



CITY OF SELDOVIA

PO Box B, 245 Dock Street

Seldovia, Alaska 99663

Phone 907-234-7643

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Regular City Council Meeting

Monday, February 10, 2020

6:00PM

Council Chambers
Multi-Purpose Room
260 Seldovia Street
Seldovia, AK 99663

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**AGENDA FOR A REGULAR MEETING
OF SELDOVIA CITY COUNCIL
COUNCIL CHAMBERS**

**Monday
February 10, 2020
6:00pm**

CAMPBELL MORRISON ROJAS NATHAN SWEATT COLBERG
--

- A. Call to Order & Roll Call:
- B. Pledge of Allegiance:
- C. Excused Absences:
- D. Agenda Approval:
- E. Consent Agenda: *(All items under the Consent Agenda are approved with a single motion, no discussion, and one vote. A Council Member may request to remove an item(s) for discussion and a separate vote.)*
 - 1. Approval of Minutes: Minutes of the Regular Meeting, January 27, 2020
 - 2. Payment Approval Report:
 - 3. Ordinance Introduction:
 - 1. ORDINANCE 20-07 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, AMENDING TITLE 3.08 CONSUMER'S SALES TAX TO INCLUDE COLLECTION BY THE ALASKA REMOTE SELLER SALES TAX COMMISSION AND TO REFERENCE TO KPB CODE CHAPTER 5.19 UNIFORM REMOTE SELLER SALES TAX CODE
- F. Mayoral Proclamations:
- G. Public Presentation Prior Notice: (each presenter has up to 10 min)
 - 1. Senator Gary Stevens-
- H. Public Presentation for Items not on Agenda: (public has 3 min each)
- I. Committee and Advisory Board Reports: (each member has 5 min)
- J. Public Hearings:
 - 1. RESOLUTION 20-22 A RESOLUTION DELEGATING AUTHORITY TO IMPLEMENT, ADMINISTER, AND ENFORCE THE PROVISION OF THE UNIFORM CODE TO THE ALASKA INTERGOVERNMENTAL REMOTE SALES TAX COMMISSION, AND SUPPORTING ADOPTION OF KENAI PENINSULA BOROUGH ORDINANCE 2020-03
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
 - 2. ORDINANCE 20-06 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, REPEALING CHAPTER 18.80 CONTRACT ZONING AND AMENDING CHAPTER 18.97 AMENDMENT PROCEDURES
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
- K. Unfinished Business:
- L. New Business:
 - 1. Discussion- Harbor Development Plan
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
- M. Administration Reports:
 - 1. Treasurer's Report: None
 - 2. City Manager's Report: See Laydown
 - 3. Chief of Police Report: None
 - 4. Harbormaster's Report: None
 - 5. Public Works Report: None
- N. Informational Items Not Requiring Action:
 - 1. The next Budget Work Session is scheduled for Monday, February 24, 2020 at 4:00 pm.
- O. Executive Session:
- P. Council and Mayor Comments Concerning Items Not on the Agenda:
- Q. Next Meeting: The next Regular Meeting will be held on Monday, February 24, 2020 at 6:00 pm
- R. Adjournment:

* IF YOU REQUIRE SPECIAL ASSISTANCE TO ATTEND THE MEETING, PLEASE NOTIFY THE CITY OFFICE 24 HOURS IN ADVANCE AND ARRANGEMENTS WILL BE MADE *

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Seldovia City Council Regular Meeting February 10, 2020



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**MINUTES FROM A REGULAR MEETING
OF SELDOVIA CITY COUNCIL
COUNCIL CHAMBERS
Monday
January 27, 2020
6:00pm**

MORRISON ROJAS NATHAN SWEATT COLBERG CAMPBELL
--

- A. Call to Order & Roll Call: PRESENT: COUNCIL MEMBERS: MORRISON, ROJAS, NATHAN, SWEATT, COLBERG, and CAMPBELL

STAFF: CITY MANAGER CAMERON
FINANCE OFFICER TAYLOR
POLICE CHIEF CUSHMAN
CITY CLERK GEAGEL

- B. Pledge of Allegiance: Held
C. Excused Absences: Mayor Lent
D. Agenda Approval:

COLBERG/SWEATT MOVED TO APPROVE THE AGENDA
VOICE VOTE/UNANIMOUS/MOTION PASSED

- E. Consent Agenda: *(All items under the Consent Agenda are approved with a single motion, no discussion, and one vote. A Council Member may request to remove an item(s) for discussion and a separate vote.)*

1. Approval of Minutes: Minutes of the Regular Meeting, January 13, 2020
2. Payment Approval Report:
3. Ordinance Introduction:

1. ORDINANCE 20-06 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, REPEALING CHAPTER 18.80 CONTRACT ZONING AND AMENDING CHAPTER 18.97 AMENDMENT PROCEDURES

SWEATT/COLBERG MOVED TO APPROVE THE CONSENT AGENDA
VOICE VOTE/UNANIMOUS/MOTION PASSED

- F. Mayoral Proclamations: None
G. Public Presentation Prior Notice: (each presenter has up to 10 min) None
1. Louise Stutes, Alaska Representative- Was not able to call-in.
H. Public Presentation for Items not on Agenda: (public has 3 min each)
I. Committee and Advisory Board Reports: (each member has 5 min)

LAUREL HILTS, Lollipop Park Committee- Presented a report as written in the laydown and included that the committee considered what needed repaired and fixed without a high dollar figure and that could be completed by May. The committee would present actual estimates of equipment to consider at a later meeting. She spoke to equipment chosen needing to be created, shipped, and installed and that they looked at different equipment than the bouncy rocking equipment such as a seesaw. She spoke to the desire of the committee for the park to continue to become ADA compliant, which was very expensive. ADA compliant recommendations would be given for the future.

SWEATT- Inquired if there were any problems with extending the fencing.

CM CAMERON- Stated that there were no problems with extending the fence and inquired about the ratio of equipment being replaced to equipment being removed. She spoke to having been in the meeting with Exerplay and of their expertise and assistance.

CAMPBELL- Spoke to wanting to see the upper end of the grant going towards equipment and inquired about relocating the spring toys for the little kids or getting a few more pieces just for the little kids. He spoke to needing to be ready to make a decision on equipment at the next meeting.

SHANNON CUSTER- Spoke to the replacement of spring toys and their longevity. She spoke to age specifications on the equipment and the committee having taken into account that younger kids would have parents to assist them.

She discussed the spacing requirements of equipment and that one of the committee's biggest concerns was accessibility which would need to be addressed in a phased approach. She that moving or changing equipment in the park would become a liability issue for the city.

ROJAS- Inquired about other material than pea gravel and spoke to the nautical theme.

NATHAN- Inquired about moving the equipment instead of the fence.

J. Public Hearings:

1. RESOLUTION 20-20 A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF SELDOVIA, ALASKA, PRIORITIZING CAPITAL PROJECTS IN THE COMMUNITY FOR SUBMISSION TO THE KENAI PENINSULA BOROUGH'S STATE AND FEDERAL PRIORITIES BOOK FOR THE UPCOMING LEGISLATIVE SESSION BEGINNING IN JANUARY 2020- as amended

a. Presentation by Staff or Council

CLERK GEAGEL- Presented the amended Resolution 20-20 prioritizing one capital project, a new road grader, and spoke to the change needed on the resolution on the second whereas from four priorities to one priority which she had on hand for approval.

b. Council Discussion

CAMPBELL- Spoke in support of Resolution 20-20.

c. Public Presentation or Hearing (public has 3 min each)

ACTING MAYOR ROJAS called for public comment and none was heard.

d. Action/Disposition

SWEATT/COLBERG MOVED TO ACCEPT RESOLUTION 20-20
VOICE VOTE/UNANIMOUS/MOTION PASSED

K. Unfinished Business:

L. New Business:

1. Discussion- Remote Sales Tax Code

a. Presentation by Staff or Council

CLERK GEAGEL- Presented a memo and ordinance from the Kenai Peninsula Borough adopting a remote sales tax code. The City of Seldovia was being asked to write a resolution to stay in the sales tax commission and to support the borough and an ordinance to incorporate the online sales tax into municipal code either through reference of the new KPB code as done now in SMC Chapter 3.08 or by incorporating the sales tax code entirely. CM CAMERON- Spoke to participating in the state tax commission and the requirements mentioned above. She spoke to a 120-day timeline, that would end at the end of March, when the online sales tax commission would be ready to accept sales tax and distribute. She spoke to already being in line with the borough and in support of continuing to do so by referencing the KPB online sales tax code that would allow the sales tax commission to collect online sales tax on Seldovia's behalf as the borough did with sales tax currently.

b. Council Discussion

COLBERG- Spoke in support of referencing the borough online sales tax code in the Seldovia Municipal Code.

ROJAS- Spoke in support of referencing the borough online sales tax code in the Seldovia Municipal Code.

SWEATT- Spoke in support of referencing the borough online sales tax code in the Seldovia Municipal Code.

NATHAN- Spoke in support of referencing the borough online sales tax code in the Seldovia Municipal Code.

CAMPBELL- Spoke in support of referencing the borough online sales tax code in the Seldovia Municipal Code and in support of drafting a resolution of support.

c. Public Presentation or Hearing (public has 3 min each)

ACTING MAYOR ROJAS called for public comment and none was heard.

d. Action/Disposition

NO ACTION WAS TAKEN AT THIS TIME

2. Discussion- Alaska Marine Highway System Summer Schedule

a. Presentation by Staff or Council

CM CAMERON- Presented a draft of the AMHS Summer schedule and spoke to the comment period ending on February 3rd, 2020. She asked for council consideration on making a comment to the summer schedule. The summer schedule stated that Seldovia would receive three ferries a week starting in May. The ferry would be the Tustumena which was currently in dry dock and she spoke to the chance that the Tustumena may not make it out of dry dock in a timely manner. She discussed that she had reached out to the chamber president for a statement and had not heard back. She spoke to the generosity of three ferries a week during the summer and inquired about asking the DOT to take the 47 ferries scheduled and ask them to spread them out over the year. She spoke to the schedule for fall not being considered until after the state budget was being developed and that the short period of time didn't allow tourists enough time to plan their travel schedule. She spoke to the redundancy of the summer ferry schedule with the Kachemak Bay Ferry Passenger ferry and the multitude of ways to get to Seldovia during the summer. She spoke to a recent report that came out, Northern Economics Ferry Reshaping Report, that spoke to Seldovia, Ouzinkie, and Port Lions being high-cost low-volume communities and that one of the report's recommendations was to cut Seldovia out completely. She spoke to two-thirds of the AMHS ridership being Alaskan according to another report, the McDowell Group Report 2016.

b. Council Discussion

COLBERG- Spoke to the Tustumena stating that it should be in the gulf and that the Kennicott should be in the Southeast. He spoke to the ferries originally coming in for tourism because of the overcrowding on the peninsula. He spoke in support of a two day a week ferry schedule if the schedule could be spread out. He spoke in support of having twice a month service in winter for December, January, and February and in opposition of having both ferries shut down in the winter at the same time.

ROJAS- Spoke to three times a week ferry schedule being generous and that the Seldovia events were not on the summer schedule events list presented. She inquired if the three times a week schedule was because of the Kodiak and Homer run. She spoke to the ferry system being Seldovia's road and that the community lived for years without a ferry for two months during the winter for maintenance and the budget.

CAMPBELL- Spoke to the DOT not listening to too many of the comments and that them being in the transportation business they should now the communities needs and not need to be told. He spoke to three times a week being generous and in agreement that that it was because the schedule was tied to the existing Homer to Kodiak route. He spoke to being able to substitute days a week for later days in the season as being unrealistic. He also spoke to the union contracts being a huge part of the ferry and the ferry needing a complete gut of the system. He stated that zero ferry was not an option and that the ferry was a lifeline that they rely on. He spoke in support of a one or two day a week schedule and in agreement that there were not too many tourists using the system, it was more locals.

NATHAN- Inquired about data for the ferry ridership and spoke to the major usage of vehicles being local. He spoke to the ferry needing to be optimize for the community, that it was really needed for groceries and lumber. He spoke to the maintenance schedule and that having it scheduled in the winter was more realistic.

SWEATT- Spoke to people being happy with once a week service year-round and to the continuation of the ferry system until all the ferries broke down.

MORRISON- Spoke in interest of seeing the statistics of how often the ferry was weathered in and if that factored into the maintenance schedule. He spoke in support of needing a continuing a ferry service.

c. Public Presentation or Hearing (public has 3 min each)

LAUREL HILTS- Spoke to Seldovia being called the southwest in the summer schedule and to the presentation on Friday with Representative Stutes where the public spoke in agreement of two days a week being enough service for the community. She spoke to there being money for the replacement ferry that needed to be remembered and not mothballed. She spoke in agreement about the fine line between acceptance of a three day a week schedule and asking for less days a week more spread out. She spoke to Cordova's schedule and inquired if the reasoning was arbitrary. She inquired if the contact on the letter was available for people to write-in their public comments and spoke to the Tustumena having come in on every Fourth of July in the past.

d. Action/Disposition

CONSENSUS COUNCIL FOR THE CITY MANAGER TO WRITE A LETTER FOR PUBLIC COMMENT ABOUT THE FERRY SUMMER SCHEDULE

M. Administration Reports:

1. Treasurer's Report: See Laydown

F/O TAYLOR- Presented the financial report as written in the laydown and included that revenue sharing was received in January and would be included in the next report and that DOT's bulk water payment was received at the end of December.

ROJAS- Inquired about the revenue on the pavilion for only being \$100.00.

CM CAMERON- Discussed that the revenue for the pavilion was for the fiscal year from July to now and that the FY19 revenue was \$1,800.00 due mostly to a wedding. She discussed that the liability insurance for the pavilion was \$1180.00 annually, the custodial and administrative cost were about \$700.00 annually, and maintenance and oiling which was every other year was \$1,100.00. Expenses for the pavilion estimated at \$2,400 annually.

2. City Manager's Report: See Laydown

CM CAMERON- Presented the City Manager's Report as written in the laydown and included that the first budget work session would be at 4pm before the next council meeting. She spoke to her trip to Juneau and that the staff had scheduled meetings with Senators and representatives throughout the day, the AML AMHS Caucus requested to speak about the takeaways from the Northern Economics Reshaping Report. Representatives for communities discussed their ferry priorities including: receiving supplies, medical trips, and sports trips for the schools. They discussed that it was their highway and tried to get them to understand that ferry was more than just a report. They also spoke to the Economics Impact Report that tied in the communities of Anchorage and Fairbanks with the ferry. The Caucus requested the veto override and a fast track supplemental be placed into the budget. The veto override did not pass was short 8 votes. They did receive great feedback from the House and the Senate on the consideration of a supplemental budget request, however it would not fix the need now. She spoke to Cordova's lack of ferry service until June, the ferry service was critical to Cordova for their fishing industry with hundreds of thousands of dollars of fish leaving their port in the spring headed for Anchorage and she spoke to the immediate importance of the ferry for Angoon for groceries and supplies. The Caucus was able to see 66% of the Alaska Legislatures on the first day of session and got to prove the level of importance of the ferry. She spoke to Senator Ben Stevens who discussed how complex the issue was and that it took years for the ferry to get this place, they are organizing a work group on how to fix the multi-layered issues that the DOT had. She spoke to the difference it made to have a representative from Seldovia at the Caucus and that there was a lot of representation from the Southeast. Representative Stutes and Senator Stevens were very supportive of everything Seldovia and Senator Stevens was a big proponent for education. Representative Stutes was the Head of the Transportation Committee and the ferry was her priority this session. Representative Stutes was working on an ATV Bill but in light of ferry and fishing industry it probably would not come about this session. She stated the Micciche and Vance voted against the veto override. The MOA's she had been working on were still in development. The last office space in the Seldovia Space was being finished and The Haerle House would be in there in the next couple of months. The LED light project order should be getting to Seldovia that week or the next. She spoke to keeping the economic development piece on the radar and that the Land Development Plan would be presented at the next meeting. The RFP was being advertised for the wastewater infrastructure and an engineering firm would come down Thursday to tour the facility before putting in the bid. There was a lot of excitement with the project as it was a high-end project with a lot of problems which was very exciting for engineers. She spoke to the clerk being involved with the borough on their election process and that herself, John Colberg, and the clerk were a part of the borough's Election Stakeholders Group. She spoke to the census and the clerk being on a committee for the census. There was a mini-grant available for an event that would be held end of March in support of the census. She spoke to the census advertising positions available and that the position would be a great opportunity for the community. She spoke to Governor Dunleavy putting together an Alaska Marine Highway Reshaping Committee and asked for council consideration of her putting her name in the hat for the committee. She spoke to value of having a Southwest representative on the committee and that all travel and incidentals were being paid for by the group. She discussed that she did not know how often they would meet but that recommendations were supposed to be submitted to the Governor by fall 2020. The city department projects were the same as last time. She spoke to the trees hanging over the Airport Road being on a state highway, on state land, and were state trees. She discussed that she had been reaching out to people in the water world, hydrologists, trying to find a group or individual to auger holes throughout reservoir and get some measurements of the water and sludge, the tree down on the way to the reservoir was removed that day. She discussed that she had feelers out for funding for either access to the reservoir or dredging.

SWEATT- Inquired about what was decided about Cordova's schedule. She thanked Cassidi for showing interest in the Ferry Reshaping Committee and discussed the importance of having representation as a coastal community.

CLERK GEAGEL- Spoke to her trip to Homer on Friday to meet with the other clerks in the borough about their upcoming elections. The borough had hired a firm to do a vote by-mail analysis that should be complete in a month. New ADA compliant election equipment would be purchased and put in place by elections 2021 regardless if the borough went vote by mail or stayed traditional, which would include ADA equipment in Seldovia either way. The larger discussion included whether or not Seldovia and the other municipalities wanted to sign a MOA with the borough to share their equipment and resources for upcoming elections on a per capita scale versus municipalities having to purchase their own equipment in the future. Examples of those MOA's should be coming out after the analysis was complete.

ROJAS- Inquired about when the Ferry Reshaping Committee was going to meet and spoke in support of Cassidi being on the committee. She inquired about who was responsible for the trees leaning over Airport Road and spoke to how fast things change up at reservoir, how fast water went down and then filled in a day.

NATHAN- Spoke to wanting to have a council meeting to discuss and come up with a comprehensive agenda for her participation for the Ferry Reshaping Committee if chosen.

3. Chief of Police Report: See Laydown

CHIEF CUSHMAN- Presented as written in the laydown and discussed the data master machine was owned by state by the crime lab, who notified him that it needed to be switched out, which he did and it was no cost to the city. He spoke to the conference he attended as being great and spoke of the benefit of networking with other chiefs in the state. The Department of Law attended the conference and gave updates, trainings, and cutting-edge instruction from around the country.

CAMPBELL- Inquired about the data master machine that was swapped out, whether it was the Crime lab's or something the city had to purchase? He inquired about the conference.

4. Harbormaster's Report: See Laydown

Presented as written in the laydown.

CM CAMERON- Spoke to the x-ray machine being examined by an electrician and being more intricate than expected, they were taking a step back and controlling what they could until it could be revisited. She spoke to Layla being an intrinsic part in getting Seldovia Space up and running, that Layla was really busy getting the docks fixed, and she had spoken to a fabricator about fixing the fingers at the harbor and the dock at Jakolof.

SWEATT- Thanked Layla for her service on the Seldovia Space and spoke to how well it was looking.

5. Public Works Report: See Laydown

Presented as written in the laydown.

COLBERG- Spoke in support of the department getting things inventoried for the summer and inquired if that included the things in the trees by the lower filter building.

CM CAMERON- Spoke to the maintenance staff being a great team and that their biggest priority was organizing and inventorying the shop, they were also going up to the yard and organizing to get ready for the water projects that they knew probably would happen, especially on Anderson Way. She discussed that snow removal had been a learning curve but that they had done a great job.

N. Informational Items Not Requiring Action: None

O. Executive Session: None

P. Council and Mayor Comments Concerning Items Not on the Agenda:

MORRISON- Thanked everyone who attended and stated that he was happy to be there.

NATHAN- Stated that it was a good session and everyone stay warm.

SWEATT- Thanked everyone who attended and the city staff for all their hard work.

COLBERG- Thanked everyone who attended and the staff for their hard work which made their job easier.

CAMPBELL- Thanked everyone who attended, staff for their hard work, and Vivian for leading the meeting.

ROJAS- Thanked everyone and commented that she loved the comments of the council they were always so appreciative. She thanked the staff and public for being there.

Q. Next Meeting: The next Regular Meeting will be held on Monday, February 10, 2020 at 6:00 pm

R. Adjournment:

COLBERG/NATHAN MOVED TO ADJOURN AT 7:40PM

NO OBJECTION/MOTION PASSED

I certify the above represents accurate minutes of City of Seldovia Council meeting of January 27, 2020.

Heidi Geigel, City Clerk

Approved by Council _____

DRAFT



Introduced: City Manager
 Posted:
 Public Hearing:
 Adoption:

**CITY OF SELDOVIA
 ORDINANCE 20-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA,
 AMENDING TITLE 3.08 CONSUMER’S SALES TAX TO INCLUDE COLLECTION BY THE
 ALASKA REMOTE SELLER SALES TAX COMMISSION AND TO REFERENCE TO KPB
 CODE CHAPTER 5.19 UNIFORM REMOTE SELLER SALES TAX CODE**

SECTION 1. CLASSIFICATION. This ordinance is permanent in nature and shall become a part of the Municipal Code of the City of Seldovia.

SECTION 2. AMENDING TITLE 3.08 CONSUMER’S SALES TAX BY REMOVING LANGUAGE IN STRIKEOUT AND ADDING LANGUAGE IN HIGHLIGHT TO READ AS FOLLOWS:

**Chapter 3.08
 Consumer's Sales Tax**

Sections:

- 3.08.010 Sales tax--Levied.
- 3.08.020 Dedication.
- 3.08.030 Collection
- 3.08.040 Borough provisions adopted by reference.

3.08.010 Sales tax--Levied. A consumer's tax in an amount to be set by ordinance as follows:

1st qtr:	2%
2nd qtr:	4.5%
3rd qtr:	4.5%
4th qtr:	2%

is levied by the City on all sales, rents and services within the City except as may be otherwise exempted by law. (Ord. 87-11 Sec. 1, 1987; Ord. 91-02ratified 08/20/1991; Ord. 92-22; Ord. 00-12, ratified 10/3/00)

3.08.020 Dedication. The consumer's sales tax shall go to the general fund (Ord. 87-11 Sec. 1, 1987; Ord. 89-2, 1989, ratified 4/25/89; Ord. 92-22)

3.08.030 Collection. The consumer's sales tax levied by this ordinance shall be collected by the Kenai Peninsula Borough **and the Alaska Remote Seller Sales Tax Commission** as required in AS 29.35.170, in conformance with AS 29.45 and the Kenai Peninsula Borough Code, Title 5. (Ord. 87 11 Sec. 1, 1987)

3.08.040 Borough provisions adopted by reference. A. Except as provided in (b) below, those sections of the Kenai Peninsula Borough Code of Ordinances Title 5, Chapter 18 and Chapter 19, applicable to the levy and collection of sales taxes are incorporated here by reference and made a part of this chapter as though fully set forth. (Ord. 87-11 Sec. 1, 1987)

(b) there shall be no sales tax exemption on nonprepared food. The above sentence does not affect the sales tax exemptions granted under AS 29.45.700. (Ord 09-08 Sec 2, 2008)

SECTION 3. EFFECTIVE DATE. This ordinance becomes effective upon its adoption by the City Council.

ADOPTED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska this ____ day of _____, 2020.

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

Vote:
Colberg-
Campbell-
Morrison-
Rojas-
Nathin-
Sweatt-



Kenai Peninsula Borough

Finance Department

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

THRU: Kelly Cooper, Assembly President ^{KC}
Hal Smalley, Assembly Vice-President ^{(H) for H. S.}

FROM: Brandi Harbaugh, Finance Director ^{BH}
Sean Kelley, Deputy Borough Attorney ^{SK}

DATE: January 9, 2020

RE: Ordinance 2020-03, Amending KPB 5.18 Sales Tax Code and Enacting KPB 5.19 – Uniform Remote Seller Sales Tax Code (Cooper, Smalley)

In order to implement a single-level statewide sales tax administration, numerous local taxing jurisdictions within Alaska banded together to establish an intergovernmental entity known as the Alaska Remote Seller Sales Tax Commission (the "Commission"). This ordinance represents the culmination of a process that began in June of 2019 and is the last step before municipal tax collected by remote sellers can be remitted to the borough through the Commission.

The recent decision by the United States Supreme Court in *South Dakota v. Wayfair* ("Wayfair") allows for the amendment of the sales tax code to account for remote sellers who do not have a physical presence in the borough, but do have a taxable connection with the borough. 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 generally, as well as local infrastructure. The *Wayfair* decision provides guidance that includes the defensibility of a single-level statewide administration of remote sales tax collection and remittance so long as the law is not retroactive in its application and provides a safe harbor to sellers who have limited sales or transactions in Alaska.

There are currently 23 municipalities in Alaska that are members of the Commission. The function and powers of the Commission are set forth in the Alaska Intergovernmental Remote Seller Sales Tax Agreement (the "Agreement"), a cooperative agreement between Commission members.

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January 9, 2020
RE: Ordinance 2020-03

On November 5, 2019, the assembly unanimously passed Resolution 2019-056 authorizing the borough to become a member of the Commission and authorizing the mayor to sign the Agreement on behalf of the borough. Five of the incorporated cities within the borough are members of the Commission. In addition, representatives from the borough, the City of Soldotna, and the City of Kenai also comprise three of the seven Board of Director seats on the Commission.

Under the terms of the Agreement, in order to maintain membership in the Commission, local governments must enact the uniform Remote Seller Sales Tax Code ("Uniform Code") as adopted by the Commission's Board of Directors. The Board of Directors adopted the Uniform Code at its meeting on January 6, 2020. The Uniform Code will govern the collection and remittance of municipal sales tax applicable to remote or internet-based sales. The purpose of the Uniform Code is to comply with guidance in *Wayfair* by providing a statewide threshold criteria, streamlined single-level tax administration for remote sellers, and no retroactive application. The Uniform Code will provide for streamlined remote sales tax collection and remittance process which is necessary to avoid claims that local municipal tax unduly burdens interstate sellers.

This ordinance will adopt the Uniform Code, amend current borough sales tax code for consistency, and authorize the Commission to administer remote sales tax collection and remittance. In light of the *Wayfair* decision, failure to adopt a uniform, streamlined, remote seller sales tax code will jeopardize the ability of the borough and its cities to collect tax on remote sales.

Your consideration of this ordinance is appreciated.



Introduced by:	Cooper, Smalley
Date:	01/21/20
Hearing:	02/25/20
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2020-03**

**AN ORDINANCE AMENDING KPB 5.18 SALES TAX CODE AND ENACTING KPB
5.19 UNIFORM REMOTE SELLER SALES TAX CODE**

WHEREAS, the inability to effectively collect sales tax on sales of personal property, products or services transferred or delivered into Alaska by sellers who do not have a physical presence in the borough (“remote seller”) is eroding the sales tax base of Alaska communities and resulting in revenue losses that are causing imminent harm to residents through the loss of critical funding for local education; and

WHEREAS, the harm from the loss of revenue is especially problematic in Alaska because the state has no broad-based sales tax, and sales tax revenues are essential in funding the provision of services by local governments; and

WHEREAS, the failure to collect tax on remote sales creates artificial market distortions and competitive advantages for remote sellers by perpetuating tax shelters for businesses that limit their physical presence in the state or its municipalities but still sell goods and services to local consumers without collecting sales tax, something that becomes easier and more prevalent as technology continues to advance; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, combined with the general growth of online retail sales, means that the erosion of the sales tax base is a growing problem that will only worsen in the near future if the borough is not able to legally collect remote seller sales tax within the framework of current United States Supreme Court case law; and

WHEREAS, the failure to effectively collect sales tax on remote or internet-based sales results in the creation of incentives for businesses to avoid a physical presence in the borough, resulting in less jobs and increasing the share of taxes paid by those consumers who buy from competitors with a physical presence in the borough; 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 generally, as well as local infrastructure; and

WHEREAS, the recent decision by the United States Supreme Court in *South Dakota v. Wayfair* (“*Wayfair*”) allows for the amendment of the sales tax code to account for remote sellers who do not have a physical presence in the borough, but do have a taxable connection with the borough; and

WHEREAS, the *Wayfair* decision provides guidance that includes the defensibility of a single-level statewide administration of remote sales tax collection and remittance so long as the law is not retroactive in its application and provides a safe harbor to sellers who have limited sales or transactions in Alaska; and

WHEREAS, in order to implement a single-level statewide sales tax administration, numerous local taxing jurisdictions within Alaska worked together to establish an intergovernmental entity known as the Alaska Remote Seller Sales Tax Commission (the “Commission”); and

WHEREAS, currently 23 municipalities in Alaska are members of the Commission; and

WHEREAS, the function and powers of the Commission are set forth in the Alaska Intergovernmental Remote Seller Sales Tax Agreement (the “Agreement”), a cooperative agreement between Commission members; and

WHEREAS, as part of the process to implement a remote seller sales tax code and pursuant to Resolution 2019-056, the borough signed the Agreement and is currently a full member of the Commission; and

WHEREAS, five of the incorporated cities within the borough are members of the Commission; and

WHEREAS, representatives from the borough, the City of Soldotna, and the City of Kenai also currently hold three of the seven Board of Director seats on the Commission; and

WHEREAS, under the terms of the Agreement, in order to maintain membership in the Commission, local governments must enact the Uniform Remote Seller Sales Tax Code (“Uniform Code”) as adopted by the Commission’s Board of Directors;

WHEREAS, the Board of Directors adopted the Uniform Code at its meeting on January 6, 2020; and

WHEREAS, the Uniform Code will govern the collection and remittance of municipal sales tax applicable to remote or internet-based sales; and

WHEREAS, the purpose of the Uniform Code is to comply with guidance in *Wayfair* by providing statewide threshold criteria, streamlined single-level tax administration for remote sellers, and no retroactive application; and

WHEREAS, the Uniform Code will provide for streamlined remote sales tax collection and remittance process which is necessary to avoid claims that local municipal tax unduly burdens interstate sellers; and

WHEREAS, this ordinance will adopt the Uniform Code, amend current borough sales tax code for consistency, and authorize the Commission to administer the remote sales tax collection and remittance for the borough; and

WHEREAS, this is the culmination of a process that began in June of 2019 and is the last step before municipal tax collected by remote sellers can be remitted to the borough through the Commission; and

WHEREAS, in light of the *Wayfair* decision, failure to adopt a uniform, streamlined, remote seller sales tax code will jeopardize the ability of the borough and its cities to collect tax on remote sales;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 5.18.450(A) is hereby amended as follows:

5.18.450. - Tax jurisdiction Point of Taxation.

A. The rate of tax to be added to the sale price is based on the place of sale. The place of sale of goods and merchandise is the location of the [RETAIL OUTLET] physical presence at which or from which delivery was made. This provision applies to goods delivered to buyers within the borough and to goods delivered to buyers outside the borough but within the state of Alaska. If the invoice includes a charge for installation, then the place of the sale for the goods and service is the retail outlet at which or from which delivery was made. When goods are delivered into the borough from a point outside of the borough and the seller maintains an ongoing physical presence in the borough, then the location of the seller's in-borough presence will determine the place of sale. [IF A SELLER HAS NO ONGOING PHYSICAL PRESENCE IN THE BOROUGH BUT HAS ESTABLISHED NEXUS WITH THE BOROUGH, THE POINT OF DELIVERY WILL DETERMINE THE PLACE OF SALE. IF THE SELLER HAS NO ONGOING PHYSICAL PRESENCE IN, OR NEXUS WITH, THE BOROUGH THE SALE IS NOT SUBJECT TO THE BOROUGH SALES TAX. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS ARE DEFINED AS SHOWN BELOW:

1. "NEXUS" MEANS THE SELLER HAS ESTABLISHED A TAXABLE CONNECTION WITHIN THE BOROUGH BY USE OF MARKETING TECHNIQUES, SUCH AS DIRECTED ADVERTISING IN THE BOROUGH VIA TELEPHONE OR INTERNET, OR DOOR-TO-DOOR SALES WITHIN THE BOROUGH, OR BY USE OF CONTRACT WORKERS OR CONTRACT OR COMMISSION AGENTS OR BUSINESSES, WHICH ARE ASSOCIATED WITH THE SELLER'S EFFORTS TO ESTABLISH OR MAINTAIN A MARKET FOR ITS GOODS OR SERVICES, DELIVER THOSE GOODS OR SERVICES, OR PROVIDE WARRANTY OR OTHER REPAIR OR RETURN SERVICES IN THE BOROUGH.

2. THE "POINT OF DELIVERY" WHERE THERE IS NO ONGOING PHYSICAL PRESENCE IN THE BOROUGH IS THE PLACE WHERE PHYSICAL POSSESSION OF THE GOODS IS TRANSFERRED TO THE CUSTOMER.]

...

SECTION 2. That KPB 5.18.680 is hereby enacted as follows:

5.18.680 Uniform Remote Seller Sales Tax Code

Sellers with no physical presence in the borough that have remote or internet-based sales in the borough and sellers with a physical presence in the borough that have remote or internet-based sales within other taxing jurisdictions in Alaska are subject to KPB 5.19 instead of KPB 5.18.

SECTION 3. That KPB 5.19 is enacted as follows:

KPB 5.19. Uniform Remote Seller Sales Tax Code

5.19.010. 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.

5.19.020. 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.

5.19.030. 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, single unit sales, and exemptions.
- F. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered, based on the 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.

5.19.040. 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.

5.19.050. 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.

5.19.060. 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.

5.19.070. 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.

5.19.080. 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:

<u>Quarter 1 (January – March)</u>	<u>April 30</u>
<u>Quarter 2 (April – June)</u>	<u>July 31</u>
<u>Quarter 3 (July – September)</u>	<u>October 31</u>
<u>Quarter 4 (October – December)</u>	<u>January 31</u>

- 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.

5.19.090 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.

5.19.100. 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.

5.19.110. 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.

5.19.120. 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.

5.19.130. 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.

5.19.140. 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.

5.19.150. 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.

5.19.160. 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.

5.19.170. 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.

5.19.180. 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.

5.19.190. 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.

5.19.200. 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.

5.19.210. 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.

5.19.220. 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 by 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.

5.19.230. 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.

5.19.240. 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.

5.19.250. Definitions.

For purposes of this chapter, the following definitions shall apply:

“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 any one or more of 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; or
- 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 transfer of property for consideration 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.

5.19.260 Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at www.arsstc.org. Provisions of the Supplemental Definitions that are amended, deleted, or added prior to or after the effective date of the latest amendment to this chapter shall be applicable for purposes of this chapter on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 4. That the Alaska Intergovernmental Remote Sales Tax Commission is hereby authorized to implement, administer, and enforce the provisions of KPB 5.19 Uniform Remote Seller Sales Tax Code. This authority remains in full force and effect until the assembly revokes this authorization or otherwise withdraws from the Alaska Remote Seller Sales Tax Commission.

SECTION 5. This ordinance is effective March 1, 2020.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:



**CITY OF SELDOVIA
RESOLUTION 20-22**

A RESOLUTION DELEGATING AUTHORITY TO IMPLEMENT, ADMINISTER, AND ENFORCE THE PROVISION OF THE UNIFORM CODE TO THE ALASKA INTERGOVERNMENTAL REMOTE SALES TAX COMMISSION, AND SUPPORTING ADOPTION OF KENAI PENINSULA BOROUGH ORDINANCE 2020-03

WHEREAS, the City of Seldovia became a member of the Alaska Remote Seller Sales Tax Commission (“the Commission”) with the passage of Resolution 2020-14 (adopted October 28, 2019); and

WHEREAS, the purpose of the Commission is to implement a single-level statewide sales tax administration, for the collection and remittance of sales tax for goods and services sold by remote sellers (i.e. internet orders); and

WHEREAS, per the Alaska Intergovernmental Remote Seller Sales Tax Agreement, each member municipality must adopt the Alaska Uniform Remote Seller Sales Tax Code as adopted by the Commission’s Board of Directors (“Uniform Code”); and

WHEREAS, the Commission adopted the Uniform Code on January 6, 2020; and

WHEREAS, the Kenai Peninsula Borough has proposed adopting the Uniform Code by Kenai Peninsula Borough Ordinance 2020-03, which will amend Title 5 of the Kenai Peninsula Borough Code of Ordinances; and

WHEREAS, Section 3.08.040 of the Seldovia Municipal Code incorporates Title 5 of the Kenai Peninsula Borough Code of Ordinances as if fully set forth in the Seldovia Municipal Code; and

WHEREAS; Section 4 of Ordinance Kenai Peninsula Borough Ordinance 2020-03 authorizes the Commission to implement, administer and enforce the provisions of the Uniform Code on behalf of the Borough.

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

Section 1. That the City of Seldovia concurs in the Kenai Peninsula Borough’s authorization and delegation of authority to the Alaska Intergovernmental Remote Sales Tax Commission to implement, administer and enforce the provisions of the Uniform Code on behalf of the City of Seldovia.

Section 2. That the City of Seldovia supports adoption of Kenai Peninsula Borough Ordinance 2020-03.

Section 3. This resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia on this 10th day of February, 2020.

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

Yes:
No:
Absent:

DRAFT



Introduced: Planning
 Posted:
 Public Hearing:
 Adoption:

**CITY OF SELDOVIA
 ORDINANCE 20-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA,
 REPEALING CHAPTER 18.80 CONTRACT ZONING AND AMENDING CHAPTER 18.97
 AMENDMENT PROCEDURES**

SECTION 1. CLASSIFICATION: This ordinance is permanent in nature and shall become a part of the Municipal Code of the City of Seldovia.

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

SECTION 3. ENACTMENT: REPEALING CHAPTER 18.80 CONTRACT ZONING AND AMENDING CHAPTER 18.97 AMENDMENT PROCEDURES BY REMOVING LANGUAGE IN STRIKEOUT AND ADDING LANGUAGE IN HIGHLIGHT TO READ AS FOLLOWS:

**Chapter 18.80
 Contract Zoning**

Sections:

~~18.80.010 Intent.~~

~~18.80.020 Procedures.~~

~~**18.80.010 Intent.** It is the intent of this section to provide a means of insuring that the type of land use proposed in a rezoning request is the one which occurs if the rezoning is granted. "Contract zoning" means a zoning reclassification to a less restricted use when the owner of the rezoned property, either through an agreement with the Council or a covenant in favor of the City, places restrictions on the use of the land beyond the zoning requirements generally attaching to the new distinct in which the property has been placed.~~

~~**18.80.020 Procedures.** A. A petition for contract zoning shall be submitted to the City Manager. The applicant's petition shall contain detailed information on the proposed development and use of the land. Proposed covenants, guarantees or other forms of agreement to assure the development and use of the land as proposed shall also be submitted. A time schedule for the development and use shall be included with the petition.~~

~~_____ B. _____ The City Manager shall present the petition to the City Planning Commission. The City Planning Commission may consider the petition upon finding that:~~

1. The proposed land use is beneficial to the public interest and can be developed in a manner to be compatible with development in adjacent zoning districts.

2. Existing public facilities, services and utilities can accommodate the proposed use without any detrimental effect on adjacent zoning districts.

3. Rezoning accomplished under this section does not constitute "spot zoning."

4. Unrestricted rezoning to a district ordinarily permitting the proposed use would permit other uses that would not be compatible with the adjacent land use.

C. The City Planning Commission may reject, modify or accept the applicant's proposals submitted under subsection A of this section. If the applicant agrees, in writing, to the City Commission's acceptance or modification of the applicant's proposal, the Commission shall initiate an ordinance for amendment to the City Council. Action taken by the Commission pursuant to this section shall not be construed to limit the Commission's authority to reject or modify the applicant's proposal during the zoning ordinance amendment process.

D. The applicant may appeal a City Planning Commission action pursuant to subsection C of this section as provided in Chapter 18.92.

Chapter 18.97 Amendment Procedures

Sections:

18.97.005 Initiation of Zoning Code and Official Map Amendments.

18.97.010 Amendment Procedure.

18.97.005 Initiation of Zoning Code and Official Map Amendments. A. Amendments to the Seldovia Zoning Code and Official Map may be initiated by:

1. The Seldovia City Council;
2. The Seldovia Planning Commission;
3. Submission of a petition by a majority of the property owners in the area to be amended;
4. By Petition bearing the signatures of 50 registered voters within the City.

B. A proposed amendment to the zoning code with is substantially the same as any other proposed amendment submitted within the previous twelve (12) months and which was not approved shall not be considered.

C. The zoning amendment request shall include the names and addresses of the applicant, the name of each record owner with the legal description and Borough tax parcel number of each lot that is the subject of the proposed amendment, a statement of justification, a map showing the lots comprising the area that is the subject of the proposed amendment, the present and proposed zoning, a nonrefundable fee as set forth in the Seldovia Fee Schedule adopted by the City Council, and any other pertinent information requested by the City.

18.97.010 Amendment Procedure. A. Amendments to this Zoning Code shall be adopted by the City Council in accordance with procedures and provisions as provided in Chapter 18.96. A completed application, as described in this section, shall be submitted to the administrative official. The administrative official shall schedule a public hearing and make notification arrangements.

B. The City Planning Commission shall hold a public hearing in accordance with the procedures and provisions as provided in Chapter 18.96 and shall consider and determine:

~~B. The City Planning Commission shall study any application for an amendment and will consider and determine:~~

1. The need and justification of the proposed amendment;
 2. Whether the proposed amendment is in conformance with the Comprehensive Plan or will further the purposes of the Plan;
 3. The effect of the proposed change on surrounding properties or the area; and
 4. The amount of undeveloped land in the general area having the same district classification as that requested by the proposed amendment.
5. Will it be reasonable to implement and enforce;
 6. Will it promote the present and future public health, safety, and welfare;
 7. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

C. The Commission shall, upon public hearing, forward its written recommendation to the Seldovia City Council, along with an excerpt of the Commission minutes showing the consideration of the proposal, all public testimony on the proposal, and public records relating to the proposed amendment.

D. The Seldovia City Council in accordance with the provisions of the Seldovia Municipal Code, may or may not adopt the amendment as a City ordinance.

SECTION 4. EFFECTIVE DATE. This ordinance becomes effective upon its adoption by the City Council.

ADOPTED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska this ____ day of _____, 2020.

ATTEST:

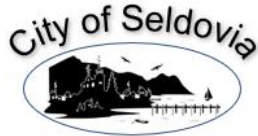
APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

Vote:
Colberg-
Campbell-
Morrison-
Rojas-
Nathan-
Sweatt-

DRAFT



www.cityofseldovia.com

P.O. Drawer B Seldovia, Alaska 99663 Phone: (907) 234-7643, Fax: (907) 234-7430 email: cityclerk@cityofseldovia.com

**ZONING AMENDMENT
APPLICATION PETITION**

FEE: \$150.00

(A map of the areas involved is required)

Name of Owner(s)/Petitioner(s): _____

Legal description of lot/lots covered by this application (use additional sheets if necessary) : _____

Request District Change: From Zone: _____
To _____ zone.

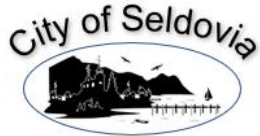
Description of neighboring land use: _____

The need and justification of the proposed amendment: _____

Please provide written narrative explaining the following (use additional sheets if necessary):

1. How is the proposed change beneficial to the public interest? _____

2. How is the proposed change compatible with surrounding zoning districts and the established land use pattern? Would it permit uses not compatible with adjacent land use? _____



www.cityofseldovia.com

P.O. Drawer B Seldovia, Alaska 99663 Phone: (907) 234-7643, Fax: (907) 234-7430 email: cityclerk@cityofseldovia.com

3. Are public facilities such as schools, utilities and streets adequate to support the proposed change? _____

4. How does the proposed use not constitute spot zoning? _____

Petitioners:

Signature: _____
Name: _____
Address: _____

Signature: _____
Name: _____
Address: _____

Owner of: _____

Owner of: _____

Signature: _____
Name: _____
Address: _____

Signature: _____
Name: _____
Address: _____

Owner of: _____

Owner of: _____

Date Received: _____ For City Office use only
Receipt No: _____ P&Z Approval: _____
Public Hearing: _____ Attest: _____



SELDOVIA HARBOR SMALL BUSINESS PROPOSAL/CONCEPT



The harbor serves as a gateway and first impression to our incredible community set in picturesque Alaska. The City of Seldovia owns Lots 4, 5, 6 Block 10 on the waterfront north of the Gateway Pavilion.

This area currently serves as long term parking for the community and is mostly vacant throughout the year. The council designated lot 5, block 10 up for economic development in August of 2019 under Ordinance 20-01 which amended chapter 10.16.030 Thirty Day Parking:

“Lots 5 & 6, Block 10 Urban Renewal area shall be designated “thirty Day Parking” and may be considered for economic development as found applicable to the City of Seldovia.”

These lots would be an ideal location for visitors to be introduced to the resourceful, idyllic setting while visiting a straight forward charming storefront. Small, quaint, temporary buildings that would serve as retail/business space in Seldovia’s busiest season. A small business storefront concept will add to the distinctiveness to downtown Seldovia while contributing to the sales tax base, create economic opportunities and complementing the existing business Community along the Commercial Marine Zone.



Project Goals:

- Contribute to Seldovia's economic base by creating commercial opportunities for individuals and business owners in the form of low risk, low overhead, retail and business space for lease/rent on city properties by the harbor
- The commercially leased buildings will create a vibrant storefront vibe that will be noticeable from the water and Main Street
- The concept is in line with the City of Seldovia's Comprehensive Plan in the following ways:
 - **City parcels will be strategically used for maximum community benefit** (page 25 COS Comprehensive Plan)
 - **Develop Seldovia's Workforce** (page 26 COS Comprehensive Plan): *Residents see the need to retain and grow new locally-owned and operated business that circulate money and make the community more livable and vibrant.*
 - **Maximize Seldovia's working and commercial waterfront** (page 27 COS Comprehensive Plan): *The City of Seldovia owns key waterfront parcels, tidelands, and infrastructure that residents believe need to be carefully stewarded, leveraged, and maximized in support of marine-dependent activities and sustained city revenue.*
 - **Enhance tourism** (page 27 COS Comprehensive Plan): *Residents expressed a strong desire to strengthen Seldovia's tourism sector by enhancing visitor's experiences for 4-hour, day trip, and multi-day experiences to a tipping point where most visitors feel the extra time and money it takes to visit Seldovia is well worth the investment. Although private sector has a major role to play in advancing tourism, residents see the City as taking an essential role in enhancing and maintaining iconic features, creating visitor friendly walking routes and public spaces, enabling access to outdoor attractions, and providing incentives and flexible support to locally based tourism operations.*

Timeline: Ready for Spring of 2021

Location: North side of pavilion, water's edge

Investment/Expense Strategy \$25,000:

- Appropriate from Fund Balance – with the following repayment strategy
 - 3% of annual sales tax revenue remitted back to AMLIP account until expense is repaid. Historical annual sales tax revenue:
 - FY18: \$132,921 (3% = \$3,988)
 - FY19: \$156,846 (3% = \$4,705)
 - Rents on investment will be based on total capital outlay; rents will go towards repaying principal investment

Low Risk Investment: buildings would be easily turned over for other uses or sell outright if desired outcomes are not met

Financing opportunities for entrepreneurs through KPEDD Microloan Program, sweat equity possibility



Vision Concept:

2 buildings initially

16 x 16 Shed Structure

Trimmed out

No water/sewer service initially, see what outcomes arise out of first two-three years

Temporary placement on skidders– placed in the spring removed in the fall; store in locked city lot east side of town

Initial design and construction – Advertise Request for Proposals

Outside color scheme to be decided – simple color scheme

Beadboard/Wainscot Paneling on inside

Explore simple electrical delivery – off of existing power on lot

Sidings: Duratemp, Vinyl, or Locally milled Spruce

Paint Color Options

Single and/or Double Doors

Windows

Z Shutters

Flower Boxes

BUSINESS POSSIBILITIES:

Adventure & Ecotourism

Bike Rentals

Kayak, Paddle Board Rentals

Retail & Shopping

Arts, Crafts & Gifts

Clothing, Outdoor Wear & Shoes

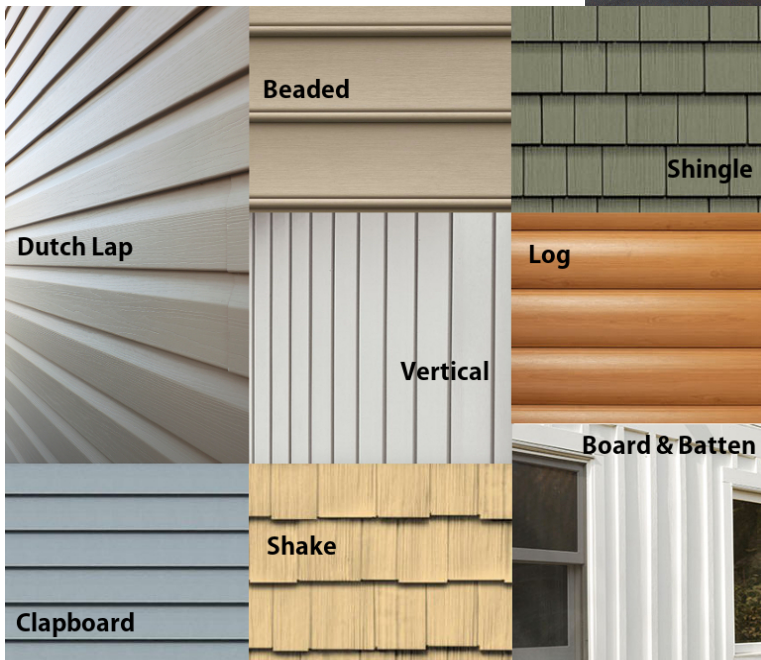
General Merchandise

Sporting Goods, Equipment & Rentals

Others???



5' Flex Ramp/Boardwalk Style Ramp





Vinyl Siding Colors



vary in appearance

Shingles



Sterling Supply LLC
 38335 Rydberg St
 Sterling, AK 99672 US
 907-953-4402
 contact@sterlingsheds.com
 sterlingsheds.com

Estimate



ADDRESS
Bobbi

ESTIMATE #	DATE	EXPIRATION DATE
1011	02/03/2020	02/03/2020

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
10x16 Cabin	10x16 Cabin comes with: 2x4 construction 8' walls 4' porch 3' walkdoor 2x3 window 10 year urethane/stain	1	4,835.00	4,835.00T
Delivery to Port in Homer	Charges are approximate. Per building if more then one. 10' wide buildings only.	1	180.00	180.00
10x20 Cabin	10x20 Cabin comes with: 2x4 construction 8' walls 4' porch 3' walkdoor 2x3 window 10 year urethane/stain	1	5,650.00	5,650.00T

SUBTOTAL	10,665.00
TAX	15.00
TOTAL	\$10,680.00

Accepted By

Accepted Date