [3 - Draft City Seal Contest](#)
- [4 - SE Seals Example Sheet](#)
- [5 - Seal Adoption Minutes 1971](#)
- [6 - SGC Use of City Seal](#)

Date	Ver.	Action By	Action	Result
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Sponsors: Knox / Eisenbeisz

Discussion / Direction on a process to update the City and Borough of Sitka seal.



City Seal Update – Proposed Process


1. Discussion/Direction item to the Assembly for motion of support to start a public process to create a new city seal and city seal design review committee (Eisenbeisz, Knox, Bevan/Leach, Peterson, Ainslie, STA Representative).
2. Budget for \$1,000 award to winner of design contest to come from mayoral contingency fund.
3. 45 day call for submittals for city seal design.
4. Quality assurance check from design review committee to create finalist list.
5. Roadshow with: Historic Preservation Commission, Health Needs & Human Services Commission, Parks & Recreation, Planning Commission, Library Commission, Police & Fire Commission, Ports & Harbors Commission, Tree & Landscape, Local Emergency Planning Commission, Government to Government meeting, and STA council & sub-committees.
6. Open public forum to be hosted by Doug Osborne.
7. Design review committee will compile feedback/results of roadshow and public forum for Assembly review.
8. Final selection by Assembly – resolution for adoption of new city seal.

FY21 administration budget should include funding for adoption of the seal – envelopes, letterhead, business cards, etc.



Kick-Off

- Assembly approval to move forward with seal update 1/14/20, designate Design Review Committee (DRC)
- Contest opened 1/31/20



Roadshow & Public Engagement

- Contested closed 3/16/20
- QA check completed by DRC to create finalist list, Board/Commission survey sent by 3/25/20
- Reviewed by Boards & Commissions throughout month of April
- Reviewed at Government to Government meeting March/April
- Open public forum hosted last week of April/first week of May



Selection

- DRC to compile survey results and overall feedback in a report to Assembly 5/12/20, discussion and public testimony
- Assembly makes final selection and, by resolution, adopts new city seal 5/26/20.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Announcement of Contest to Design the Official Seal of the City and Borough of Sitka

We invite individuals to design a new official seal of the City and Borough of Sitka (CBS).

The City and Borough of Sitka was incorporated on December 2, 1971. The first (and only) official seal of the City and Borough of Sitka consists of depiction of a cannon on Castle Hill facing Sitka Sound, the U.S. flag, and oceans, mountains, and foliage. “CITY AND BOROUGH OF SITKA” appear across the top, and the incorporation date of December 2, 1971 appears on the bottom.

The current official seal of the City and Borough of Sitka does not reflect the rich history, society, culture, geography, flora, fauna, economy, or other important characteristics of the area and people within the boundaries of CBS.

In contrast, for more than a century, the official Seal of Alaska (District, Territory, and State) has depicted Alaska's industrial and natural wealth. The rays above the mountains represent the famous Alaskan northern lights. The smelter symbolizes mining, the train stands for Alaska's rail transportation, and ships denote marine transportation. The trees symbolize Alaska's wealth of timber and other forest products, and the farmer, his horse, and the three shocks of wheat portray Alaska's agriculture. The fish and seals signify the importance of seafood to Alaska's economy.

The contest to design a new official seal for the City and Borough of Sitka offers an opportunity for citizens to learn more about CBS government and the area within its boundaries, contribute artistically to the community, and celebrate the diversity of our city.

The winner will be invited to an Assembly meeting to be honored by the Assembly. The successful designer will also receive \$1,000 for the winning design.

The winning design will be the sole property of CBS. CBS reserves the right to make modifications and enhancements before adopting the design for use as the official seal.

CONTEST PROCEDURE:

- Contestants must submit designs to the Clerk's Office at City Hall (100 Lincoln Street) on or before 4:00 p.m., March 16, 2020. Entries will be numbered so that the contestants remain anonymous throughout the process;
- The Assembly will appoint a Design Review Committee, comprised of elected officials, city staff, and representation from tribal government. The Design Review Committee will prepare a list of "finalists" for public consideration. The Selection Committee reserves the right to reject any and all submissions without disclosure. All entrants will be notified of the results;
- Local boards and commissions will review the designs and select their top 3 favorites. There will also be review with the tribal government, and an open public forum to give thoughts and feedback;
- The Design Review Committee will compile feedback from the board/commission reviews and the public forum. A report will be presented to the Assembly for selection by the Assembly at the second regular Assembly meeting in May.

ENTRY QUALIFICATIONS:

- The design must reflect the rich history, society, culture, geography, flora, fauna, economy, or other important characteristics of the area and people within the boundaries of the City and Borough of Sitka;
- The design must contain the name "City and Borough of Sitka"; and incorporation date of December 2, 1971
- All submissions must be entrant's original work. No copyrighted characters, images, or clip art are permitted;
- The original design must be submitted in both color and in black and white. Each rendering must be submitted on 8 1/2" x 11" paper. Electronic entries will be accepted; however, the applicant must be willing to provide a printed hardcopy if requested by CBS;
- An individual may submit only one entry in the contest;
- Each entry must be accompanied by a completed Official Entry Form; and
- The original entry and entry form must be received by the Clerk's Office located at City Hall, 100 Lincoln Street, Sitka, AK 99835, or by email, by 4 p.m. on March 16, 2020. LATE ENTRIES WILL NOT BE ACCEPTED.

The winning design(s) become the property of the City and Borough of Sitka and will not be returned. The design(s) may be refined or modified by CBS at its discretion

Entry forms can be found on the CBS website www.cityofsitka.com or by contacting Sara Peterson, Municipal Clerk, at 747-1811 or sara.peterson@cityofsitka.org

**OFFICIAL ENTRY FORM
CITY AND BOROUGH OF SITKA SEAL CONTEST**

DEALINE to submit designs with entry form: **4:00 PM AKST on March 16, 2020**

LATE ENTRIES WILL NOT BE ACCEPTED.

SUBMIT entries in a SEALED envelope addressed to:

City and Borough of Sitka
c/o Municipal Clerk
100 Lincoln Street
Sitka, AK 9985

Contact Sara Peterson at (907) 747-1811 or via email at sara.peterson@cityofsitka.org for details.

ONE ENTRY PER PERSON: Please print and fill in blanks.

Name: _____

Residence Address: _____

Phone Number: _____

Email Address: _____

Description and explanation of design:

Certification:

I, _____, hereby certify that the submitted design is entirely my own original work. I agree to donate my work and allow the seal to become the sole property of the City and Borough of Sitka, which will then have the right to modify, promote, and publish the seal in any format without permission, notice, or additional compensation beyond the \$1,000 allotted for the winner. I understand that two or more entries may be chosen and key elements of each design will be combined. I also understand and agree to make requested design changes if chosen. Should my design be selected, I agree to the release of my name, photo, and posting of that information on the City and Borough of Sitka's website. I understand that all decisions made by the Design Review Committee and Assembly are final. All personal information will be kept strictly confidential.

Signature: _____

Date: _____

(For official use only)

Date Received: _____

Entry No.: _____

Received by: _____

Seal Examples – State of Alaska and Southeast Alaska Communities



Seal Examples – State of Alaska and Southeast Alaska Communities



Page Four
City and Borough of Sitka
December 7, 1971

Uniform Closing Hours, Bars Mr. Gregg said that one of his partners, Mr. Fraties had called after researching the Assembly's question in regard to uniform closing hours. Mr. Fraties cited the Alaska statutes section 04.15.010 Hours of Sale. "Under the law, the closing hours need not be uniform throughout the municipality." He advised that uniform hours need not apply to all sections of the municipality, but that the hours should be governed by the circumstances of the different areas; the basis must be governed by sound consideration of health protection, safety and moral factors. He suggested that in consideration of closing hours that a check be made with the police, traffic violation records, etc., taking all factors into consideration.

Mr. Dapceovich said that, with no objection, the matter of uniform closing hours will be referred to a Work Session.

NEW BUSINESS:

Official Seal Mr. Dapceovich had a commemorative coin circulated depicting the transfer of Alaska from Russia saying that it is the Assembly's recommendation that this be adopted as the official seal of the City and Borough of Sitka.

Mr. Marvin, seconded by Mr. Whitcomb, moved that the design on the commemorative coin be adopted as official seal of the new unified government. Motion carried by voice vote.

Official Photo Mr. Marvin, seconded by Mr. MacDonald, made a motion that a photograph of the members of the unified government be taken as part of historical files. Motion carried by voice vote and the meeting adjourned briefly while the photograph was taken by Martin Strand, local photographer.

The meeting reconvened at 9:25 p.m.

Hospital Board Appointments In accordance with the Hospital Ordinance, a notice has been published in the local newspaper stating that there will be two vacancies effective December 31, 1971/

Mr. Dapceovich said that he would like to recommend the reappointment of Lawrence Porter. Mr. Fredrick, seconded by Mr. MacDonald made a motion that the Mayor's recommendation be approved. Motion carried unanimously by voice vote.

Centennial Building Commission Mr. Dapceovich recommended Ray Nielsen to fill the vacancy on the Centennial Building Commission replacing Ed Flynn, resigned.

Mr. MacDonald, seconded by Mr. Grussendorf, made a motion that Ray Nielsen be appointed to the Centennial Building Commission; motion carried unanimously by voice vote.

Police and Fire Commission Mr. Dapceovich recommended the appointment of Russell Wright to the Police and Fire Commission. Mr. Richards, seconded by Mr. MacDonald, moved for acceptance of Mr. Wright and motion carried unanimously by voice vote.

Planning & Zoning Ordinance Mr. Gutierrez suggested that this ordinance be studied by the Assembly at a work session so the corrections from 'Borough' and 'City' are changed and the changes of the Alaska State Housing Authority can be noted.

Attorney Services The scheduled trips of the attorney to Sitka was referred to a Work Session.

Economic Development Board Discussion on how the Economic Development Board should function was referred to the next meeting for attention.

Sitka General Code

1.04.090 Use of city seal.

- A. The official seal of the city and borough of Sitka is a symbol of authority and jurisdiction of the city. As a valuable asset of the city and its citizens, the assembly seeks to insure that it is used only for appropriate purposes.
- B. The municipal clerk shall have charge of the seal of the city and borough of Sitka and shall affix the city seal to all certificates required by law, by this code, or by ordinance of the city. The municipal clerk may issue written permission for ceremonial or other permitted purposes as deemed appropriate by the clerk or assembly.
- C. Municipal officers, employees, members of the assembly, and members of municipal boards and commissions may use stationery and printed materials with the city seal, or facsimile thereof, while acting within the scope of their office or employment.
- D. Except as provided for in this section, no person, other than the city and borough of Sitka, shall reproduce, use, give away, sell, or distribute any seal or facsimile thereof purporting to be or represented to be the city seal.
- E. A person may not use or make a die or impression of the city seal for any advertising or commercial purpose.
- F. Violation of this section is a misdemeanor, and upon conviction is punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or by both.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-008 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Discussion / Direction / Decision on a list of priority requests to be submitted to the Alaska State Legislature

Sponsors:

Indexes:

Code sections:

Attachments: [Priority Requests to Alaska State Legislature](#)

Date	Ver.	Action By	Action	Result
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Discussion / Direction / Decision on a list of
priority requests to be submitted to the Alaska State
Legislature.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Gary Paxton and Assembly Members
From: Hugh Bevan, Interim Municipal Administrator
Date: January 7, 2019
Subject: State Legislative Requests

Our lobbying team of Blankrome and Larry Markley have suggested we develop a list of priority requests to be submitted to the Alaska Legislature for their upcoming session.

To initiate the dialog I have the following suggestions:

1. Funding for Green Lake powerhouse renovation estimated at \$15 million.
(All three phases of the project)
2. Ask the Legislature to facilitate the transfer of State uplands and tidelands necessary for Sitka to build the Sea Plane base.
3. Increase staffing levels at DMV in Sitka to decrease wait times until the deadline for obtaining a Real ID has passed. Wait times now are very long.
4. Improve the Lake/Lincoln street intersection to include traffic left turn lanes.
5. Create a more functional parking situation for the Sitka Airport Terminal including a convenient area for long term parking.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-009 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to gift cards

Sponsors:

Indexes:

Code sections:


Attachments: [Motion and Memo Item I](#)
[Sales Tax Interpretation Item I](#)
[Addendum A Item I](#)
[Supplemental Definitions Item I](#)

Date	Ver.	Action By	Action	Result
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Possible Motion

I MOVE TO adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as is relates to gift cards.

Memo

Through: Hugh Bevan, Interim Municipal Administrator 
To: Mayor Gary Paxton and Assembly Members
From: Jay Sweeney, Chief Finance and Administrative Officer
Date: January 7, 2020
Re: Sales Tax Interpretation 20-1, Application of Sales of Gift Cards Do Not Constitute Taxable Sales

Issue

The Finance Director has made a sales tax interpretation that sales of gift cards for remote sellers do not constitute a taxable sale for purposes of collecting and remitting sales tax. This interpretation must now be either adopted or rejected by the Assembly, per SGC 4.09.400.

Facts

1. The City and Borough of Sitka has had an interpretation in place, since 2013, that sales of gift cards to remote sellers constitutes taxable sales. The interpretation differentiates sales of gift cards for remote sellers from those of local merchants. The sales of gift cards for local merchants has always been considered tax exempt.
2. The 2013 interpretation that sales of gift cards to remote sellers constitutes taxable sales follows the over-arching guidance, per SGC 4.09.030, that all sales by a person engaging in business are subject to the sales tax, unless the sale is exempted.
3. As e-commerce has become more pervasive and commonplace since 2013, sales of gift cards in Sitka, to be used to place orders in Sitka with remote e-commerce merchants for delivery to Sitka are increasing.
4. Recent action by local governments in Alaska to form a remote seller taxation authority should eventually lead to collection and remittance of sales tax on the vast majority of remote e-commerce sales within the near future.

Discussion:

1. Prior to the Wayfair decision by the United States Supreme Court and the subsequent voluntary collection and remittance of sales taxes by some large remote vendors, the delivery of goods to Sitka by remote merchants, for orders placed in Sitka, evaded sales tax. The decision made in 2013 attempted to capture sales taxes evaded through use of gift cards by

taxing them upon sale of the card locally.

2. The current policy of taxing the sale of remote seller gift cards could commonly lead to double taxation. This is because the sales the card is used to pay for are often taxed, especially when the gift card is used in a brick and mortar store. The double taxation could be collecting Sitka tax twice, or, collecting Sitka tax and another State's tax. Examples:
 - a. *A local merchant sells a \$50 Visa gift card and collects \$2.50 in sales tax. The Visa gift card is used in Sitka and the Sitka merchant charges \$2.50 in tax on the sale. The customer is double taxed.*
 - b. *A local merchant sells a \$50 Visa gift card and collects \$2.50 in sales tax. The Visa gift card is used in Washington by a Washington resident and the Washington merchant charges tax on the sale. The sales tax is ultimately collected twice.*
3. It is possible that if the decision to make sales of all gift cards in Sitka not taxable is upheld by the Assembly, that sales tax may not be collected on some sales that would otherwise be taxable. This would be until the current initiative by local governments in Alaska to form a remote seller sales tax authority is finalized. Example:
 - a. *A gift card is purchased in Sitka and is used to pay for an order placed in Sitka for delivery to Sitka and the seller is not voluntarily collecting and remitting sales tax. No tax would be collected on an otherwise taxable sale.*
4. A strong argument could be made that sale of gift cards in Sitka does not constitute a sale under the definition set forth in SGC 4.09.420, as no consideration is given in exchange. Indeed, one does get a plastic gift card, but that card is essentially worthless unless and until used. Thus, no real consideration is given and, since no consideration is given, a taxable sale has not taken place at the point in time that the gift card is sold.

Interpretation

As no true consideration is given in exchange at the point in time when a gift card is purchased, the sale of any gift cards or gift certificates in Sitka is hereby deemed to not constitute a sale under the definition set forth in SGC 4.09.420.

Any citizen who has otherwise paid Sitka sales tax on the purchase of a gift card in Sitka may henceforth request a refund of such taxes per SGC 4.09.370, upon submitting proof of taxes erroneously paid.

Sales Tax Interpretation 20-01

Sales of Gift Cards Do Not Constitute Taxable Sales

The Finance Director has made a sales tax interpretation that sales of gift cards for remote sellers do not constitute a taxable sale for purposes of collecting and remitting sales tax. This interpretation must now be either adopted or rejected by the Assembly, per SGC 4.09.400.

Facts:

1. The City and Borough of Sitka has had an interpretation in place, since 2013, that sales of gift cards to remote sellers constitutes taxable sales. The interpretation differentiates sales of gift cards for remote sellers from those of local merchants. The sales of gift cards for local merchants has always been considered tax exempt.
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1. Prior to the Wayfair decision by the United States Supreme Court and the subsequent voluntary collection and remittance of sales taxes by some large remote vendors, the delivery of goods to Sitka by remote merchants, for orders placed in Sitka, evaded sales tax. The decision made in 2013 attempted to capture sales taxes evaded through use of gift cards by taxing them upon sale of the card locally.
2. The current policy of taxing the sale of remote seller gift cards could commonly lead to double taxation. This is because the sales the card is used to pay for are often taxed, especially when the gift card is used in a brick and mortar store. The double taxation could be collecting Sitka tax twice, or, collecting Sitka tax and another State's tax. Examples:
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December 23, 2019

Prepared by: John P. (Jay) Sweeney III, Finance Director

To be submitted to the Assembly for ratification

ADDENDUM A
REMOTE SELLER SALES TAX CODE & COMMON DEFINITIONS

WHEREAS, the inability to effectively collect sales tax on sales of property, products or services transferred or delivered into Alaska is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and

WHEREAS, the harm from the loss of revenue is especially serious in Alaska because the State has no income tax, and sales tax revenues are one of the primary sources of funding for services provided by local governments; and

WHEREAS, the failure to collect sales tax on remote sales creates market distortions by creating an unfair tax advantage for businesses that limit their physical presence in the taxing jurisdictions but still sell goods and services to consumers, which becomes easier and more prevalent as technology advances; and

WHEREAS, the failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy as well as burdening local infrastructure and services; and

WHEREAS, delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and,

WHEREAS, given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska taxing jurisdictions; and

WHEREAS, due to a recent decision by the United States Supreme Court and the lack of a state sales tax it is appropriate for the municipalities to collectively amend their sales tax codes to account for remote sellers who do not have a physical presence either in the State of Alaska or in a specific taxing jurisdiction, but do have a taxable connection with the State of Alaska or taxing jurisdiction; and

WHEREAS, this ordinance is not retroactive in its application; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales in Alaska; and

WHEREAS, amending local sales tax codes reflects the 2018 Supreme Court “*Wayfair*” decision to allow for the application of the taxing jurisdiction’s sales tax code requirements to sellers without a physical presence in the State of Alaska or taxing jurisdiction; and

WHEREAS, the intent is to levy municipal sales tax to the maximum limit of federal and state constitutional doctrines; and

WHEREAS, the [insert name of municipality] has entered into a cooperative agreement with other local governments called the Alaska Intergovernmental Remote Seller Sales Tax Agreement (“the Agreement”); and

WHEREAS, the terms of the Agreement require adoption of certain uniform provisions for collection and remittance of municipal sales tax applicable to sales made by remote sellers similar to the Streamlined Sales and Use Tax Agreement.

NOW, THEREFORE, it is enacted as follows:

Chapter __ of the [fill in name] Code of Ordinances is hereby amended by adopting a new Chapter __ to read as follows:

Sales Made by Remote Sellers: The Alaska Remote Sellers Sales Tax Code is an ordinance prepared by the Alaska Remote Seller Sales Tax Commission and hereby adopted by reference.

ALASKA REMOTE SELLER SALES TAX CODE

XX.XX.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 levied under this Code shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax levied under this Code or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Code or the taxing jurisdiction's Code.
- D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services to Member municipalities adopting this Code, within the state of Alaska.

XX.XX.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 taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction.

XX.XX.030 – Imposition – Rate

- A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a Member, within the state of Alaska.
- B. The applicable tax shall be added to the sales price.
- C. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction(s) 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 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 local jurisdictions' Code(s).
- 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.

XX.XX.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 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 into 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 into 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.

XX.XX.050. – No Retroactive Application

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code.

XX.XX.060 – 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 taxing 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.

XX.XX.070 – Remote Seller and Marketplace Facilitator Registration Requirement

- A. If a remote seller's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the remote seller shall register with the Commission. If a marketplace facilitator's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the marketplace facilitator shall register with the Commission.
- B. 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.
- C. 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.
- D. 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.

- E. Each business entity shall have a sales tax registration under the advertised name.
- F. The sales tax certificate is non-assignable and non-transferable.

XX.XX.80.-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 filing is optional upon application and approval by the Commission, consistent with the code of the local 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.

XX.XX.90.- 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.
 - 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.

XX.XX.100.-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 with totals rounded to the nearest dollar:
 - 1. Gross sales;
 - 2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;
 - 3. Computation of taxes to be remitted;
 - 4. Calculated discount (if applicable) based on taxing jurisdiction's 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.

XX.XX.110 – 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. The Taxing Jurisdictions may allow a buyer to request a refund directly from the Taxing Jurisdiction.

X XX.XX.120. – 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 two (2) 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.

XX.XX.130. – 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.

XX.XX.140 – 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 taxing 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 two (2) 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.

XX.XX.150.- Audit 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.

XX.XX.160. – Penalties and Interest for Late Filing

- A. A late filing fee of twenty-five dollars (\$25) per month (or quarter) shall be added to all late-filed sales tax reports in addition to interest and penalties.
- 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. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to 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. The Commission shall report such waivers of penalty to the taxing jurisdiction, in writing.

XX.XX.170 – 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 as required by 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.

XX.XX.180. – 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 invoices of goods and merchandise purchased for resale, 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.

XX.XX.190. Cessation or Transfer of Business

- A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including 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 sale 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 sale 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 sale or 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 seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the Commission shall have twelve (12) months from the date of the completion of the sale or the Commission's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. 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 taxing 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 corporate business, 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 officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for unpaid amounts. The officer 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 corporation. This section does not relieve the corporation 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.

XX.XX.200. – 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 taxing 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;
 - 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. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

XX.XX.210 – 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 taxing 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.

XX.XX.220 – Penalties for Violations

- A. 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).
- B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or taxing jurisdiction is subject to a penalty of five hundred dollars (\$500).
- C. 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).
- D. Any remote seller or marketplace facilitator who fails to file a return required under this chapter within fifteen (15) calendar days of the due date, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars (\$25) for the first sales tax return not timely filed. The filing of an incomplete return shall be treated as the filing of no return.
- 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.

XX.XX.230. – Remote Sellers with a physical presence in the taxing jurisdiction.

- A. Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the Taxing Jurisdiction.
- B. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Taxing Jurisdictions shall (i)

report and remit the remote or internet sales to the Commission; and ii) report and remit the in-store sales to the Taxing Jurisdiction.

- C. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Taxing Jurisdictions shall report and remit those remote sales to the Taxing Jurisdiction.
- D. Remote Sellers and marketplace facilitators that do not have a physical presence in a Taxing Jurisdiction must report and remit all remote sales to the Commission.
- E. For all purchases the tax rate added to the sale price shall be as provided in the Taxing Jurisdiction's sales tax code, based on point of delivery.
- F. 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 Taxing Jurisdiction.

XX.XX.240. – 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 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 taxing 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.

XX.XX.250. – Definitions

Adoption of definitions does not compel an individual municipality to exempt certain defined items. Each municipality should specifically adopt definitions necessary for consistency to implement both brick-and-mortar sales tax code and provisions related to remote sellers or marketplace facilitators. For definitions that have no applicability to brick-and-mortar sales tax code, municipality may choose either to include definitions in the definitional section of general sales tax ordinance or adopt the common definitions by reference.

“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 Intergovernmental Remote 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.

“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.

“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 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 (3), 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.

"Member" means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax Intergovernmental Agreement, thereby members of the Commission, and who have adopted the 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 (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

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

"Physical presence" means a seller who establishes the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state.
3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;
4. Rents or Leases property located within the boundaries of the local taxing 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 local taxing 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 a Taxing 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 a Taxing Jurisdiction the sale is considered to have been made in the Taxing 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 Taxing Jurisdiction not to the Commission.
- C. For products 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 the sale to 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.

“Property” and **“product”** 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” means

- A. Taking possession of property;
- 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 delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

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

“Sale” or “retail sale” means any sale for any purpose other than for resale.

“Sales 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 outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing 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;
- 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 and is a member of the Alaska Remote Sellers Sales Tax Commission.

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

XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

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XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

ALASKA REMOTE SELLER SALES TAX CODE
SUPPLEMENTAL DEFINITIONS

“Advertising” means services rendered to promote a product, service, idea, concept, issue, or the image of a person, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including research; design; layout; preliminary and final art preparation; creative consultation, coordination, direction, and supervision; script and copywriting; editing; and account management services.

“Aircraft charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

“Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

“Arts and crafts” mean articles produced individually by artistic or craft skill such as painting, sculpture, pottery, jewelry or similar articles.

“ATV” or “off-highway vehicle” means a vehicle designed or adapted for cross-country operation over unimproved terrain, ice or snow, and which has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided in this title; it does not include implements of husbandry and special mobile equipment.

“Authentic Native artwork” means any product which is Alaska Native handcrafted and is not made by machine. “Alaska Native handcrafted” means the skillful and expert use of the hands in making products solely by Alaska Natives within the United States, including the use of findings, hand tools and equipment for buffing, polishing, grinding, drilling or sewing. “Made by machine” means the producing or reproducing of a product in mass production by mechanically stamping, casting, blanking or weaving.

“Bank services” or “financial services” means deposit account services, loan transaction fees, transactions relating to the sale or exchange of currency or securities, transactions for conversion of negotiable instruments, safe deposit services, escrow collection services, late fees, overdraft fees, and interest charged on past due accounts.

“Boat” means a vessel used or capable of being used as a means of transportation on the water.

“Child care” means a regular service of care and education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

“Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

“Clothing and related products” means all human wearing apparel suitable for general use. Clothing includes: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

“Commercial airline tickets” means any card, pass, certificate, or paper, electronic or otherwise, providing or intending to provide for the carriage or transportation of any person or persons upon any airline.

“Common carrier” means an individual or a company, which is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment and makes deliveries of goods sold to its customers.

“Construction materials” means an item of tangible personal property that is used to construct or renovate a building, a structure, or an improvement on land and that typically loses its separate identity as personal property once incorporated into the real property. “Construction material” includes building materials, building systems equipment, landscaping materials, and supplies.

“Construction services” means all labor and services provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

Commodities – crop production [inputs that go into producing the crop.

“Disabled veteran” means any individual defined by a taxing jurisdiction as qualifying for an exemption from sales tax based on military service and injury sustained.

“Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages.”

- A. Recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or
- B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- C. Intended to affect the structure or any function of the body.

“Drugs for animal use” means:

- A. a drug for animal use recognized in the official United States Pharmacopoeia or National Formulary of the United States;
- B. a drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals;
- C. a drug, other than feed, medicated feed, or a growth promoting implant intended to affect the structure or function of the body of an animal; or
- D. a drug intended for use as a component of a drug in clause A., B., or C.

“Dues, Membership and Subscription” means monies paid for the purpose of membership, or qualifying or becoming eligible for goods or services, or discounts to goods or services.

“Durable medical equipment” means equipment including repair and replacement parts for same, but does not include “mobility enhancing equipment,” which:

- A. Can withstand repeated use; and
- B. Is primarily and customarily used to serve a medical purpose; and
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Farming supplies” means animal food, seed, plants, fertilizers and other consumables used in an agriculture or mariculture business that sells its harvested grains, produce, meats, animal products or other farm production.

“Food” means any food or food product for home consumption except alcoholic beverages, tobacco, and prepared food. Food or food products includes property, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

“Food stamps” means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

“Funeral fees” means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

“Gaming” means any game defined in AS 05.15.690, as amended or renumbered.

“Gasoline, heating fuels and other consumable fuels” means refined petroleum and petroleum-based products used for internal combustion engines and as the primary source for residential heating or domestic hot water. This may also include other types of fossil fuels as well as fuel sources that are renewable.

“Government” means the federal government and any agency or instrumentality thereof; any State and any agency or instrumentality thereof; any local government within a State, and any unit, agency, or instrumentality of such local government; any tribal government; any other governmental instrumentality.

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

“Insurance” means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

“Internet service” means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

“Loan” means an extension of credit resulting from direct or indirect negotiations between a lender and a debtor.

“Lobbying” means the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators and the practice of promoting or opposing official action of any public official or the legislature.

“Long-term vehicle lease” means a lease of a motor vehicle, as defined in this Section, for a period of 24 months or longer.

“Manufacturing components” means sales of personal property as raw material to a person engaged in manufacturing 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.

“Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;

“Medical equipment and supplies, and prescriptions” means all medicines, medical goods or equipment prescribed by a health care provider licensed to practice in Alaska or any other state in the United States.

“Medical services” means those professional services rendered by persons duly licensed under the laws of this state to practice medicine, surgery, chiropractic, podiatry, dentistry, and other professional services rendered by a licensed midwife, certified registered nurse practitioners, and psychiatric and mental health nurse clinical specialists, and appliances, drugs, medicines, supplies, and nursing care necessary in connection with the services, or the expense indemnity for the services, appliances, drugs, medicines, supplies, and care, as may be specified in any nonprofit medical service plan. “Medical services” include hospital services.

“Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include “durable medical equipment,” which:

- A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and
- B. Is not generally used by persons with normal mobility; and
- C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

“Motor vehicle” means a motor vehicle, as defined in AS 28.90.990(17), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, “motor vehicle” does not include either an “off-highway vehicle” as defined in 13 AAC 40.010(a)(30) or a “snowmobile” as defined in 13 AAC 40.010(a)(49). “Motor vehicle” includes parts for a motor vehicle.

“Newspaper” means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

“Nonprofit organization” means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

“Over the counter drug” means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

- A. A “Drug Facts” panel; or
- B. A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

“Periodical” means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one of a series.

“Precious gems and metals” means any mineral, including but not limited to gold, silver, platinum and palladium, and any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphire, opals, pearls or any other such precious gems or stones that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content (such as an ingot or bar) and not its form (such as jewelry or artwork).

“Prepared food” means:

- A. Food sold in a heated state or heated by the seller;
- B. Two or more food ingredients mixed or combined by the seller for sale as a single item; or
- C. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

“Prepared food” in Subsection B. does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent food borne illnesses.

“Prewritten computer software” means “computer software,” including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more “prewritten computer software” programs or prewritten portions thereof does not cause the combination to be other than “prewritten computer software.” “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances “computer software” of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains “prewritten computer software;” provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute “prewritten computer software.”

“Printing services” means those activities relating to the work of the printing, publishing or graphic arts industries and shall include any mechanical process whereby ink is transferred to paper or other materials.

“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.

“Prosthetic Device” means replacement, corrective, or supportive device including repair and

replacement parts for same worn on or in the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

“Raw Seafood” means uncooked marine and estuarine fauna or flora used as food or of a kind suitable for food and specifically includes, but is not limited to, shrimp taken for bait.

“Retail car rental” means renting a rental car to a consumer. “Rental car” means a passenger car, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty consecutive days. “Rental car” does not include:

- A. Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;
- B. Vehicles licensed and operated as taxicabs.

“Sales-Type Lease” means at lease commencement, (1) the lease transfers ownership of the underlying property, goods, or services to the lessee by the end of the lease term; (2) the lease grants the lessee an option to purchase the underlying property, goods, or services that the lessee is reasonably certain to exercise; (3) the lease term is for the major part of the remaining economic life of the underlying property, goods, or services. However, if the commencement date falls at or near the end of the economic life of the underlying property, goods, or services, this criterion shall not be used for purposes of classifying the lease; (4) the present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments equals or exceeds substantially all of the fair value of the underlying property, goods, or services; (5) the underlying property, goods, or services is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

“School materials” means items commonly used by a student in a course of study. “School materials” includes the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. “School materials” does not include any item purchased for use in a trade or business.

“School meals” includes breakfasts, lunches, or the serving of foods or beverages, or both, or any combination thereof, served by a school cafeteria or a school lunchroom.

“School transportation” means transportation of students to and from schools in motor or other vehicles.

“Seller” means: a person making sales of property, products or services, or a marketplace

facilitator acting on behalf of a seller

“Senior citizen” means any individual defined by a taxing jurisdiction as qualifying for an age-based exemption from sales tax.

“Smoked fish” means a freshwater or saltwater finfish that is prepared by treating it with salt (sodium chloride) and subjecting it to the direct action of the smoke from burning wood, wood sawdust, or similar burning material or from liquid smoke flavoring applied to the surface in a gaseous, liquid, or vaporized state with or without heat.

“Snowmobile” means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires.

“Software downloads” means software, applications, services and other digital programming for computers, tablets, smartphones and other electronic devices. This includes online subscriptions or purchases of news services, publications, audio books and other similar electronic versions of printed materials.

“Software maintenance contracts” means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both. A “mandatory computer software maintenance contract” is a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software. An “optional computer maintenance contract” is a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

“Specified digital products” means electronically transferred:

- (1) digital audio works;
- (2) digital audiovisual works; or
- (3) digital books.

“Streaming services” means digital content provided online for on-demand consumption rather than downloadable consumption. This typically includes, but is not limited to, video and audio files.

“Tax free days” means a duration of time in which persons who purchase goods or services are exempt from the Sales tax of the taxing jurisdiction.

“Telephone service” means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system.

“Ticket admission” means the paid right or privilege to enter into or use a place or location.

“Title insurance premium” means and includes premium, examination fees, settlement fees, closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance.

“Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

“Transportation services” means the transportation of individuals for hire.

“Travel agency” means a person or organization who represents, directly or indirectly, that the person or organization is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect.

LEGISLATIVE DRAFTING EXCERPT—DEFINITIONS

1. Many bills contain sections that define the terms used in the bill. A definition section in a bill may define only one word or many words. A definition section can be useful in making a bill precise, but, if great care is not used in defining a word, the definition may cause confusion rather than eliminate it.
2. Substantive provisions of the law must not be hidden in definitions, and a word should not be given a strained and artificial definition that is out of keeping with customary usage or contrary to other law. A definition should be used to limit to one definite meaning a word that otherwise might be subject to several differing but equally valid interpretations.
3. Statutory Construction. If the word is clear and unmistakable without definition, it is superfluous and confusing to define it. A drafter must use good judgment in this regard, however. A word that is not defined in a statute will probably be given its common law meaning by a court construing the statute.
 - 3.1. See Hugo v. City of Fairbanks, 658 P.2d 155 (Alaska App. 1983), where "intent to deprive" was construed to mean "intent to permanently deprive" because of the common law meaning of "deprive."
 - 3.2. For a discussion of how a court approaches the interpretation of a statutory term, see Gibson v. State, 719 P.2d 687 (Alaska App. 1986).
4. Repetition. A definition is often useful to eliminate undesirable repetition, as in the following examples:
 - (A) "commissioner" means the commissioner of health and social services;
 - (B) "school board" means the school board of a borough or city school district or a regional educational attendance area;
5. Means vs. Includes.
6. A definition may be all-inclusive, as in the foregoing examples, in which the word "means" equates the terms on either side. The word "includes" may be used in a definition, but only as an alternative to the word "means." It is used when the bill drafter intends to show that a meaning that might otherwise be in doubt is intended, in addition to the clear meaning of the word. An example is:
 - 6.1. "oath" includes affirmation
 - 6.2. See generally, Dickerson, The Fundamentals of Legal Drafting, 2d ed. (1986), sec. 7.1 - 7.6.

- 6.3. For an interpretation of the use of "includes" in a statutory definition, see Brown v. Wood, 575 P.2d 760, 767 (Alaska 1978). This interpretation has been adopted by the legislature and is codified at AS 01.10.040(b), which provides:

When the words "includes" or "including" are used in a law, they shall be construed as though followed by the phrase "but not limited to."

7. Limited vs. Not Limited. Consequently, it is not necessary to say "but not limited to" when using "includes" or "including." If you wish to limit the defined term, use the form set out in the above example defining "school board."
8. Alaska Statutes. The first step a drafter must take when considering the use of a definition section in a bill or the addition of a definition to a section that already exists is to check to see if the term in question is already defined in the statutes. A definition of the term might already be in one of the following places:
- 8.1. AS 01.10.055, 01.10.060, or 01.10.065 (definitions for all Alaska Statutes);
- 8.2. the end of the title being amended (usually in the chapter headed "General Provisions");
- 8.3. the end of the chapter being amended (usually the last section); or
- 8.4. the end of the article or group of sections being amended.
9. Location in Code. If a definition applies to only one section of a fairly long bill, it is preferable to put the definition at end of the section of the bill to which it applies. In all other cases, the placement of the definition section should be as described in (2) - (4) above. In rare cases involving widely adopted uniform acts with nationwide implications, definitions have been placed at the beginning of chapters, e.g., the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Interstate Family Support Act.
10. Alphabetized. Within a newly enacted definition section, the terms defined must be alphabetized.
11. Cross References. If a drafter wants to use a defined term that is located elsewhere in the statutes (but not in the title the drafter is amending), the proper form is "---- has the meaning given in AS --.--.--." The drafter must realize, of course, that any future changes in the first definition will be incorporated in the second because of the cross-reference technique, so care must be taken to affirmatively decide that result would be desirable. If the two definitions should be independent, the drafter can simply define the new term with the same words used in the other location rather than use a cross-reference.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-010 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the sales of food containers and condiments

Sponsors:

Indexes:

Code sections:


Attachments: [Motion and Memo Item J](#)
[Sales Tax Interpretation Item J](#)
[Addendum A Item J](#)
[Supplemental Definitions Item J](#)

Date	Ver.	Action By	Action	Result
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Possible Motion

I MOVE TO adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the sales of food containers and condiments.

Memo

Through: Hugh Bevan, Interim Municipal Administrator 
To: Mayor Gary Paxton and Assembly Members
From: Jay Sweeney, Chief Finance and Administrative Officer
Date: January 7, 2020
Re: Sales Tax Interpretation 20-2, Sales of Food Containers and Condiments

Issue

Municipal sales tax employees have recently received questions as to whether purchases of food containers and condiments constitute purchases for taxable resale and are, therefore, exempt from sales taxation. To provide guidance to sales tax employees in the performance of their job duties, the Chief Finance and Administrative Officer has made a sales tax interpretation regarding purchases of food containers and condiments and, in accordance with SGC 4.09.400, the interpretation is hereby forwarded to the Assembly for adoption or rejection.

Facts

1. Municipal Sales tax employees are consistently asked questions regarding the meaning and interpretation of Chapter 4.09 of the Sitka General Code. Most questions pertain to whether or not certain business transactions are exempt from sales tax.
2. Per SGC 4.09.400, it is the responsibility of the Finance Director to develop rules and regulations for the interpretation of Sales Tax code and pass them to the Assembly for adoption or rejection.
3. Over the last 30 days, Municipal sales tax employees have requested that the Finance Director issue a sales tax interpretation regarding whether or not purchases of food containers or condiments constitute purchases for taxable resale. The interpretation, 20-02, is attached.

Discussion

1. Questions have been received by restaurants as to whether or not food containers and condiments which are provided to customers as part of the carry-out food or beverage they purchase are considered to have been resold in a taxable transaction, and, are the associated purchases of the containers by the restaurants are therefore exempt from sales taxation. Examples of such items are styrofoam food containers, paper cups, condiment

packages, napkins, pizza boxes, etc.

2. In reaching his decision, the Finance Director examined associated facts and applied logical analysis. An over-arching guideline employed by the Finance Director in reaching his decision was the presumption of taxability set forth in the Sitka General Code. This presumption of taxability assumes that sales in Sitka are for a taxable purpose unless otherwise exempted. This presumption implies that if a situation is unclear, the transaction should be taxable.
3. It is important to note that the Assembly passed a Resolution to join the Alaska Joint Seller Sales Tax Commission. In doing so, the Assembly committed to one of the membership stipulations, which is adoption of the Alaska Remote Seller Sales Tax Code as it applies to remote (ecommerce) sales. The Alaska Remote Seller Sales Tax Code contains primary and supplemental definitions of terminology pertaining to remote sales. Accordingly, circumstances may arise wherein definitions or interpretations of terminology by the Alaska Joint Seller Sales Tax Commission affecting remote sales may differ from definitions or interpretations affecting local "brick and mortar" sales. Legal counsel advising the Alaska Joint Seller Sales Tax Commission have stated that some differences between the treatment of brick and mortar stores and remote sellers is acceptable, but large aberrations in treatment pose a potential risk if they are considered to pose an undue burden to interstate commerce. Primary and supplemental definitions as well as the Alaska Remote Seller Sales Tax Code were approved by the Alaska Joint Seller Sales Tax Commission on January 6 and are attached. The attachments are still in draft form as approval on January 6 has not afforded enough time for final versions to be produced.
4. The Alaska Joint Seller Sales Tax Commission definition of "goods for resale" is as follows:

"(A) the sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; or 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; and, (C) Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure".

The attached interpretation adheres to the Commission's definition of "goods for resale". It is important to note that the Commission is still in its infancy and has yet to issue any interpretations of definitions or terminology as they impact remote sales.

Recommendation

Staff recommends that the Assembly adopt the accompanying sales tax interpretation 20-2, Sales of Food Containers and Condiments.

Sales Tax Interpretation 20-02

Sales of Food Packaging Materials and Condiments

The Finance Director has made a sales tax interpretation that sales of food packaging materials are not considered sales for further resale, and are thus not considered tax exempt under SGC 4.09.100 (P), unless the final retail customer is charged for such materials. If the selling price of the food contained in the food packaging materials is the same regardless of whether food packaging materials are used or not, the customer is considered to not be charged for such materials. This interpretation must now be either adopted or rejected by the Assembly, per SGC 4.09.400.

Facts:

1. SCH 4.09.100 (P) states that *"a sale for resale of a product, service or rental to a consumer where the resale is subject to tax is exempt"*.
2. Several businesses in the Municipality have raised the question as to whether food packaging materials used to package food sold to the public are considered resales of a product and, thus, exempt from sales taxation.
3. There is no common standard across Alaska, or the United States, specifying whether or not food packaging materials supplied with food are considered to be resold. Some taxing jurisdictions consider food containers and other food packaging items to be a supply cost and not a cost of goods sold. Accordingly, such supplies are reported to taxing authorities on tax returns as a supply expenses and any sales tax paid is deductible. Other taxing jurisdictions take the opposite stance. Juneau considers most (but not all) food packaging materials to be a resale. Ketchikan Gateway Borough considers some food packaging to be resale.
4. Over-arching guidance in the Sitka General Code is that *"all property purchased or sold by any person for delivery into the city and borough of Sitka is presumed to be purchased or sold for a taxable use in the city and borough of Sitka"* (SGC 4.09.030 A (2)).

Discussion:

1. The most common standard or definition of a sale for resale is when a specific identifiable item of tangible personal property is purchased from a wholesaler or distributor, then resold in a retail establishment for a higher price. Such sales from a wholesaler or distributor are exempt from taxation per SCH 4.09.100 (P).
2. When tangible personal property is either (1) consumed or transformed in a manufacturing process; (2) transferred to a customer as part of the retail sale of a group or mixture of items; or (3) provided as a courtesy to retail customers, such transformations or sales are not straight-forward. Each such transaction or occurrence must be evaluated based upon what has transpired.
3. When food is prepared and sold to the public in retail sales, quite often food packaging containers are supplied at no additional cost because the food could not otherwise be served without the container. This is not always the case, however. Sometimes, bulk quantities of food packaging materials and condiments are made commonly available for customers to use as they need to. Examples are napkins, sugar packets, hot beverage sleeves, and lids.
4. Occasionally, containers are only provided if a customer requests them, as a courtesy. Common examples are doggie bags and foil for wrapping uneaten portions at restaurants.

5. Finally, sometimes standard condiment items are provided in more-or-less standard quantities along with resold food regardless of whether the customer requests them or not. An example would be a cellophane-wrapped packet of plastic cutlery and napkins provided with a take-out meal.
6. Treatment for Federal income tax purposes provides a useful proxy for whether or not food containers, condiments and similar items are considered supply expenses or costs of goods sold.
7. In responding to questions of policy determination, especially where interpretation is not clear-cut, I fall back on (SGC 4.09.030 A (2), which states that "*all property purchased or sold by any person for delivery into the city and borough of Sitka is presumed to be purchased or sold for a taxable use in the city and borough of Sitka*". Thus, if a difficult decision must be made and the answer is not clear-cut, I follow the presumption of taxability guidance and determine the sale to be taxable.
8. Very detailed questions of tax code interpretation are commonplace throughout Alaska and the United States. What is perhaps different is that such interpretations must be adopted by elected officials, as opposed to implemented by administrative policy.

Interpretation

Unless a customer is specifically charged for food containers, condiments, or other similar items provided in conjunction with the retail sale of food, such items are considered to be the sale of consumable supplies and not a sale for further resale, for purposes of taxation under Chapter 4.09 of the Sitka General Code. This is in keeping with the over-arching presumption of taxability in (SGC 4.09.030 A (2), wherein all sales in Sitka are considered to be for a taxable purpose unless otherwise exempted.

December 30, 2019

Prepared by: John P. (Jay) Sweeney III, Finance Director

To be submitted to the Assembly for ratification

ADDENDUM A
REMOTE SELLER SALES TAX CODE & COMMON DEFINITIONS

WHEREAS, the inability to effectively collect sales tax on sales of property, products or services transferred or delivered into Alaska is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and

WHEREAS, the harm from the loss of revenue is especially serious in Alaska because the State has no income tax, and sales tax revenues are one of the primary sources of funding for services provided by local governments; and

WHEREAS, the failure to collect sales tax on remote sales creates market distortions by creating an unfair tax advantage for businesses that limit their physical presence in the taxing jurisdictions but still sell goods and services to consumers, which becomes easier and more prevalent as technology advances; and

WHEREAS, the failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy as well as burdening local infrastructure and services; and

WHEREAS, delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and,

WHEREAS, given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska taxing jurisdictions; and

WHEREAS, due to a recent decision by the United States Supreme Court and the lack of a state sales tax it is appropriate for the municipalities to collectively amend their sales tax codes to account for remote sellers who do not have a physical presence either in the State of Alaska or in a specific taxing jurisdiction, but do have a taxable connection with the State of Alaska or taxing jurisdiction; and

WHEREAS, this ordinance is not retroactive in its application; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales in Alaska; and

WHEREAS, amending local sales tax codes reflects the 2018 Supreme Court “*Wayfair*” decision to allow for the application of the taxing jurisdiction’s sales tax code requirements to sellers without a physical presence in the State of Alaska or taxing jurisdiction; and

WHEREAS, the intent is to levy municipal sales tax to the maximum limit of federal and state constitutional doctrines; and

WHEREAS, the [insert name of municipality] has entered into a cooperative agreement with other local governments called the Alaska Intergovernmental Remote Seller Sales Tax Agreement (“the Agreement”); and

WHEREAS, the terms of the Agreement require adoption of certain uniform provisions for collection and remittance of municipal sales tax applicable to sales made by remote sellers similar to the Streamlined Sales and Use Tax Agreement.

NOW, THEREFORE, it is enacted as follows:

Chapter __ of the [fill in name] Code of Ordinances is hereby amended by adopting a new Chapter __ to read as follows:

Sales Made by Remote Sellers: The Alaska Remote Sellers Sales Tax Code is an ordinance prepared by the Alaska Remote Seller Sales Tax Commission and hereby adopted by reference.

ALASKA REMOTE SELLER SALES TAX CODE

XX.XX.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 levied under this Code shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax levied under this Code or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Code or the taxing jurisdiction's Code.
- D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services to Member municipalities adopting this Code, within the state of Alaska.

XX.XX.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 taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction.

XX.XX.030 – Imposition – Rate

- A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a Member, within the state of Alaska.
- B. The applicable tax shall be added to the sales price.
- C. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction(s) 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 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 local jurisdictions' Code(s).
- 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.

XX.XX.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 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 into 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 into 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.

XX.XX.050. – No Retroactive Application

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code.

XX.XX.060 – 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 taxing 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.

XX.XX.070 – Remote Seller and Marketplace Facilitator Registration Requirement

- A. If a remote seller's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the remote seller shall register with the Commission. If a marketplace facilitator's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the marketplace facilitator shall register with the Commission.
- B. 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.
- C. 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.
- D. 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.

- E. Each business entity shall have a sales tax registration under the advertised name.
- F. The sales tax certificate is non-assignable and non-transferable.

XX.XX.80.-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 filing is optional upon application and approval by the Commission, consistent with the code of the local 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.

XX.XX.90.- 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.
 - 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.

XX.XX.100.-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 with totals rounded to the nearest dollar:
 - 1. Gross sales;
 - 2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;
 - 3. Computation of taxes to be remitted;
 - 4. Calculated discount (if applicable) based on taxing jurisdiction's 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.

XX.XX.110 – 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. The Taxing Jurisdictions may allow a buyer to request a refund directly from the Taxing Jurisdiction.

X XX.XX.120. – 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 two (2) 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.

XX.XX.130. – 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.

XX.XX.140 – 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 taxing 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 two (2) 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.

XX.XX.150.- Audit 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.

XX.XX.160. – Penalties and Interest for Late Filing

- A. A late filing fee of twenty-five dollars (\$25) per month (or quarter) shall be added to all late-filed sales tax reports in addition to interest and penalties.
- 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. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to 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. The Commission shall report such waivers of penalty to the taxing jurisdiction, in writing.

XX.XX.170 – 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 as required by 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.

XX.XX.180. – 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 invoices of goods and merchandise purchased for resale, 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.

XX.XX.190. Cessation or Transfer of Business

- A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including 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 sale 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 sale 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 sale or 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 seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the Commission shall have twelve (12) months from the date of the completion of the sale or the Commission's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. 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 taxing 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 corporate business, 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 officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for unpaid amounts. The officer 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 corporation. This section does not relieve the corporation 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.

XX.XX.200. – 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 taxing 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;
 - 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. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

XX.XX.210 – 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 taxing 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.

XX.XX.220 – Penalties for Violations

- A. 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).
- B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or taxing jurisdiction is subject to a penalty of five hundred dollars (\$500).
- C. 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).
- D. Any remote seller or marketplace facilitator who fails to file a return required under this chapter within fifteen (15) calendar days of the due date, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars (\$25) for the first sales tax return not timely filed. The filing of an incomplete return shall be treated as the filing of no return.
- 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.

XX.XX.230. – Remote Sellers with a physical presence in the taxing jurisdiction.

- A. Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the Taxing Jurisdiction.
- B. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Taxing Jurisdictions shall (i)

report and remit the remote or internet sales to the Commission; and ii) report and remit the in-store sales to the Taxing Jurisdiction.

- C. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Taxing Jurisdictions shall report and remit those remote sales to the Taxing Jurisdiction.
- D. Remote Sellers and marketplace facilitators that do not have a physical presence in a Taxing Jurisdiction must report and remit all remote sales to the Commission.
- E. For all purchases the tax rate added to the sale price shall be as provided in the Taxing Jurisdiction's sales tax code, based on point of delivery.
- F. 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 Taxing Jurisdiction.

XX.XX.240. – 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 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 taxing 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.

XX.XX.250. – Definitions

Adoption of definitions does not compel an individual municipality to exempt certain defined items. Each municipality should specifically adopt definitions necessary for consistency to implement both brick-and-mortar sales tax code and provisions related to remote sellers or marketplace facilitators. For definitions that have no applicability to brick-and-mortar sales tax code, municipality may choose either to include definitions in the definitional section of general sales tax ordinance or adopt the common definitions by reference.

“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 Intergovernmental Remote 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.

“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.

“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 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 (3), 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.

"Member" means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax Intergovernmental Agreement, thereby members of the Commission, and who have adopted the 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 (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

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

"Physical presence" means a seller who establishes the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state.
3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;
4. Rents or Leases property located within the boundaries of the local taxing 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 local taxing 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 a Taxing 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 a Taxing Jurisdiction the sale is considered to have been made in the Taxing 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 Taxing Jurisdiction not to the Commission.
- C. For products 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 the sale to 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.

“Property” and **“product”** 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” means

- A. Taking possession of property;
- 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 delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

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

“Sale” or “retail sale” means any sale for any purpose other than for resale.

“Sales 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 outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing 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;
- 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 and is a member of the Alaska Remote Sellers Sales Tax Commission.

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

XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

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XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

ALASKA REMOTE SELLER SALES TAX CODE
SUPPLEMENTAL DEFINITIONS

“Advertising” means services rendered to promote a product, service, idea, concept, issue, or the image of a person, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including research; design; layout; preliminary and final art preparation; creative consultation, coordination, direction, and supervision; script and copywriting; editing; and account management services.

“Aircraft charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

“Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

“Arts and crafts” mean articles produced individually by artistic or craft skill such as painting, sculpture, pottery, jewelry or similar articles.

“ATV” or “off-highway vehicle” means a vehicle designed or adapted for cross-country operation over unimproved terrain, ice or snow, and which has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided in this title; it does not include implements of husbandry and special mobile equipment.

“Authentic Native artwork” means any product which is Alaska Native handcrafted and is not made by machine. “Alaska Native handcrafted” means the skillful and expert use of the hands in making products solely by Alaska Natives within the United States, including the use of findings, hand tools and equipment for buffing, polishing, grinding, drilling or sewing. “Made by machine” means the producing or reproducing of a product in mass production by mechanically stamping, casting, blanking or weaving.

“Bank services” or “financial services” means deposit account services, loan transaction fees, transactions relating to the sale or exchange of currency or securities, transactions for conversion of negotiable instruments, safe deposit services, escrow collection services, late fees, overdraft fees, and interest charged on past due accounts.

“Boat” means a vessel used or capable of being used as a means of transportation on the water.

“Child care” means a regular service of care and education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

“Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

“Clothing and related products” means all human wearing apparel suitable for general use. Clothing includes: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

“Commercial airline tickets” means any card, pass, certificate, or paper, electronic or otherwise, providing or intending to provide for the carriage or transportation of any person or persons upon any airline.

“Common carrier” means an individual or a company, which is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment and makes deliveries of goods sold to its customers.

“Construction materials” means an item of tangible personal property that is used to construct or renovate a building, a structure, or an improvement on land and that typically loses its separate identity as personal property once incorporated into the real property. “Construction material” includes building materials, building systems equipment, landscaping materials, and supplies.

“Construction services” means all labor and services provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

Commodities – crop production [inputs that go into producing the crop.

“Disabled veteran” means any individual defined by a taxing jurisdiction as qualifying for an exemption from sales tax based on military service and injury sustained.

“Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages.”

- A. Recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or
- B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- C. Intended to affect the structure or any function of the body.

“Drugs for animal use” means:

- A. a drug for animal use recognized in the official United States Pharmacopoeia or National Formulary of the United States;
- B. a drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals;
- C. a drug, other than feed, medicated feed, or a growth promoting implant intended to affect the structure or function of the body of an animal; or
- D. a drug intended for use as a component of a drug in clause A., B., or C.

“Dues, Membership and Subscription” means monies paid for the purpose of membership, or qualifying or becoming eligible for goods or services, or discounts to goods or services.

“Durable medical equipment” means equipment including repair and replacement parts for same, but does not include “mobility enhancing equipment,” which:

- A. Can withstand repeated use; and
- B. Is primarily and customarily used to serve a medical purpose; and
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Farming supplies” means animal food, seed, plants, fertilizers and other consumables used in an agriculture or mariculture business that sells its harvested grains, produce, meats, animal products or other farm production.

“Food” means any food or food product for home consumption except alcoholic beverages, tobacco, and prepared food. Food or food products includes property, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

“Food stamps” means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

“Funeral fees” means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

“Gaming” means any game defined in AS 05.15.690, as amended or renumbered.

“Gasoline, heating fuels and other consumable fuels” means refined petroleum and petroleum-based products used for internal combustion engines and as the primary source for residential heating or domestic hot water. This may also include other types of fossil fuels as well as fuel sources that are renewable.

“Government” means the federal government and any agency or instrumentality thereof; any State and any agency or instrumentality thereof; any local government within a State, and any unit, agency, or instrumentality of such local government; any tribal government; any other governmental instrumentality.

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

“Insurance” means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

“Internet service” means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

“Loan” means an extension of credit resulting from direct or indirect negotiations between a lender and a debtor.

“Lobbying” means the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators and the practice of promoting or opposing official action of any public official or the legislature.

“Long-term vehicle lease” means a lease of a motor vehicle, as defined in this Section, for a period of 24 months or longer.

“Manufacturing components” means sales of personal property as raw material to a person engaged in manufacturing 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.

“Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;

“Medical equipment and supplies, and prescriptions” means all medicines, medical goods or equipment prescribed by a health care provider licensed to practice in Alaska or any other state in the United States.

“Medical services” means those professional services rendered by persons duly licensed under the laws of this state to practice medicine, surgery, chiropractic, podiatry, dentistry, and other professional services rendered by a licensed midwife, certified registered nurse practitioners, and psychiatric and mental health nurse clinical specialists, and appliances, drugs, medicines, supplies, and nursing care necessary in connection with the services, or the expense indemnity for the services, appliances, drugs, medicines, supplies, and care, as may be specified in any nonprofit medical service plan. “Medical services” include hospital services.

“Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include “durable medical equipment,” which:

- A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and
- B. Is not generally used by persons with normal mobility; and
- C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

“Motor vehicle” means a motor vehicle, as defined in AS 28.90.990(17), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, “motor vehicle” does not include either an “off-highway vehicle” as defined in 13 AAC 40.010(a)(30) or a “snowmobile” as defined in 13 AAC 40.010(a)(49). “Motor vehicle” includes parts for a motor vehicle.

“Newspaper” means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

“Nonprofit organization” means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

“Over the counter drug” means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

- A. A “Drug Facts” panel; or
- B. A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

“Periodical” means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one of a series.

“Precious gems and metals” means any mineral, including but not limited to gold, silver, platinum and palladium, and any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphire, opals, pearls or any other such precious gems or stones that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content (such as an ingot or bar) and not its form (such as jewelry or artwork).

“Prepared food” means:

- A. Food sold in a heated state or heated by the seller;
- B. Two or more food ingredients mixed or combined by the seller for sale as a single item; or
- C. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

“Prepared food” in Subsection B. does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent food borne illnesses.

“Prewritten computer software” means “computer software,” including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more “prewritten computer software” programs or prewritten portions thereof does not cause the combination to be other than “prewritten computer software.” “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances “computer software” of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains “prewritten computer software;” provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute “prewritten computer software.”

“Printing services” means those activities relating to the work of the printing, publishing or graphic arts industries and shall include any mechanical process whereby ink is transferred to paper or other materials.

“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.

“Prosthetic Device” means replacement, corrective, or supportive device including repair and

replacement parts for same worn on or in the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

“Raw Seafood” means uncooked marine and estuarine fauna or flora used as food or of a kind suitable for food and specifically includes, but is not limited to, shrimp taken for bait.

“Retail car rental” means renting a rental car to a consumer. “Rental car” means a passenger car, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty consecutive days. “Rental car” does not include:

- A. Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;
- B. Vehicles licensed and operated as taxicabs.

“Sales-Type Lease” means at lease commencement, (1) the lease transfers ownership of the underlying property, goods, or services to the lessee by the end of the lease term; (2) the lease grants the lessee an option to purchase the underlying property, goods, or services that the lessee is reasonably certain to exercise; (3) the lease term is for the major part of the remaining economic life of the underlying property, goods, or services. However, if the commencement date falls at or near the end of the economic life of the underlying property, goods, or services, this criterion shall not be used for purposes of classifying the lease; (4) the present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments equals or exceeds substantially all of the fair value of the underlying property, goods, or services; (5) the underlying property, goods, or services is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

“School materials” means items commonly used by a student in a course of study. “School materials” includes the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. “School materials” does not include any item purchased for use in a trade or business.

“School meals” includes breakfasts, lunches, or the serving of foods or beverages, or both, or any combination thereof, served by a school cafeteria or a school lunchroom.

“School transportation” means transportation of students to and from schools in motor or other vehicles.

“Seller” means: a person making sales of property, products or services, or a marketplace

facilitator acting on behalf of a seller

“Senior citizen” means any individual defined by a taxing jurisdiction as qualifying for an age-based exemption from sales tax.

“Smoked fish” means a freshwater or saltwater finfish that is prepared by treating it with salt (sodium chloride) and subjecting it to the direct action of the smoke from burning wood, wood sawdust, or similar burning material or from liquid smoke flavoring applied to the surface in a gaseous, liquid, or vaporized state with or without heat.

“Snowmobile” means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires.

“Software downloads” means software, applications, services and other digital programming for computers, tablets, smartphones and other electronic devices. This includes online subscriptions or purchases of news services, publications, audio books and other similar electronic versions of printed materials.

“Software maintenance contracts” means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both. A “mandatory computer software maintenance contract” is a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software. An “optional computer maintenance contract” is a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

“Specified digital products” means electronically transferred:

- (1) digital audio works;
- (2) digital audiovisual works; or
- (3) digital books.

“Streaming services” means digital content provided online for on-demand consumption rather than downloadable consumption. This typically includes, but is not limited to, video and audio files.

“Tax free days” means a duration of time in which persons who purchase goods or services are exempt from the Sales tax of the taxing jurisdiction.

“Telephone service” means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system.

“Ticket admission” means the paid right or privilege to enter into or use a place or location.

“Title insurance premium” means and includes premium, examination fees, settlement fees, closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance.

“Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

“Transportation services” means the transportation of individuals for hire.

“Travel agency” means a person or organization who represents, directly or indirectly, that the person or organization is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect.

LEGISLATIVE DRAFTING EXCERPT—DEFINITIONS

1. Many bills contain sections that define the terms used in the bill. A definition section in a bill may define only one word or many words. A definition section can be useful in making a bill precise, but, if great care is not used in defining a word, the definition may cause confusion rather than eliminate it.
2. Substantive provisions of the law must not be hidden in definitions, and a word should not be given a strained and artificial definition that is out of keeping with customary usage or contrary to other law. A definition should be used to limit to one definite meaning a word that otherwise might be subject to several differing but equally valid interpretations.
3. Statutory Construction. If the word is clear and unmistakable without definition, it is superfluous and confusing to define it. A drafter must use good judgment in this regard, however. A word that is not defined in a statute will probably be given its common law meaning by a court construing the statute.
 - 3.1. See Hugo v. City of Fairbanks, 658 P.2d 155 (Alaska App. 1983), where "intent to deprive" was construed to mean "intent to permanently deprive" because of the common law meaning of "deprive."
 - 3.2. For a discussion of how a court approaches the interpretation of a statutory term, see Gibson v. State, 719 P.2d 687 (Alaska App. 1986).
4. Repetition. A definition is often useful to eliminate undesirable repetition, as in the following examples:
 - (A) "commissioner" means the commissioner of health and social services;
 - (B) "school board" means the school board of a borough or city school district or a regional educational attendance area;
5. Means vs. Includes.
6. A definition may be all-inclusive, as in the foregoing examples, in which the word "means" equates the terms on either side. The word "includes" may be used in a definition, but only as an alternative to the word "means." It is used when the bill drafter intends to show that a meaning that might otherwise be in doubt is intended, in addition to the clear meaning of the word. An example is:
 - 6.1. "oath" includes affirmation
 - 6.2. See generally, Dickerson, The Fundamentals of Legal Drafting, 2d ed. (1986), sec. 7.1 - 7.6.

- 6.3. For an interpretation of the use of "includes" in a statutory definition, see Brown v. Wood, 575 P.2d 760, 767 (Alaska 1978). This interpretation has been adopted by the legislature and is codified at AS 01.10.040(b), which provides:

When the words "includes" or "including" are used in a law, they shall be construed as though followed by the phrase "but not limited to."

7. Limited vs. Not Limited. Consequently, it is not necessary to say "but not limited to" when using "includes" or "including." If you wish to limit the defined term, use the form set out in the above example defining "school board."
8. Alaska Statutes. The first step a drafter must take when considering the use of a definition section in a bill or the addition of a definition to a section that already exists is to check to see if the term in question is already defined in the statutes. A definition of the term might already be in one of the following places:
- 8.1. AS 01.10.055, 01.10.060, or 01.10.065 (definitions for all Alaska Statutes);
- 8.2. the end of the title being amended (usually in the chapter headed "General Provisions");
- 8.3. the end of the chapter being amended (usually the last section); or
- 8.4. the end of the article or group of sections being amended.
9. Location in Code. If a definition applies to only one section of a fairly long bill, it is preferable to put the definition at end of the section of the bill to which it applies. In all other cases, the placement of the definition section should be as described in (2) - (4) above. In rare cases involving widely adopted uniform acts with nationwide implications, definitions have been placed at the beginning of chapters, e.g., the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Interstate Family Support Act.
10. Alphabetized. Within a newly enacted definition section, the terms defined must be alphabetized.
11. Cross References. If a drafter wants to use a defined term that is located elsewhere in the statutes (but not in the title the drafter is amending), the proper form is "---- has the meaning given in AS --.--.--." The drafter must realize, of course, that any future changes in the first definition will be incorporated in the second because of the cross-reference technique, so care must be taken to affirmatively decide that result would be desirable. If the two definitions should be independent, the drafter can simply define the new term with the same words used in the other location rather than use a cross-reference.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-011 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the application of the taxable transaction limit to long-term service and construction contracts

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Memo Item K](#)
[Sales Tax Interpretation Item K](#)
[Administrative Guidelines Single Service Exemption Cap](#)
[Addendum A Item K](#)
[Supplemental Definitions Item K](#)

Date	Ver.	Action By	Action	Result
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Possible Motion

I MOVE TO adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the application of the taxable transaction limit to long-term service and construction contracts.

Memo

Through: Hugh Bevan, Interim Municipal Administrator *HB*
To: Assembly of the City and Borough of Sitka
From: Jay Sweeney, Chief Finance and Administrative Officer
Date: January 7, 2020
Re: Sales Tax Interpretation 20-3, Application of Taxable Transaction Limit to Long-Term Service Contracts

Issue

Municipal sales tax employees have recently received questions as to how the taxable transaction limit of \$12,000 per single sale unit applies to long-term service and construction contracts. To provide guidance to sales tax employees in the performance of their job duties, the Chief Finance and Administrative Officer has made a sales tax interpretation regarding the application of the taxable transaction limit to long-term service and construction contracts and, in accordance with SGC 4.09.400, the interpretation is hereby forwarded to the Assembly for adoption or rejection.

Facts

1. Municipal sales tax employees are consistently asked questions regarding the meaning and interpretation of Chapter 4.09 of the Sitka General Code. Most questions pertain to whether or not certain business transactions are exempt from sales tax.
2. Per SGC 4.09.400, it is the responsibility of the Finance Director to develop rules and regulations for the interpretation of Sales Tax code and pass them to the Assembly for adoption or rejection.
3. Over the last 30 days, Municipal sales tax employees have requested that the Finance Director issue a sales tax interpretation as to how the taxable transaction limit of \$12,000 per single sale unit applies to long-term service and construction contracts. The interpretation, 20-03, is attached.

Discussion

1. Questions have been asked contractors and service providers as to how such services are to be bundled together for purposes of possibly exceeding the \$12,000 taxable transaction threshold. In particular, long-term construction contracts or agreements may provide for periodic invoicing for draws, and, the question has arisen as to whether or not each separate

draw is to be considered a single sale unit.

2. In reaching his decision, the Finance Director examined associated facts and applied logical analysis. An over-arching guideline employed by the Finance Director in reaching his decision was the presumption of taxability set forth in the Sitka General Code. This presumption of taxability assumes that all sales in Sitka are for a taxable purpose unless otherwise exempted. This presumption implies that if a situation is unclear, the transaction should be taxable.
3. It is important to note that the Assembly passed a Resolution to join the Alaska Joint Seller Sales Tax Commission. In doing so, the Assembly committed to one of the membership stipulations, which is adoption of the Alaska Remote Seller Sales Tax Code as it applies to remote (ecommerce) sales. The Alaska Remote Seller Sales Tax Code contains primary and supplemental definitions of terminology pertaining to remote sales. Accordingly, circumstances may arise wherein definitions or interpretations of terminology by the Alaska Joint Seller Sales Tax Commission affecting remote sales may differ from definitions or interpretations affecting local "brick and mortar" sales. Legal counsel advising the Alaska Joint Seller Sales Tax Commission have stated that some differences between the treatment of brick and mortar stores and remote sellers is acceptable, but large aberrations in treatment pose a potential risk if they are considered to pose an undue burden to interstate commerce. Primary and supplemental definitions as well as the Alaska Remote Seller Sales Tax Code were approved by the Alaska Joint Seller Sales Tax Commission on January 6 and are attached. The attachments are still in draft form as approval on January 6 has not afforded enough time for final versions to be produced.
4. The Alaska Joint Seller Sales Tax Commission has yet to define or interpret what a sale unit is for purposes of applying the taxable transaction limit. The Commission has, however, interpreted construction contracts which result in a tangible physical product to be manufacturing.

Recommendation

Staff recommends that the Assembly adopt the accompanying sales tax interpretation 20-3, Application of Taxable Transaction Limit to Long-Term Service Contracts.

Sales Tax Interpretation 20-03

Application of Taxable Transaction Limits to Long-term Service Contracts

The Finance Director has made a sales tax interpretation that the taxable transaction limit, as it applies to long-term service contracts and arrangements, is \$12,000 per invoice for each single interrelated service, or prorated selling price per each 30-day period if invoiced less frequently than monthly.

Facts:

1. SGC 4.09.100 (N) states that *"That portion of a selling price for a single piece of equipment or tangible personal property or sale unit in excess of twelve thousand dollars is exempt. A single sale unit is (2) Any sale of services sold by an individual unit price"*.
2. The application of SGC 4.09.100 (N) to long-term service contracts and long-term construction contracts has led to confusion and misunderstanding on the part of citizens, merchants, and Municipal employees.
3. Merchants providing services often enter into contracts or agreements wherein performance of the service takes many months to complete. Performance of the service and subsequent invoicing to the customer may be sporadic.
4. Contractors frequently enter into long-term construction contracts spanning several months, either on a fixed price basis or a time and materials basis. Such contracts usually, but not always, provide for progress billings to customers.

Discussion:

1. A frequent point of confusion encountered by Municipal sales tax employees is how to apply the taxable transaction limit exemption in SGC 4.09.100 (N) to long-term service contracts and long-term construction contracts. The existing verbiage in the Sitka General Code is confusing, and, both merchants and Municipal employees have requested clarification.
2. Long-term service and construction contracts are complicated for several reasons. First of all, unrelated services performed over a lengthy period of time are sometimes bundled together into a single contract. Secondly, invoicing to customers occurs irregularly; sometimes it is billed all at once in once large invoice, other times progress invoices termed "draws" are generated. Thirdly, especially with construction contracts, change orders are often generated which change the scope of the construction project.
3. By their nature and how their billings work, the two common types of construction contracts – fixed price and time and materials – lead to different concepts of what, exactly, *"any sale of services sold by an individual unit price"* means. In a time and materials contract, materials purchased and used are marked up by an agreed-upon percentage and labor performed is charged at an agreed-upon hourly price. Under a fixed price contract, the contractor quotes a fixed price at the outset of the job and is bound to it unless the scope of the work is changed through change orders. As a fixed price is quoted to the customer ahead of time by a contractor in a fixed price contract, an argument could be made that a fixed price contract is a sale of services by an individual unit price. It is difficult to make this same argument, however, for a time and materials contract as there is no fixed price quoted and what constitutes an individual unit price is open for interpretation. This difference in how contracts work could lead to differences in how sales taxes are levied. For time and materials jobs, sales tax is frequently levied on each invoice which could lead to differences in taxation between fixed price and time and materials jobs.
4. In long-term construction contracts, and, with some long-term service contracts, the contractor bills the customer for "draws" in order to generate cash flow and afford the contractor to pay payroll, purchase materials, etc. Such draws frequently resemble invoices in form and substance. An interpretative question has arisen as to whether or not a "draw" is *"any sale of services sold by an individual unit price"*. Should each separate draw billed to the customer be subject to the taxable transaction limit?

5. On rare occasions, situations have been discovered in the past wherein services performed over multiple months have been bundled together into a single invoice for sales tax purposes in order to combine the totals and make the amount of the invoice exceed \$12,000, but the customer has been afforded the ability to make partial payments against the once invoice. An example would be as follows: a firm provides comprehensive professional services at the monthly price of \$1,500. An entire year is invoiced to the customer for \$18,000, with sales tax of \$600 levied on the first \$12,000. The customer is afforded the ability to make twelve monthly payments of \$1,550 against the invoice. Although instances like this are rare and have significantly declined with the increase of the taxable transaction limit to \$12,000, they still occur.
6. Other Municipalities in Southeast Alaska have struggled with this same interpretative question. The administrative guidelines from the City and Borough of Juneau for single service exemptions is attached. In those administrative guidelines, Juneau has stated that the single service transaction limit exemption applies to the amount owed for a single month, or if invoiced more frequently than once a month, the amount of each invoice (see attached).
7. An illustrative example, as follows, shows the difference in sales taxes levied under different interpretations of individual unit price.

Situation: A time and materials contract to remodel a home for \$100,000. Five equivalent monthly draws of \$20,000 are invoiced to the customer. Job lasts 5 months.

If entire contract is considered to be one individual price, sales tax is \$600. Amount of exempted sales - \$88,000.

If each draw is considered to be a separate unit price, sales tax is \$3,000 (5 x \$600). Amount of exempted sales - \$40,000 (5 x \$8,000).

8. The approach followed by the City and Borough of Juneau is logical, straight-forward to interpret and administer, and serves as a reasonable model guideline for Sitka to adopt.

Interpretation

For the purpose of implementing SGC 4.09.100 (N) (commonly referred to as the taxable transaction limit sales tax exemption), as it applies to the sale of services and long-term service and construction contracts, a single sale unit sold by an individual unit price is interpreted to mean the amount owed on a 30-day basis, or if invoiced more than once in a 30-day period, the amount owed per invoice. If a service or construction contract exceeds a 30-day period, the exemption only applies to the amount owed for each consecutive 30-day period. If a service or construction contract exceeds a 30-day period, and, is billed either at the end of the project or on an irregular basis, contractors are required to allocate the billings on a pro rata basis over the full term of the contract. Draws in conjunction with long-term construction contracts are to be deemed invoices for purposes of implementing this interpretation.

January 2, 2020

Prepared by: John P. (Jay) Sweeney III, Finance Director

To be submitted to the Assembly for ratification

**ADMINISTRATIVE GUIDELINES
SINGLE SERVICE EXEMPTION “CAP”
Procedure 422**

The CBJ Assembly adopted a “cap” exemption levying the sales tax on the first \$12,400 of the sale of a single service. A single service is defined as an interrelated and interdependent function necessary to perform a specified action, such as a case, project, audit, etc. The single service definition would also include repetitive services like janitorial services.

History of Single Item Cap Levels	
Prior to 1991	Cap Level: \$5,000
1991- June 30, 2015	Cap Level: \$7,500
July 1, 2015 – December 31, 2017	Cap Level: \$12,000
January 1, 2018 – December 31, 2019	Cap Level: \$12,100
January 1, 2020 – December 31, 2021	Cap Level: \$12,400

Effective July 1, 2015, a clause was added that provides for a future adjustment to the level of the cap on the sale of a single service. Any adjustment will be based on the Consumer Price Index for the Anchorage metro area. Merchants will be notified accordingly of any future adjustment to the level of the cap on the sale of a single service.

69.05.040(22): *That portion of the selling price of a single service that exceeds \$12,400. This amount will be adjusted in 2022 and every two calendar years thereafter consistent with the Consumer Price Index for all urban consumers for Anchorage metropolitan area compiled by the United States Department of Labor, Bureau of Labor Statistics. Adjustments to the amount listed will be rounded to the nearest \$100. For the purposes of this subsection, a single service is an interrelated and interdependent function necessary to perform a specified action. If a single service is performed over a period exceeding one month, the selling price must be apportioned to a monthly or invoice basis, whichever is more frequent, proportionate to the service performed, except for*

- (a) a commission paid to an agent for negotiating the sale of real property, or*
- (b) a written contingent fee agreement award or settlement.*

The basis for determining qualification for the single service cap exemption requires three separate criteria to be met:

- 1) The service provided must be a single service. The service may be made of different

components or actions that are taken, however, each component or action must be interrelated and interdependent upon each other to accomplish the performance of the specified single service.

2) The periodic selling price of the single service is the amount that is owed on a calendar month, or if invoiced more than once a month, the amount owed per invoice. If the performance of the single service exceeds a calendar month, the exemption only applies to the amount owed for each calendar month. The performance of a service may take many months to complete. If the billing for the service occurs only at the end of the project, Merchants are required to allocate the billing over the calendar months taken to complete the project to determine if the “cap” would apply to any one month.

3) The periodic selling price per calendar month or invoice basis must exceed \$12,400. It is the amount that exceeds \$12,400 that is exempt from the sales tax.

Each of the three criteria listed above must be met to qualify for the single service cap exemption.

Exceptions:

Commissions charged by Real Estate agents for negotiating the sale of real property are not limited to the services performed within a one month period. The commission is taxed at the first \$12,400 of the sale regardless of the length of time the agent has in selling the property.

Attorneys that contract with a their client with a written contingency fee are required to collect the sales tax on the first \$12,400 of the fee award regardless of the length of time taken to resolve the case.

If you are uncertain whether the transaction you have entered into would qualify for the “cap” on the sale of a single service, please contact the Sales Tax Office for assistance at (907) 586-5265.

ADDENDUM A
REMOTE SELLER SALES TAX CODE & COMMON DEFINITIONS

WHEREAS, the inability to effectively collect sales tax on sales of property, products or services transferred or delivered into Alaska is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and

WHEREAS, the harm from the loss of revenue is especially serious in Alaska because the State has no income tax, and sales tax revenues are one of the primary sources of funding for services provided by local governments; and

WHEREAS, the failure to collect sales tax on remote sales creates market distortions by creating an unfair tax advantage for businesses that limit their physical presence in the taxing jurisdictions but still sell goods and services to consumers, which becomes easier and more prevalent as technology advances; and

WHEREAS, the failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy as well as burdening local infrastructure and services; and

WHEREAS, delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and,

WHEREAS, given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska taxing jurisdictions; and

WHEREAS, due to a recent decision by the United States Supreme Court and the lack of a state sales tax it is appropriate for the municipalities to collectively amend their sales tax codes to account for remote sellers who do not have a physical presence either in the State of Alaska or in a specific taxing jurisdiction, but do have a taxable connection with the State of Alaska or taxing jurisdiction; and

WHEREAS, this ordinance is not retroactive in its application; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales in Alaska; and

WHEREAS, amending local sales tax codes reflects the 2018 Supreme Court “*Wayfair*” decision to allow for the application of the taxing jurisdiction’s sales tax code requirements to sellers without a physical presence in the State of Alaska or taxing jurisdiction; and

WHEREAS, the intent is to levy municipal sales tax to the maximum limit of federal and state constitutional doctrines; and

WHEREAS, the [insert name of municipality] has entered into a cooperative agreement with other local governments called the Alaska Intergovernmental Remote Seller Sales Tax Agreement (“the Agreement”); and

WHEREAS, the terms of the Agreement require adoption of certain uniform provisions for collection and remittance of municipal sales tax applicable to sales made by remote sellers similar to the Streamlined Sales and Use Tax Agreement.

NOW, THEREFORE, it is enacted as follows:

Chapter __ of the [fill in name] Code of Ordinances is hereby amended by adopting a new Chapter __ to read as follows:

Sales Made by Remote Sellers: The Alaska Remote Sellers Sales Tax Code is an ordinance prepared by the Alaska Remote Seller Sales Tax Commission and hereby adopted by reference.

ALASKA REMOTE SELLER SALES TAX CODE

XX.XX.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 levied under this Code shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax levied under this Code or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Code or the taxing jurisdiction's Code.
- D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services to Member municipalities adopting this Code, within the state of Alaska.

XX.XX.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 taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction.

XX.XX.030 – Imposition – Rate

- A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a Member, within the state of Alaska.
- B. The applicable tax shall be added to the sales price.
- C. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction(s) 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 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 local jurisdictions' Code(s).
- 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.

XX.XX.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 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 into 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 into 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.

XX.XX.050. – No Retroactive Application

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code.

XX.XX.060 – 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 taxing 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.

XX.XX.070 – Remote Seller and Marketplace Facilitator Registration Requirement

- A. If a remote seller's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the remote seller shall register with the Commission. If a marketplace facilitator's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the marketplace facilitator shall register with the Commission.
- B. 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.
- C. 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.
- D. 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.

- E. Each business entity shall have a sales tax registration under the advertised name.
- F. The sales tax certificate is non-assignable and non-transferable.

XX.XX.80.-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 filing is optional upon application and approval by the Commission, consistent with the code of the local 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.

XX.XX.90.- 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.
 - 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.

XX.XX.100.-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 with totals rounded to the nearest dollar:
 - 1. Gross sales;
 - 2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;
 - 3. Computation of taxes to be remitted;
 - 4. Calculated discount (if applicable) based on taxing jurisdiction's 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.

XX.XX.110 – 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. The Taxing Jurisdictions may allow a buyer to request a refund directly from the Taxing Jurisdiction.

X XX.XX.120. – 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 two (2) 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.

XX.XX.130. – 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.

XX.XX.140 – 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 taxing 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 two (2) 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.

XX.XX.150.- Audit 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.

XX.XX.160. – Penalties and Interest for Late Filing

- A. A late filing fee of twenty-five dollars (\$25) per month (or quarter) shall be added to all late-filed sales tax reports in addition to interest and penalties.
- 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. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to 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. The Commission shall report such waivers of penalty to the taxing jurisdiction, in writing.

XX.XX.170 – 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 as required by 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.

XX.XX.180. – 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 invoices of goods and merchandise purchased for resale, 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.

XX.XX.190. Cessation or Transfer of Business

- A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including 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 sale 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 sale 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 sale or 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 seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the Commission shall have twelve (12) months from the date of the completion of the sale or the Commission's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. 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 taxing 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 corporate business, 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 officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for unpaid amounts. The officer 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 corporation. This section does not relieve the corporation 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.

XX.XX.200. – 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 taxing 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;
 - 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. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

XX.XX.210 – 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 taxing 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.

XX.XX.220 – Penalties for Violations

- A. 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).
- B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or taxing jurisdiction is subject to a penalty of five hundred dollars (\$500).
- C. 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).
- D. Any remote seller or marketplace facilitator who fails to file a return required under this chapter within fifteen (15) calendar days of the due date, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars (\$25) for the first sales tax return not timely filed. The filing of an incomplete return shall be treated as the filing of no return.
- 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.

XX.XX.230. – Remote Sellers with a physical presence in the taxing jurisdiction.

- A. Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the Taxing Jurisdiction.
- B. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Taxing Jurisdictions shall (i)

report and remit the remote or internet sales to the Commission; and ii) report and remit the in-store sales to the Taxing Jurisdiction.

- C. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Taxing Jurisdictions shall report and remit those remote sales to the Taxing Jurisdiction.
- D. Remote Sellers and marketplace facilitators that do not have a physical presence in a Taxing Jurisdiction must report and remit all remote sales to the Commission.
- E. For all purchases the tax rate added to the sale price shall be as provided in the Taxing Jurisdiction's sales tax code, based on point of delivery.
- F. 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 Taxing Jurisdiction.

XX.XX.240. – 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 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 taxing 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.

XX.XX.250. – Definitions

Adoption of definitions does not compel an individual municipality to exempt certain defined items. Each municipality should specifically adopt definitions necessary for consistency to implement both brick-and-mortar sales tax code and provisions related to remote sellers or marketplace facilitators. For definitions that have no applicability to brick-and-mortar sales tax code, municipality may choose either to include definitions in the definitional section of general sales tax ordinance or adopt the common definitions by reference.

“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 Intergovernmental Remote 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.

“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.

“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 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 (3), 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.

"Member" means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax Intergovernmental Agreement, thereby members of the Commission, and who have adopted the 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 (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

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

"Physical presence" means a seller who establishes the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state.
3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;
4. Rents or Leases property located within the boundaries of the local taxing 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 local taxing 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 a Taxing 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 a Taxing Jurisdiction the sale is considered to have been made in the Taxing 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 Taxing Jurisdiction not to the Commission.
- C. For products 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 the sale to 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.

“Property” and **“product”** 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” means

- A. Taking possession of property;
- 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 delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

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

“Sale” or “retail sale” means any sale for any purpose other than for resale.

“Sales 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 outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing 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;
- 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 and is a member of the Alaska Remote Sellers Sales Tax Commission.

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

XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

DRAFT

XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

ALASKA REMOTE SELLER SALES TAX CODE
SUPPLEMENTAL DEFINITIONS

“Advertising” means services rendered to promote a product, service, idea, concept, issue, or the image of a person, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including research; design; layout; preliminary and final art preparation; creative consultation, coordination, direction, and supervision; script and copywriting; editing; and account management services.

“Aircraft charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

“Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

“Arts and crafts” mean articles produced individually by artistic or craft skill such as painting, sculpture, pottery, jewelry or similar articles.

“ATV” or “off-highway vehicle” means a vehicle designed or adapted for cross-country operation over unimproved terrain, ice or snow, and which has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided in this title; it does not include implements of husbandry and special mobile equipment.

“Authentic Native artwork” means any product which is Alaska Native handcrafted and is not made by machine. “Alaska Native handcrafted” means the skillful and expert use of the hands in making products solely by Alaska Natives within the United States, including the use of findings, hand tools and equipment for buffing, polishing, grinding, drilling or sewing. “Made by machine” means the producing or reproducing of a product in mass production by mechanically stamping, casting, blanking or weaving.

“Bank services” or “financial services” means deposit account services, loan transaction fees, transactions relating to the sale or exchange of currency or securities, transactions for conversion of negotiable instruments, safe deposit services, escrow collection services, late fees, overdraft fees, and interest charged on past due accounts.

“Boat” means a vessel used or capable of being used as a means of transportation on the water.

“Child care” means a regular service of care and education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

“Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

“Clothing and related products” means all human wearing apparel suitable for general use. Clothing includes: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

“Commercial airline tickets” means any card, pass, certificate, or paper, electronic or otherwise, providing or intending to provide for the carriage or transportation of any person or persons upon any airline.

“Common carrier” means an individual or a company, which is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment and makes deliveries of goods sold to its customers.

“Construction materials” means an item of tangible personal property that is used to construct or renovate a building, a structure, or an improvement on land and that typically loses its separate identity as personal property once incorporated into the real property. “Construction material” includes building materials, building systems equipment, landscaping materials, and supplies.

“Construction services” means all labor and services provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

Commodities – crop production [inputs that go into producing the crop.

“Disabled veteran” means any individual defined by a taxing jurisdiction as qualifying for an exemption from sales tax based on military service and injury sustained.

“Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages.”

- A. Recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or
- B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- C. Intended to affect the structure or any function of the body.

“Drugs for animal use” means:

- A. a drug for animal use recognized in the official United States Pharmacopoeia or National Formulary of the United States;
- B. a drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals;
- C. a drug, other than feed, medicated feed, or a growth promoting implant intended to affect the structure or function of the body of an animal; or
- D. a drug intended for use as a component of a drug in clause A., B., or C.

“Dues, Membership and Subscription” means monies paid for the purpose of membership, or qualifying or becoming eligible for goods or services, or discounts to goods or services.

“Durable medical equipment” means equipment including repair and replacement parts for same, but does not include “mobility enhancing equipment,” which:

- A. Can withstand repeated use; and
- B. Is primarily and customarily used to serve a medical purpose; and
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Farming supplies” means animal food, seed, plants, fertilizers and other consumables used in an agriculture or mariculture business that sells its harvested grains, produce, meats, animal products or other farm production.

“Food” means any food or food product for home consumption except alcoholic beverages, tobacco, and prepared food. Food or food products includes property, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

“Food stamps” means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

“Funeral fees” means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

“Gaming” means any game defined in AS 05.15.690, as amended or renumbered.

“Gasoline, heating fuels and other consumable fuels” means refined petroleum and petroleum-based products used for internal combustion engines and as the primary source for residential heating or domestic hot water. This may also include other types of fossil fuels as well as fuel sources that are renewable.

“Government” means the federal government and any agency or instrumentality thereof; any State and any agency or instrumentality thereof; any local government within a State, and any unit, agency, or instrumentality of such local government; any tribal government; any other governmental instrumentality.

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

“Insurance” means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

“Internet service” means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

“Loan” means an extension of credit resulting from direct or indirect negotiations between a lender and a debtor.

“Lobbying” means the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators and the practice of promoting or opposing official action of any public official or the legislature.

“Long-term vehicle lease” means a lease of a motor vehicle, as defined in this Section, for a period of 24 months or longer.

“Manufacturing components” means sales of personal property as raw material to a person engaged in manufacturing 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.

“Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;

“Medical equipment and supplies, and prescriptions” means all medicines, medical goods or equipment prescribed by a health care provider licensed to practice in Alaska or any other state in the United States.

“Medical services” means those professional services rendered by persons duly licensed under the laws of this state to practice medicine, surgery, chiropractic, podiatry, dentistry, and other professional services rendered by a licensed midwife, certified registered nurse practitioners, and psychiatric and mental health nurse clinical specialists, and appliances, drugs, medicines, supplies, and nursing care necessary in connection with the services, or the expense indemnity for the services, appliances, drugs, medicines, supplies, and care, as may be specified in any nonprofit medical service plan. “Medical services” include hospital services.

“Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include “durable medical equipment,” which:

- A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and
- B. Is not generally used by persons with normal mobility; and
- C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

“Motor vehicle” means a motor vehicle, as defined in AS 28.90.990(17), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, “motor vehicle” does not include either an “off-highway vehicle” as defined in 13 AAC 40.010(a)(30) or a “snowmobile” as defined in 13 AAC 40.010(a)(49). “Motor vehicle” includes parts for a motor vehicle.

“Newspaper” means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

“Nonprofit organization” means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

“Over the counter drug” means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

- A. A “Drug Facts” panel; or
- B. A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

“Periodical” means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one of a series.

“Precious gems and metals” means any mineral, including but not limited to gold, silver, platinum and palladium, and any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphire, opals, pearls or any other such precious gems or stones that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content (such as an ingot or bar) and not its form (such as jewelry or artwork).

“Prepared food” means:

- A. Food sold in a heated state or heated by the seller;
- B. Two or more food ingredients mixed or combined by the seller for sale as a single item; or
- C. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

“Prepared food” in Subsection B. does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent food borne illnesses.

“Prewritten computer software” means “computer software,” including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more “prewritten computer software” programs or prewritten portions thereof does not cause the combination to be other than “prewritten computer software.” “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances “computer software” of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains “prewritten computer software;” provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute “prewritten computer software.”

“Printing services” means those activities relating to the work of the printing, publishing or graphic arts industries and shall include any mechanical process whereby ink is transferred to paper or other materials.

“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.

“Prosthetic Device” means replacement, corrective, or supportive device including repair and

replacement parts for same worn on or in the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

“Raw Seafood” means uncooked marine and estuarine fauna or flora used as food or of a kind suitable for food and specifically includes, but is not limited to, shrimp taken for bait.

“Retail car rental” means renting a rental car to a consumer. “Rental car” means a passenger car, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty consecutive days. “Rental car” does not include:

- A. Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;
- B. Vehicles licensed and operated as taxicabs.

“Sales-Type Lease” means at lease commencement, (1) the lease transfers ownership of the underlying property, goods, or services to the lessee by the end of the lease term; (2) the lease grants the lessee an option to purchase the underlying property, goods, or services that the lessee is reasonably certain to exercise; (3) the lease term is for the major part of the remaining economic life of the underlying property, goods, or services. However, if the commencement date falls at or near the end of the economic life of the underlying property, goods, or services, this criterion shall not be used for purposes of classifying the lease; (4) the present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments equals or exceeds substantially all of the fair value of the underlying property, goods, or services; (5) the underlying property, goods, or services is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

“School materials” means items commonly used by a student in a course of study. “School materials” includes the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. “School materials” does not include any item purchased for use in a trade or business.

“School meals” includes breakfasts, lunches, or the serving of foods or beverages, or both, or any combination thereof, served by a school cafeteria or a school lunchroom.

“School transportation” means transportation of students to and from schools in motor or other vehicles.

“Seller” means: a person making sales of property, products or services, or a marketplace

facilitator acting on behalf of a seller

“Senior citizen” means any individual defined by a taxing jurisdiction as qualifying for an age-based exemption from sales tax.

“Smoked fish” means a freshwater or saltwater finfish that is prepared by treating it with salt (sodium chloride) and subjecting it to the direct action of the smoke from burning wood, wood sawdust, or similar burning material or from liquid smoke flavoring applied to the surface in a gaseous, liquid, or vaporized state with or without heat.

“Snowmobile” means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires.

“Software downloads” means software, applications, services and other digital programming for computers, tablets, smartphones and other electronic devices. This includes online subscriptions or purchases of news services, publications, audio books and other similar electronic versions of printed materials.

“Software maintenance contracts” means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both. A “mandatory computer software maintenance contract” is a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software. An “optional computer maintenance contract” is a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

“Specified digital products” means electronically transferred:

- (1) digital audio works;
- (2) digital audiovisual works; or
- (3) digital books.

“Streaming services” means digital content provided online for on-demand consumption rather than downloadable consumption. This typically includes, but is not limited to, video and audio files.

“Tax free days” means a duration of time in which persons who purchase goods or services are exempt from the Sales tax of the taxing jurisdiction.

“Telephone service” means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system.

“Ticket admission” means the paid right or privilege to enter into or use a place or location.

“Title insurance premium” means and includes premium, examination fees, settlement fees, closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance.

“Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

“Transportation services” means the transportation of individuals for hire.

“Travel agency” means a person or organization who represents, directly or indirectly, that the person or organization is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect.

LEGISLATIVE DRAFTING EXCERPT—DEFINITIONS

1. Many bills contain sections that define the terms used in the bill. A definition section in a bill may define only one word or many words. A definition section can be useful in making a bill precise, but, if great care is not used in defining a word, the definition may cause confusion rather than eliminate it.
2. Substantive provisions of the law must not be hidden in definitions, and a word should not be given a strained and artificial definition that is out of keeping with customary usage or contrary to other law. A definition should be used to limit to one definite meaning a word that otherwise might be subject to several differing but equally valid interpretations.
3. Statutory Construction. If the word is clear and unmistakable without definition, it is superfluous and confusing to define it. A drafter must use good judgment in this regard, however. A word that is not defined in a statute will probably be given its common law meaning by a court construing the statute.
 - 3.1. See Hugo v. City of Fairbanks, 658 P.2d 155 (Alaska App. 1983), where "intent to deprive" was construed to mean "intent to permanently deprive" because of the common law meaning of "deprive."
 - 3.2. For a discussion of how a court approaches the interpretation of a statutory term, see Gibson v. State, 719 P.2d 687 (Alaska App. 1986).
4. Repetition. A definition is often useful to eliminate undesirable repetition, as in the following examples:
 - (A) "commissioner" means the commissioner of health and social services;
 - (B) "school board" means the school board of a borough or city school district or a regional educational attendance area;
5. Means vs. Includes.
6. A definition may be all-inclusive, as in the foregoing examples, in which the word "means" equates the terms on either side. The word "includes" may be used in a definition, but only as an alternative to the word "means." It is used when the bill drafter intends to show that a meaning that might otherwise be in doubt is intended, in addition to the clear meaning of the word. An example is:
 - 6.1. "oath" includes affirmation
 - 6.2. See generally, Dickerson, The Fundamentals of Legal Drafting, 2d ed. (1986), sec. 7.1 - 7.6.

- 6.3. For an interpretation of the use of "includes" in a statutory definition, see Brown v. Wood, 575 P.2d 760, 767 (Alaska 1978). This interpretation has been adopted by the legislature and is codified at AS 01.10.040(b), which provides:

When the words "includes" or "including" are used in a law, they shall be construed as though followed by the phrase "but not limited to."

7. Limited vs. Not Limited. Consequently, it is not necessary to say "but not limited to" when using "includes" or "including." If you wish to limit the defined term, use the form set out in the above example defining "school board."
8. Alaska Statutes. The first step a drafter must take when considering the use of a definition section in a bill or the addition of a definition to a section that already exists is to check to see if the term in question is already defined in the statutes. A definition of the term might already be in one of the following places:
- 8.1. AS 01.10.055, 01.10.060, or 01.10.065 (definitions for all Alaska Statutes);
- 8.2. the end of the title being amended (usually in the chapter headed "General Provisions");
- 8.3. the end of the chapter being amended (usually the last section); or
- 8.4. the end of the article or group of sections being amended.
9. Location in Code. If a definition applies to only one section of a fairly long bill, it is preferable to put the definition at end of the section of the bill to which it applies. In all other cases, the placement of the definition section should be as described in (2) - (4) above. In rare cases involving widely adopted uniform acts with nationwide implications, definitions have been placed at the beginning of chapters, e.g., the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Interstate Family Support Act.
10. Alphabetized. Within a newly enacted definition section, the terms defined must be alphabetized.
11. Cross References. If a drafter wants to use a defined term that is located elsewhere in the statutes (but not in the title the drafter is amending), the proper form is "---- has the meaning given in AS --.--.--." The drafter must realize, of course, that any future changes in the first definition will be incorporated in the second because of the cross-reference technique, so care must be taken to affirmatively decide that result would be desirable. If the two definitions should be independent, the drafter can simply define the new term with the same words used in the other location rather than use a cross-reference.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 20-012 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 1/7/2020 In control: City and Borough Assembly

On agenda: 1/14/2020 Final action:

Title: Adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as it relates to the definition of the term resale

Sponsors:

Indexes:

Code sections:


Attachments: [Motion and Memo Item L](#)
[Sales Tax Interpretation Item L](#)
[Addendum A Item L](#)
[Supplemental Definitions Item L](#)

Date	Ver.	Action By	Action	Result
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Possible Motion

I MOVE TO adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09 "Sales Tax" as is relates to the definition of the term resale.

Memo

Through: Hugh Bevan, Interim Municipal Administrator 
To: Mayor Gary Paxton and Assembly Members
From: Jay Sweeney, Chief Finance and Administrative Officer
Date: January 7, 2020
Re: Sales Tax Interpretation 20-4, Definition of the Term Resale

Issue

Municipal sales tax employees have consistently received questions as to whether or not specific transactions constitute a purchase for resale, or, the purchases of goods or services necessary to facilitate the resale. The sale for resale concept is not well understood by the public. Recently, such situational questions have become more pervasive requiring the Finance Director to make a broad interpretation of the term resale. To provide guidance to sales tax employees in the performance of their job duties, the Chief Finance and Administrative Officer has defined the term resale and, in accordance with SGC 4.09.400, the interpretation is hereby forwarded to the Assembly for adoption or rejection.

Facts

1. Municipal Sales tax employees are consistently asked questions regarding the meaning and interpretation of Chapter 4.09 of the Sitka General Code. Most questions pertain to whether or not certain business transactions are exempt from sales tax.
2. Per SGC 4.09.400, it is the responsibility of the Finance Director to develop rules and regulations for the interpretation of Sales Tax code and pass them to the Assembly for adoption or rejection.
3. Over the last 30 days, Municipal sales tax employees have requested that the Finance Director define the term resale, so that situational questions pertaining to whether purchases are for resale can be consistently answered.

Discussion

1. An area in which situational questions regarding sales taxability are consistently raised is sale for resale. SGC 4.09.100 (P) exempts sales for subsequent taxable resale from taxation. Grey area questions consistently arise in regard to purchases of goods or services which are not directly marked up and resold in a retail transaction but, instead, are consumed in a

manufacturing process or in performing a service.

2. Not all purchases of goods or services by a manufacturer, or service provider are resold. The preparation of an income tax return for a business, for example, differentiates between cost of goods sold and other business expenses such as supplies, advertising, etc. Business expenses reported on an income tax return would clearly not be purchases for resale.
3. In reaching his decision, the Finance Director examined associated facts and applied logical analysis. An over-arching guideline employed by the Finance Director in reaching his decision was the presumption of taxability set forth in the Sitka General Code. This presumption of taxability assumes that sales in Sitka are for a taxable purpose unless otherwise exempted. This presumption implies that if a situation is unclear, the transaction should be taxable.
4. It is important to note that the Assembly passed a Resolution to join the Alaska Joint Seller Sales Tax Commission. In doing so, the Assembly committed to one of the membership stipulations, which is adoption of the Alaska Remote Seller Sales Tax Code as it applies to remote (ecommerce) sales. The Alaska Remote Seller Sales Tax Code contains primary and supplemental definitions of terminology pertaining to remote sales. Accordingly, circumstances may arise wherein definitions or interpretations of terminology by the Alaska Joint Seller Sales Tax Commission affecting remote sales may differ from definitions or interpretations affecting local "brick and mortar" sales. Legal counsel advising the Alaska Joint Seller Sales Tax Commission have stated that some differences between the treatment of brick and mortar stores and remote sellers is acceptable, but large aberrations in treatment pose a potential risk if they are considered to pose an undue burden to interstate commerce. Primary and supplemental definitions as well as the Alaska Remote Seller Sales Tax Code were approved by the Alaska Joint Seller Sales Tax Commission on January 6 and are attached. The attachments are still in draft form as approval on January 6 has not afforded enough time for final versions to be produced.
5. The Alaska Joint Seller Sales Tax Commission definition of "goods for resale" is as follows:

"(A) the sale of goods by a manufacturer, wholesaler or distributor to a retail vendor, or 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; and, (C) Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure".

The attached interpretation adheres to the Commission's definition of "goods for resale". It is important to note that the Commission is still in its infancy and has yet to issue any interpretations of definitions or terminology as they impact remote sales.

Recommendation

Staff recommends that the Assembly adopt the accompanying sales tax interpretation 20-4, Definition of the Term resale.

Sales Tax Interpretation 20-04

Definition of the Term "Resale"

The Finance Director has made a sales tax interpretation by defining the context of the term "resale" as used in SGC 4.09.100 (P).

Facts:

1. SGC 4.09.100 (P) states that "A sale for resale of a product, service or rental to a consumer where the resale is subject to tax is exempt."
2. Confusion over the meaning of the term "resale", as used in SGC 4.09.100 (P), has been a long-standing aggravation, both to citizens and Municipal sales tax employees. Municipal sales tax employees consistently receive requests for interpretations as to whether or not certain transactions or situations constitute resales.
3. Many purchases made by businesses do not constitute a bona fide purchase of a product, service, or rental for resale. These purchases, instead, constitute the purchases of supplies or services, or rentals of equipment or real estate, necessary for business operations and are considered indirect business costs.
4. The nature and manner in which a business's accounting is conducted often gives insight into whether a business purchase is a sale for further resale, or, a business expense. For merchandising businesses, a purchase for eventual resale should be accounted for as resale inventory until it is sold, at which time it becomes a cost of goods sold. In a manufacturing business, a purchase of raw materials for conversion into a manufactured product should be accounted for as raw materials inventory, then work in process inventory, then finished goods inventory, then cost of goods sold.

Discussion:

1. SGC 4.09.420 does not define the term "resale". Accordingly, the meaning has been left open to interpretation.
2. Having a purchase qualify as a sale for resale is advantageous to businesses, especially those with slim profit margins. This is because such businesses must set their selling prices at the level dictated by the broad economy or competitors, and, any ability to lower their costs increases their profit margin. Elimination of sales tax adds 5%-6% to individual item profit margins.
3. As previously mentioned, Municipal sales tax employees consistently receive requests for interpretations as to whether or not certain transactions or situations constitute resales. Time spent parsing out these situational requests, without comprehensive guidelines to follow, frustrates business owners and takes the focus of supervisors away from other matters.
4. Logically, I look to accounting principles as the framework on which to define "resale, as it pertains to sales taxation. There are four subcategories of resale, and my definition for each and the logical foundation for the definition is as follows:
 - a. **Manufacturing.** In a manufacturing business, a purchase of raw materials for conversion into a manufactured product should be accounted for as raw materials inventory, then work in process inventory, then finished goods inventory, then cost of goods sold. If a product is purchased which is completely consumed in the manufacturing process, it is not normally accounted for as a raw material. Examples would be fuel and electricity. If a product is purchased which facilitates the manufacturing process or makes it more efficient but is not present in some tangible form in the finished product, it also not normally accounted for as a raw material. Examples are machinery, tools, solvents, abrasives, lubricants, and bits. For purposes of categorizing, construction contractors, restaurants and visual artists are considered manufacturing entities.

- b. **Retail Sales/Merchandising.** For merchandising businesses, a purchase for eventual resale should be accounted for as resale inventory until it is sold, at which time it becomes a cost of goods sold. If a product is purchased which facilitates retail sales, makes it more efficient, or is provided to customers as a service or convenience, it is not normally accounted for as resale inventory but, instead, as supplies or purchased services. Examples are office supplies, shopping bags, boxes, price tags, shelving and displays, and office or point of sales equipment. A markup is a rule of thumb is categorizing between inventory for resale and business expenses. If a good is purchased and then marked up for resale without modification, it is an indicator of a resale as opposed to an expense.
- c. **Service.** For service businesses, purchases for eventual resale are unusual and often are instantaneously passed through to cost of sales. If goods or secondary services are purchased for eventual resale, they should be accounted for as resale inventory until sold, at which time they become a cost of sales. If a product or secondary service is purchased which facilitates the primary service being sold, makes it more efficient, or is provided to customers convenience or on a complimentary basis, it is not normally accounted for as resale inventory. Examples are office supplies, shopping bags, boxes, price tags, shelving and displays, and office or point of sales equipment
- d. **Rentals.** Subletting is the normal and usual form of reselling a rental. In a subletting arrangement, the primary tenant enters into a lease for a large facility or piece of equipment, then subleases portions of the facility or equipment to sub-tenants. An example would be the primary lease of an entire office building wherein individual rooms or suites are sublet. In such instances, the primary leases are considered to be resold (sublet) and are tax exempt; the subleases to the ultimate end tenant are taxable. In the case of equipment, the equipment must be re-rented. An example would be an equipment leasing business. Its primary rentals of equipment would be tax exempt; its re-rentals of equipment would be taxable. The use of rented equipment conjunction with providing a service, retail sales, or manufacturing is not considered a resale. An example would be heavy equipment rented by a contractor to complete a job; such a rental is not considered a resale to the customer contracting for the job.

Interpretation

For the purpose of clarifying the meaning and intent of SGC 4.09.100 (P), the term “resale” is defined as:

“The sale of an end product which has passed through resale inventory, work in process inventory (in manufacturing), or construction in progress (in contracting) into cost of sales or cost of goods sold. Such passage can be instantaneous. Purchases of goods or secondary services which either facilitate or improve the efficiency of retail sales, manufacturing, or sales of primary services, or, are provided on a complimentary basis as a convenience to the customer are not considered to be for further resale.”

January 2, 2020

Prepared by: John P. (Jay) Sweeney III, Finance Director

To be submitted to the Assembly for ratification

ADDENDUM A
REMOTE SELLER SALES TAX CODE & COMMON DEFINITIONS

- WHEREAS,** the inability to effectively collect sales tax on sales of property, products or services transferred or delivered into Alaska is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and
- WHEREAS,** the harm from the loss of revenue is especially serious in Alaska because the State has no income tax, and sales tax revenues are one of the primary sources of funding for services provided by local governments; and
- WHEREAS,** the failure to collect sales tax on remote sales creates market distortions by creating an unfair tax advantage for businesses that limit their physical presence in the taxing jurisdictions but still sell goods and services to consumers, which becomes easier and more prevalent as technology advances; and
- WHEREAS,** the failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities; and
- WHEREAS,** the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring; and
- WHEREAS,** remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy as well as burdening local infrastructure and services; and
- WHEREAS,** delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and,
- WHEREAS,** given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska taxing jurisdictions; and
- WHEREAS,** due to a recent decision by the United States Supreme Court and the lack of a state sales tax it is appropriate for the municipalities to collectively amend their sales tax codes to account for remote sellers who do not have a physical presence either in the State of Alaska or in a specific taxing jurisdiction, but do have a taxable connection with the State of Alaska or taxing jurisdiction; and
- WHEREAS,** this ordinance is not retroactive in its application; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales in Alaska; and

WHEREAS, amending local sales tax codes reflects the 2018 Supreme Court “*Wayfair*” decision to allow for the application of the taxing jurisdiction’s sales tax code requirements to sellers without a physical presence in the State of Alaska or taxing jurisdiction; and

WHEREAS, the intent is to levy municipal sales tax to the maximum limit of federal and state constitutional doctrines; and

WHEREAS, the [insert name of municipality] has entered into a cooperative agreement with other local governments called the Alaska Intergovernmental Remote Seller Sales Tax Agreement (“the Agreement”); and

WHEREAS, the terms of the Agreement require adoption of certain uniform provisions for collection and remittance of municipal sales tax applicable to sales made by remote sellers similar to the Streamlined Sales and Use Tax Agreement.

NOW, THEREFORE, it is enacted as follows:

Chapter __ of the [fill in name] Code of Ordinances is hereby amended by adopting a new Chapter __ to read as follows:

Sales Made by Remote Sellers: The Alaska Remote Sellers Sales Tax Code is an ordinance prepared by the Alaska Remote Seller Sales Tax Commission and hereby adopted by reference.

ALASKA REMOTE SELLER SALES TAX CODE

XX.XX.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 levied under this Code shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax levied under this Code or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Code or the taxing jurisdiction's Code.
- D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services to Member municipalities adopting this Code, within the state of Alaska.

XX.XX.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 taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction.

XX.XX.030 – Imposition – Rate

- A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a Member, within the state of Alaska.
- B. The applicable tax shall be added to the sales price.
- C. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction(s) 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 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 local jurisdictions' Code(s).
- 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.

XX.XX.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 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 into 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 into 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.

XX.XX.050. – No Retroactive Application

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code.

XX.XX.060 – 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 taxing 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.

XX.XX.070 – Remote Seller and Marketplace Facilitator Registration Requirement

- A. If a remote seller's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the remote seller shall register with the Commission. If a marketplace facilitator's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the marketplace facilitator shall register with the Commission.
- B. 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.
- C. 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.
- D. 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.

- E. Each business entity shall have a sales tax registration under the advertised name.
- F. The sales tax certificate is non-assignable and non-transferable.

XX.XX.80.-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 filing is optional upon application and approval by the Commission, consistent with the code of the local 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.

XX.XX.90.- 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.
 - 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.

XX.XX.100.-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 with totals rounded to the nearest dollar:
 - 1. Gross sales;
 - 2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;
 - 3. Computation of taxes to be remitted;
 - 4. Calculated discount (if applicable) based on taxing jurisdiction's 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.

XX.XX.110 – 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. The Taxing Jurisdictions may allow a buyer to request a refund directly from the Taxing Jurisdiction.

X XX.XX.120. – 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 two (2) 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.

XX.XX.130. – 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.

XX.XX.140 – 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 taxing 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 two (2) 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.

XX.XX.150.- Audit 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.

XX.XX.160. – Penalties and Interest for Late Filing

- A. A late filing fee of twenty-five dollars (\$25) per month (or quarter) shall be added to all late-filed sales tax reports in addition to interest and penalties.
- 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. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to 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. The Commission shall report such waivers of penalty to the taxing jurisdiction, in writing.

XX.XX.170 – 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 as required by 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.

XX.XX.180. – 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 invoices of goods and merchandise purchased for resale, 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.

XX.XX.190. Cessation or Transfer of Business

- A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including 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 sale 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 sale 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 sale or 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 seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the Commission shall have twelve (12) months from the date of the completion of the sale or the Commission's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. 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 taxing 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 corporate business, 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 officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for unpaid amounts. The officer 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 corporation. This section does not relieve the corporation 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.

XX.XX.200. – 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 taxing 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;
 - 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. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

XX.XX.210 – 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 taxing 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.

XX.XX.220 – Penalties for Violations

- A. 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).
- B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or taxing jurisdiction is subject to a penalty of five hundred dollars (\$500).
- C. 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).
- D. Any remote seller or marketplace facilitator who fails to file a return required under this chapter within fifteen (15) calendar days of the due date, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars (\$25) for the first sales tax return not timely filed. The filing of an incomplete return shall be treated as the filing of no return.
- 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.

XX.XX.230. – Remote Sellers with a physical presence in the taxing jurisdiction.

- A. Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the Taxing Jurisdiction.
- B. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Taxing Jurisdictions shall (i)

report and remit the remote or internet sales to the Commission; and ii) report and remit the in-store sales to the Taxing Jurisdiction.

- C. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Taxing Jurisdictions shall report and remit those remote sales to the Taxing Jurisdiction.
- D. Remote Sellers and marketplace facilitators that do not have a physical presence in a Taxing Jurisdiction must report and remit all remote sales to the Commission.
- E. For all purchases the tax rate added to the sale price shall be as provided in the Taxing Jurisdiction's sales tax code, based on point of delivery.
- F. 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 Taxing Jurisdiction.

XX.XX.240. – 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 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 taxing 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.

XX.XX.250. – Definitions

Adoption of definitions does not compel an individual municipality to exempt certain defined items. Each municipality should specifically adopt definitions necessary for consistency to implement both brick-and-mortar sales tax code and provisions related to remote sellers or marketplace facilitators. For definitions that have no applicability to brick-and-mortar sales tax code, municipality may choose either to include definitions in the definitional section of general sales tax ordinance or adopt the common definitions by reference.

“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 Intergovernmental Remote 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.

“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.

“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 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 (3), 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.

"Member" means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax Intergovernmental Agreement, thereby members of the Commission, and who have adopted the 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 (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

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

"Physical presence" means a seller who establishes the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state.
3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;
4. Rents or Leases property located within the boundaries of the local taxing 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 local taxing 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 a Taxing 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 a Taxing Jurisdiction the sale is considered to have been made in the Taxing 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 Taxing Jurisdiction not to the Commission.
- C. For products 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 the sale to 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.

“Property” and **“product”** 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” means

- A. Taking possession of property;
- 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 delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

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

“Sale” or “retail sale” means any sale for any purpose other than for resale.

“Sales 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 outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing 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;
- 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 and is a member of the Alaska Remote Sellers Sales Tax Commission.

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

XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

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XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. 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.

ALASKA REMOTE SELLER SALES TAX CODE
SUPPLEMENTAL DEFINITIONS

“Advertising” means services rendered to promote a product, service, idea, concept, issue, or the image of a person, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including research; design; layout; preliminary and final art preparation; creative consultation, coordination, direction, and supervision; script and copywriting; editing; and account management services.

“Aircraft charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

“Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

“Arts and crafts” mean articles produced individually by artistic or craft skill such as painting, sculpture, pottery, jewelry or similar articles.

“ATV” or “off-highway vehicle” means a vehicle designed or adapted for cross-country operation over unimproved terrain, ice or snow, and which has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided in this title; it does not include implements of husbandry and special mobile equipment.

“Authentic Native artwork” means any product which is Alaska Native handcrafted and is not made by machine. “Alaska Native handcrafted” means the skillful and expert use of the hands in making products solely by Alaska Natives within the United States, including the use of findings, hand tools and equipment for buffing, polishing, grinding, drilling or sewing. “Made by machine” means the producing or reproducing of a product in mass production by mechanically stamping, casting, blanking or weaving.

“Bank services” or “financial services” means deposit account services, loan transaction fees, transactions relating to the sale or exchange of currency or securities, transactions for conversion of negotiable instruments, safe deposit services, escrow collection services, late fees, overdraft fees, and interest charged on past due accounts.

“Boat” means a vessel used or capable of being used as a means of transportation on the water.

“Child care” means a regular service of care and education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

“Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

“Clothing and related products” means all human wearing apparel suitable for general use. Clothing includes: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

“Commercial airline tickets” means any card, pass, certificate, or paper, electronic or otherwise, providing or intending to provide for the carriage or transportation of any person or persons upon any airline.

“Common carrier” means an individual or a company, which is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment and makes deliveries of goods sold to its customers.

“Construction materials” means an item of tangible personal property that is used to construct or renovate a building, a structure, or an improvement on land and that typically loses its separate identity as personal property once incorporated into the real property. “Construction material” includes building materials, building systems equipment, landscaping materials, and supplies.

“Construction services” means all labor and services provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

Commodities – crop production [inputs that go into producing the crop.

“Disabled veteran” means any individual defined by a taxing jurisdiction as qualifying for an exemption from sales tax based on military service and injury sustained.

“Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages.”

- A. Recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or
- B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- C. Intended to affect the structure or any function of the body.

“Drugs for animal use” means:

- A. a drug for animal use recognized in the official United States Pharmacopoeia or National Formulary of the United States;
- B. a drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals;
- C. a drug, other than feed, medicated feed, or a growth promoting implant intended to affect the structure or function of the body of an animal; or
- D. a drug intended for use as a component of a drug in clause A., B., or C.

“Dues, Membership and Subscription” means monies paid for the purpose of membership, or qualifying or becoming eligible for goods or services, or discounts to goods or services.

“Durable medical equipment” means equipment including repair and replacement parts for same, but does not include “mobility enhancing equipment,” which:

- A. Can withstand repeated use; and
- B. Is primarily and customarily used to serve a medical purpose; and
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Farming supplies” means animal food, seed, plants, fertilizers and other consumables used in an agriculture or mariculture business that sells its harvested grains, produce, meats, animal products or other farm production.

“Food” means any food or food product for home consumption except alcoholic beverages, tobacco, and prepared food. Food or food products includes property, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

“Food stamps” means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

“Funeral fees” means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

“Gaming” means any game defined in AS 05.15.690, as amended or renumbered.

“Gasoline, heating fuels and other consumable fuels” means refined petroleum and petroleum-based products used for internal combustion engines and as the primary source for residential heating or domestic hot water. This may also include other types of fossil fuels as well as fuel sources that are renewable.

“Government” means the federal government and any agency or instrumentality thereof; any State and any agency or instrumentality thereof; any local government within a State, and any unit, agency, or instrumentality of such local government; any tribal government; any other governmental instrumentality.

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

“Insurance” means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

“Internet service” means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

“Loan” means an extension of credit resulting from direct or indirect negotiations between a lender and a debtor.

“Lobbying” means the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators and the practice of promoting or opposing official action of any public official or the legislature.

“Long-term vehicle lease” means a lease of a motor vehicle, as defined in this Section, for a period of 24 months or longer.

“Manufacturing components” means sales of personal property as raw material to a person engaged in manufacturing 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.

“Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;

“Medical equipment and supplies, and prescriptions” means all medicines, medical goods or equipment prescribed by a health care provider licensed to practice in Alaska or any other state in the United States.

“Medical services” means those professional services rendered by persons duly licensed under the laws of this state to practice medicine, surgery, chiropractic, podiatry, dentistry, and other professional services rendered by a licensed midwife, certified registered nurse practitioners, and psychiatric and mental health nurse clinical specialists, and appliances, drugs, medicines, supplies, and nursing care necessary in connection with the services, or the expense indemnity for the services, appliances, drugs, medicines, supplies, and care, as may be specified in any nonprofit medical service plan. “Medical services” include hospital services.

“Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include “durable medical equipment,” which:

- A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and
- B. Is not generally used by persons with normal mobility; and
- C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

“Motor vehicle” means a motor vehicle, as defined in AS 28.90.990(17), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, “motor vehicle” does not include either an “off-highway vehicle” as defined in 13 AAC 40.010(a)(30) or a “snowmobile” as defined in 13 AAC 40.010(a)(49). “Motor vehicle” includes parts for a motor vehicle.

“Newspaper” means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

“Nonprofit organization” means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

“Over the counter drug” means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

- A. A “Drug Facts” panel; or
- B. A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

“Periodical” means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one of a series.

“Precious gems and metals” means any mineral, including but not limited to gold, silver, platinum and palladium, and any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphire, opals, pearls or any other such precious gems or stones that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content (such as an ingot or bar) and not its form (such as jewelry or artwork).

“Prepared food” means:

- A. Food sold in a heated state or heated by the seller;
- B. Two or more food ingredients mixed or combined by the seller for sale as a single item; or
- C. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

“Prepared food” in Subsection B. does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent food borne illnesses.

“Prewritten computer software” means “computer software,” including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more “prewritten computer software” programs or prewritten portions thereof does not cause the combination to be other than “prewritten computer software.” “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances “computer software” of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains “prewritten computer software;” provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute “prewritten computer software.”

“Printing services” means those activities relating to the work of the printing, publishing or graphic arts industries and shall include any mechanical process whereby ink is transferred to paper or other materials.

“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.

“Prosthetic Device” means replacement, corrective, or supportive device including repair and

replacement parts for same worn on or in the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

“Raw Seafood” means uncooked marine and estuarine fauna or flora used as food or of a kind suitable for food and specifically includes, but is not limited to, shrimp taken for bait.

“Retail car rental” means renting a rental car to a consumer. “Rental car” means a passenger car, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty consecutive days. “Rental car” does not include:

- A. Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;
- B. Vehicles licensed and operated as taxicabs.

“Sales-Type Lease” means at lease commencement, (1) the lease transfers ownership of the underlying property, goods, or services to the lessee by the end of the lease term; (2) the lease grants the lessee an option to purchase the underlying property, goods, or services that the lessee is reasonably certain to exercise; (3) the lease term is for the major part of the remaining economic life of the underlying property, goods, or services. However, if the commencement date falls at or near the end of the economic life of the underlying property, goods, or services, this criterion shall not be used for purposes of classifying the lease; (4) the present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments equals or exceeds substantially all of the fair value of the underlying property, goods, or services; (5) the underlying property, goods, or services is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

“School materials” means items commonly used by a student in a course of study. “School materials” includes the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. “School materials” does not include any item purchased for use in a trade or business.

“School meals” includes breakfasts, lunches, or the serving of foods or beverages, or both, or any combination thereof, served by a school cafeteria or a school lunchroom.

“School transportation” means transportation of students to and from schools in motor or other vehicles.

“Seller” means: a person making sales of property, products or services, or a marketplace

facilitator acting on behalf of a seller

“Senior citizen” means any individual defined by a taxing jurisdiction as qualifying for an age-based exemption from sales tax.

“Smoked fish” means a freshwater or saltwater finfish that is prepared by treating it with salt (sodium chloride) and subjecting it to the direct action of the smoke from burning wood, wood sawdust, or similar burning material or from liquid smoke flavoring applied to the surface in a gaseous, liquid, or vaporized state with or without heat.

“Snowmobile” means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires.

“Software downloads” means software, applications, services and other digital programming for computers, tablets, smartphones and other electronic devices. This includes online subscriptions or purchases of news services, publications, audio books and other similar electronic versions of printed materials.

“Software maintenance contracts” means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both. A “mandatory computer software maintenance contract” is a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software. An “optional computer maintenance contract” is a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

“Specified digital products” means electronically transferred:

- (1) digital audio works;
- (2) digital audiovisual works; or
- (3) digital books.

“Streaming services” means digital content provided online for on-demand consumption rather than downloadable consumption. This typically includes, but is not limited to, video and audio files.

“Tax free days” means a duration of time in which persons who purchase goods or services are exempt from the Sales tax of the taxing jurisdiction.

“Telephone service” means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system.

“Ticket admission” means the paid right or privilege to enter into or use a place or location.

“Title insurance premium” means and includes premium, examination fees, settlement fees, closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance.

“Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

“Transportation services” means the transportation of individuals for hire.

“Travel agency” means a person or organization who represents, directly or indirectly, that the person or organization is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect.

LEGISLATIVE DRAFTING EXCERPT—DEFINITIONS

1. Many bills contain sections that define the terms used in the bill. A definition section in a bill may define only one word or many words. A definition section can be useful in making a bill precise, but, if great care is not used in defining a word, the definition may cause confusion rather than eliminate it.
2. Substantive provisions of the law must not be hidden in definitions, and a word should not be given a strained and artificial definition that is out of keeping with customary usage or contrary to other law. A definition should be used to limit to one definite meaning a word that otherwise might be subject to several differing but equally valid interpretations.
3. Statutory Construction. If the word is clear and unmistakable without definition, it is superfluous and confusing to define it. A drafter must use good judgment in this regard, however. A word that is not defined in a statute will probably be given its common law meaning by a court construing the statute.
 - 3.1. See Hugo v. City of Fairbanks, 658 P.2d 155 (Alaska App. 1983), where "intent to deprive" was construed to mean "intent to permanently deprive" because of the common law meaning of "deprive."
 - 3.2. For a discussion of how a court approaches the interpretation of a statutory term, see Gibson v. State, 719 P.2d 687 (Alaska App. 1986).
4. Repetition. A definition is often useful to eliminate undesirable repetition, as in the following examples:
 - (A) "commissioner" means the commissioner of health and social services;
 - (B) "school board" means the school board of a borough or city school district or a regional educational attendance area;
5. Means vs. Includes.
6. A definition may be all-inclusive, as in the foregoing examples, in which the word "means" equates the terms on either side. The word "includes" may be used in a definition, but only as an alternative to the word "means." It is used when the bill drafter intends to show that a meaning that might otherwise be in doubt is intended, in addition to the clear meaning of the word. An example is:
 - 6.1. "oath" includes affirmation
 - 6.2. See generally, Dickerson, The Fundamentals of Legal Drafting, 2d ed. (1986), sec. 7.1 - 7.6.

- 6.3. For an interpretation of the use of "includes" in a statutory definition, see Brown v. Wood, 575 P.2d 760, 767 (Alaska 1978). This interpretation has been adopted by the legislature and is codified at AS 01.10.040(b), which provides:

When the words "includes" or "including" are used in a law, they shall be construed as though followed by the phrase "but not limited to."

7. Limited vs. Not Limited. Consequently, it is not necessary to say "but not limited to" when using "includes" or "including." If you wish to limit the defined term, use the form set out in the above example defining "school board."
8. Alaska Statutes. The first step a drafter must take when considering the use of a definition section in a bill or the addition of a definition to a section that already exists is to check to see if the term in question is already defined in the statutes. A definition of the term might already be in one of the following places:
- 8.1. AS 01.10.055, 01.10.060, or 01.10.065 (definitions for all Alaska Statutes);
- 8.2. the end of the title being amended (usually in the chapter headed "General Provisions");
- 8.3. the end of the chapter being amended (usually the last section); or
- 8.4. the end of the article or group of sections being amended.
9. Location in Code. If a definition applies to only one section of a fairly long bill, it is preferable to put the definition at end of the section of the bill to which it applies. In all other cases, the placement of the definition section should be as described in (2) - (4) above. In rare cases involving widely adopted uniform acts with nationwide implications, definitions have been placed at the beginning of chapters, e.g., the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Interstate Family Support Act.
10. Alphabetized. Within a newly enacted definition section, the terms defined must be alphabetized.
11. Cross References. If a drafter wants to use a defined term that is located elsewhere in the statutes (but not in the title the drafter is amending), the proper form is "---- has the meaning given in AS --.--.--." The drafter must realize, of course, that any future changes in the first definition will be incorporated in the second because of the cross-reference technique, so care must be taken to affirmatively decide that result would be desirable. If the two definitions should be independent, the drafter can simply define the new term with the same words used in the other location rather than use a cross-reference.