

CITY OF SELDOVIA

PO Box B, 245 Dock Street

Seldovia, Alaska 99663

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Regular City Council Meeting

Monday, February 24, 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 24, 2020
6:00pm**

COLBERG CAMPBELL MORRISON ROJAS NATHAN SWEATT
--

- 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, February 10, 2020
 - 2. Payment Approval Report:
 - 3. Ordinance Introduction:

- F. Mayoral Proclamations:
- G. Public Presentation Prior Notice: (each presenter has up to 10 min)
- 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. 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 KPB CODE CHAPTER 5.19 UNIFORM REMOTE SELLER SALES TAX CODE
 - 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- ORDINANCE 20-08 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, ADOPTING SECTION 10.06.025 AND AMENDING SECTION 10.08.040 TO INCLUDE LANGUAGE REQUIRING HELMETS FOR MINOR PERSONS OPERATING ALL-TERRAIN VEHICLES AND SNOWMOBILES- DRAFT
 - 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:
 - 2. City Manager's Report: See Laydown
 - 3. Chief of Police Report:
 - 4. Harbormaster's Report:
 - 5. Public Works Report:

- N. Informational Items Not Requiring Action:
 - 1. The next Budget Work Session is scheduled for Monday, March 09, 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, March 09, 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 24, 2020

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**MINUTES FROM A REGULAR MEETING
OF SELDOVIA CITY COUNCIL
COUNCIL CHAMBERS
Monday
February 10, 2020
6:00pm**

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

STAFF: CITY MANAGER CAMERON
CITY CLERK GEAGEL

- B. Pledge of Allegiance: Held
C. Excused Absences: None
D. Agenda Approval:

ROJAS/COLBERG 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 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

ROJAS/SWEATT 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)

1. Senator Gary Stevens- Presented a summary of what was happening in Juneau right now. The big issues were AMHS, the budget, and education. He spoke to the districts that he represented and the impact from the AMHS budget cuts to those communities. He discussed that the governor was backing down on some of the issues and legislatures were hoping to have a little more leeway. He spoke to there being no ferries in the water due to poor planning and ferries needing maintenance. He spoke to funds being put in every year to replace the Tustumena, but more being needed. He spoke to cuts in the Governor's budget last year being 41%, and that this year he was presenting a level funded budget. He spoke to services that needed to be paid for that they were unable to pay, like Medicare, and that there would be a supplemental budget up towards \$250,000,000, normally they are not that high. Fires and emergencies like the earthquake would be included in the supplemental budget. He spoke to chairing the education committee and the main bill they trying to pass was Bill 6, to help improve reading skills in schools. Alaska was 50th in the nation for reading and they were hoping to increase those numbers by putting more people into the schools to help teachers teach reading as they should be and that the university was providing the education that it needed to teach new teachers so that they are up on their reading skills. Another bill was trying to work with tribes on a tribal consortium, that was a bill that was going to take a long time, they were trying to bring tribes to the table to improve k-12 education and they had heard from several tribes who were interested in trying to improve education for their kids. He spoke to the Ferry Reshaping Work Group having one Senator and one Representative and that the rest would be from the industry. He spoke to being hesitant that privatization would work for the ferry and spoke to subsidization. He spoke to having seen a disregard to ships' maintenance as one way to kill the system and that only two senators in the majority were pushing for ferry, and some in the minority, but that the coastal communities were only about ten percent of the legislature. He spoke to the veto override for the \$5 million in ferry

budget having failed. He spoke to the Governors original budget cuts would have led to the closure of all community colleges and maybe even the Southeast campus, but they were able to get him to back down on that. He spoke to the major decrease in enrollment in the University and the loss of Anchorages accreditation for the School of Education. He spoke to one thing being considered was raising the head tax to education and increasing the fuel tax to help maintain and improve roads. He spoke to the fortune of having a \$65,000,000 fund that in a few years would be \$100,000,000. No other state was so fortunate and was it was at \$100,000,000 the state could take 5% out without damaging the fund. He spoke to income tax and having no intention of supporting an income tax to get a bigger dividend. He spoke to wanting to hear if there was support for an income tax and to not knowing if there were any disaster funds available for communities with a loss of ferry service. He spoke to the loss of the school in Kahtovik being an emergency disaster, insurance would help replace it but there would be three or four years with no school. He discussed that the public would have a chance to weigh in on whether they supported a decrease of tax credits to oil companies.

CAMPBELL- Inquired about updates on the Ferry Reshaping Working Group and finding a long-term solution to fix AMHS. He spoke in opposition of privatization and in support of some subsidy, like the bus system.

ROJAS- Spoke to the Senator's words of dependable service and to the loss of service to Seldovia over the years with the maintenance schedule and repairs. She spoke in opposition of losing ferry service for more than two months. She inquired about the state of the University of Alaska, discussed that attendance had gone down, and inquired about education funding including k-12.

SWEATT- Inquired about there being no revenue stream being mentioned or any mention of capping the permanent dividend fund. She spoke in support of Senator Stevens presenting to the council once a month.

MORRISON- Inquired about state looking into funding villages that were going to be in a critical state with no AMHS service and if those communities could apply for an emergency disaster fund.

LAUREL HILTS, resident- Spoke in support of an income tax for the State of Alaska.

H. Public Presentation for Items not on Agenda: (public has 3 min each)

LAUREL HILTS, resident- Discussed that the Seldovia Chamber of Commerce had met that week, the marketing committee would meet the following day to look at updating the brochure and the walking map. The walking map gets distributed in the community and the brochure was distributed through the state. There was also radio advertising available for the community that takes place in Anchorage as part of a Sport Fishing Report. She spoke to the Chamber's advertising in the ATI, a travel Alaska organization that was a state tourism guide, and that they had a little narrative on their website. The radio advertisement was a great example of partnering with businesses. The radio ran four different advertisements that rotated with different businesses featured from Seldovia. She spoke to the Chamber establishing a fundraising committee that would bring forward some ideas for fundraising and she spoke to the upcoming Valentine holiday.

ROJAS-Inquired if the Chamber had wrote into AMHS about what events and activities they had.

CM CAMERON- Spoke to having attached the city events to the AMHS comments and spoke to the Booster Club having a fundraiser dinner on Valentines.

I. Committee and Advisory Board Reports: (each member has 5 min)

LAUREL HILTS, Lollipop Park Committee- Presented equipment recommendation from the Lollipop Work Committee. They recommended a climbable dome that was accessible for ages 2-12, very sturdy, colorful, and simple. The long-term vision was to have tentacles painted and sealed on the dome to fit the nautical theme. She spoke to the recommended of a seesaw as an engageable piece and that pricing allowed for addition items like interactive panels. She presented a map of equipment placement with new equipment placement in green and interactive panels along the fence. She spoke to the recommendation of interpretative signs and recommended putting out an RFP for artwork from a few artists in town. She spoke to pricing for signs from the pavilion including printing from Northwest sign being included in the sign estimate. She spoke to pea gravel being needed throughout and the importance of benches for parents and guardians. She spoke to moving the fence towards harbor to allow for ample room for the seesaw. She discussed that she could bring back concerns and question to the representative and who would speak to them.

CAMPBELL- Inquired if the seesaw had to have 4 people or if it could be used with 2 people. He spoke to playground equipment having to meet industry standards before getting into the mainstream and that time was sensitive. He discussed that he would like them to be prepared to order in the next thirty days. He spoke in support of having a local artist do the artwork and discussed Costco being an option for having the actual media printed.

SHANNON CUSTER, Lollipop Park Committee- Spoke to the seesaw being recommended being the more expensive model, but was ADA accessible and sturdier. She spoke to the colors desired not being represented in the

presentation and that they would be more aesthetically pleasing. She spoke to supervision being important and the inherit risks.

SWEATT- Inquired about lifespan of equipment.

MORRISON- Spoke in opposition of the climbing holes on the dome, stating that they were a big danger. He inquired about the purchase of the sign not being settled.

DIANNE GRUBER, Lollipop Park Committee- Spoke to the climbable dome, stating that it was not very big, was intended little guys, but sturdy enough for big kids. She spoke to the holes that the kids could go through being close to the ground and that the goal of the sign was to have a local artist.

CM CAMERON- Inquired about lead time for getting the equipment ordered and stated that there was one ferry scheduled in April.

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

CLERK GEAGEL- Presented Resolution 20-22 supporting and aligning with the Kenai Peninsula Borough as Seldovia's taxing authority.

b. Council Discussion

CAMPBELL- Spoke in support of Resolution 20-22.

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

MAYOR LENT called for public comment and none was heard.

d. Action/Disposition

CAMPBELL/ROJAS MOVED TO APPROVE RESOLUTION 20-22
VOICE VOTE/UNANIMOUS/MOTION PASSED

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

CLERK GEAGEL- Presented Ordinance 20-06 updating Seldovia's amendment procedures by repealing the outdated chapter 18.80 Contract Zoning and amending chapter 18.97 Amendment Procedures to more accurately define the process, as recommended by the Planning Commission. The ordinance was followed by a zoning amendment application petition asking for the information required in the amendment and an application fee of \$150.00 dollars. She spoke to one property requesting to be rezoned being spot zoning which was not allowed, three properties or more would be needed to rezone.

b. Council Discussion

CAMPBELL- Spoke to the petition engagement wording for the majority of property owners in the affected area, and spoke in support of the \$150 dollar application fee.

CM CAMERON- Spoke to petition engagement wording for the majority of property owners in the affected area.

NATHAN- Inquired if the petition was based on owners or properties and spoke in support of the \$150 dollar application fee.

SWEATT- Spoke to a spelling error in 18.97.005B and spoke in support of the \$150 dollar application fee.

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

RADZY- Inquired about rezoning one property.

d. Action/Disposition

CAMPBELL/SWEATT MOVED TO ADOPT ORDINANCE 20-06
VOICE VOTE/UNANIMOUS/MOTION PASSED

K. Unfinished Business: None

L. New Business:

1. Discussion- Harbor Development Plan

a. Presentation by Staff or Council

SWEATT- Presented a proposal for two small buildings to be placed in the harbor parking lot. The buildings would start to be built in February with a six-month lead. She spoke to not knowing ferry freight charges because ferry prices had not been decided as of yet. She spoke to the city not moving forward with projects over last twenty years and asked for council to consider to move forward with this project, taking money from different pots. She discussed that if the project did not work the buildings could be sold and the City could make that money back. The opportunity had not been advertised but a handful of people had spoken in interest. She spoke to not having enough timeline to have them be used this year but that people could look at them and have leases signed at the end of summer for next year. She discussed that there would be no water and sewer to start and that they would look at bead paneling for the inside. She spoke to the style of the cabins, roof options and dimensions.

CM CAMERON- Spoke to the proposal and presented a quote for \$10,000 for two cabins on skids, they would be able to be moved. She spoke to the month and a half lead time and asked for council consideration to appropriate \$25,000 for the project as laid out in the proposal, which would include an electric tie for the pavilion. She spoke to the project tying in with the comprehensive plan for economic development and discussed that one payment method would be a 3% payback along with rents from the investment annually until the initial investment was paid back. The money would come from the fund balance and she recommended having a payback plan. She spoke to loan options through KPEDD being for individuals not municipalities.

b. Council Discussion

ROJAS- Inquired about the payment options through KPEDD. She spoke in support of the buildings being more like what was presented on page 58, and in support of the HEA pedestal that included the pavilion. She spoke in appreciation of the work on the proposal and being in line with the economic plan. She spoke to the Seldovia Space having brought in people and discussed having letters of interest from interested parties.

NATHAN- Inquired if there were potential users for the buildings and spoke to having more firm proposals from people interested. He discussed having the buildings be more open for use than just the harbor, they could be used for the airport.

CAMPBELL- Spoke in support of the project and spoke to the details needing worked out such as plumbing and electric. He spoke to the Seldovia Space concept as an example of what could happen at the harbor, if they come up with the space it will get used. He spoke in support of the open gable front and style presented on page 58 and that the rentals would be for shorter terms, summer leases.

MORRISON- Inquired about the lease price on the buildings per month.

COLBERG- Spoke in support of the project.

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

LAUREL HILTS, resident- Spoke in support of forward thinking and asked the council to consider the location, the continued congestion of the harbor parking lot, and adding foot traffic where there was a lot of vehicle traffic. She spoke to having electric overhead were there was traffic or having to dig underground. She spoke to the building being on skids and having to be moved. She spoke in consideration of using existing properties with electric, water, and sewer. She spoke to the Seldovia Space and the land available down by the industrial building or Seldovia Fuel and Lube, the lots were used just for trailers that could be moved down by the Sea Otter Facility. She spoke to moving the traffic further down street, the long-term comprehensive plan, bringing the industrial building shell and that end of town to life. She spoke including in the Seldovia Fuel and Lube lease the requirement to beautify.

d. Action/Disposition

**SWEATT/COLBERG MOVED FOR THE DEVELOPMENT OF THE HARBOR PLAN TO INCLUDE THE PLACING OF TWO STRUCTURES IN ONE LOT 5
VOICE VOTE/UNANIMOUS/MOTION PASSED**

**SWEATT/COLBERG MOVED TO AMEND THE MOTION TO INCLUDE THE APPROPRIATION OF \$25,000
VOICE VOTE/UNANIMOUS/MOTION PASSED**

ROJAS/COLBERG MOVED TO APPROVE MOTION AS AMENDED

VOICE VOTE/UNANIMOUS/MOTION PASSED

M. Administration Reports:

1. Treasurer's Report: None

2. City Manager's Report: See Laydown

CM CAMERON- Presented the city manager's report as written in the laydown and included that her focus the last two weeks had been budget preparation. She discussed that they were still waiting on the results of the Census mini-grant for a National Census Day Party. She spoke to waiting on the MOA with the DOT to see how much time was being put in on snow this year. SVFD and BHVFD MOA was pretty much buttoned up. She spoke of a company in Homer with ROV capabilities to get reservoir data on depth and depth of sludge as well as the dam. She spoke to the equipment for the LED light conversion being between Chicago and Seldovia and should be here soon. She spoke to taking inventory of the land and their uses for the Land Use Management Plan and that upon speaking with the planning commission last week they were interested in having a joint work session, hopefully in April. The Wastewater RFP was supposed to have been advertised. A few weeks ago, an engineering firm was scheduled to come town to look at the facilities and get an idea of the project but got weathered out and would reschedule. Heidi was continuing to work with borough on elections. She spoke to having had a meeting with FEMA and the State Emergency Department, the state declared an emergency from the storms and there was potentially going to be some funding available. They discussed damage to the harbor and the cost of tree removal in the meeting. She spoke to the water line in the harbor having froze last week and was now unfrozen. She spoke to keeping the streets cleared and preparing for water leak repairs that coming summer. Kevin with ARWA planned to come back to town before break up. She spoke to the document archival project and the personnel policy being on going and spoke to the City owning the dam, which was inspected every four years on the exterior.

CAMPBELL- Inquired about the responsibility and ownership of the dam and if the inspections were internal with a diver sent in or on the exterior. He spoke in support of the ROV idea.

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: None

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

CAMPBELL- Thanked the staff and the public who attended.

MORRISON- Thanked the staff and the public who attended, great meeting.

ROJAS- Thanked the public works for their hard work and keeping the snow down and out of the way. She stated that she thought they did a good job learning how to do it. She thanked the staff and those who attended the meeting that evening.

NATHAN- Thanked the staff and Bobbi for coming up with a pretty neat little program.

SWEATT- Thanked everyone for attending, for their opinions and information, and she thanked the council of supporting her harbor project.

COLBERG- Thanked everyone for coming and the staff for their hard work.

MAYOR LENT- Thanked everyone for being there and spoke to application for the cemetery grant having been mailed on Friday.

Q. Next Meeting: The next Regular Meeting will be held on Monday, February 24, 2020 at 6:00 pm

R. Adjournment:

COLBERG/CAMPBELL MOVED TO ADJOURN AT 7:38PM

NO OBJECTION/MOTION PASSED

I certify the above represents accurate minutes of City of Seldovia Council meeting of February 10, 2020.

Heidi Geagel, City Clerk

Approved by Council _____

**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 KPBC 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. 91-02 ratified 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 is effective March 1, 2020.

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 ^{(HS) 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
ORDINANCE 20-08**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA,
ADOPTING SECTION 10.06.025 AND AMENDING SECTION 10.08.040 TO INCLUDE
LANGUAGE REQUIRING HELMETS FOR MINOR PERSONS OPERATING ALL-TERRAIN
VEHICLES AND SNOWMOBILES**

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. ADOPTING SECTION 10.06.025 TO READ AS FOLLOWS:

Chapter 10.06
All-Terrain Vehicles

Sections:

- 10.06.010 Definitions.
- 10.06.020 Actions required.
- 10.06.025 Helmets.**
- 10.06.030 Actions prohibited.
- 10.06.040 Reporting accidents.
- 10.06.050 Parental and guardian responsibility.

10.06.025 Helmets. Persons 18 years of age or under operating an off-road vehicle within the city must wear a helmet which meets safety standards set by the Federal Motor Vehicle Safety Standard 218.

SECTION 3. AMENDING SECTION 10.08.040 BY ADDING LANGUAGE IN HIGHLIGHT TO READ AS FOLLOWS:

10.08.040 Equipment required. A snow vehicle is required to contain the following equipment:

- A. Brakes adequate to the movement of and to stop and to hold the vehicle under normal conditions of operation;

- B. At least one head lamp so aimed and of sufficient intensity, to reveal persons and objects at a distance of at least one hundred feet ahead during the hours of darkness under normal atmospheric conditions;
- C. A throttle which, when released by the hand, will return the engine speed to idle;
- D. An exhaust muffler in good working order except at the operator's option when participating in an event permitted under AS 05.35.
- E. A snow vehicle which is operated upon or along a highway during the hours of darkness, other than to cross, shall have a red lamp on the rear cowling mounted which shall emit a red light plainly visible from a distance of one thousand feet to the rear.
 - a. A tail lamp on a snow vehicle shall be located at a height of not more than seventy-two inches nor less than fifteen inches.
 - b. And a red reflector on the rear cowling which shall be mounted on the snow vehicle at a height of not less than fifteen inches nor more than sixty inches and shall be of such size and characteristics and mounted so as to be visible between six hundred and one hundred feet from the vehicle. (Ord. 7430 Sec. 4, 1974)
- F. Persons 18 years of age or under operating an off-road vehicle within the city must wear a helmet which meets safety standards set by the Federal Motor Vehicle Safety Standard 218.

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:

Heidi Geagel, City Clerk

APPROVED:

Dean Lent, Mayor

Vote:

Colberg-
Campbell-

Morrison-
Rojas-

Nathan-
Sweatt-



Alaska Department of Transportation & Public Facilities

Alaska Municipal League - DOT&PF Update

Mary Siroky, Deputy Commissioner

Feb. 19, 2020

Our mission is to *Keep Alaska Moving* through service and infrastructure.

DOT&PF impacts nearly every Alaskan, every day.

5,634 center line miles /
11,737 lane miles of roads/highways

74 DOT&PF staffed Maintenance Stations

239 State Airports
2 International Airports

12 Ferries- 35 Ports of Call

17 Harbors

831 DOT&PF owned bridges

7,370 pieces of state equipment & vehicles

776 Public Facilities occupied by 17 state and local agencies

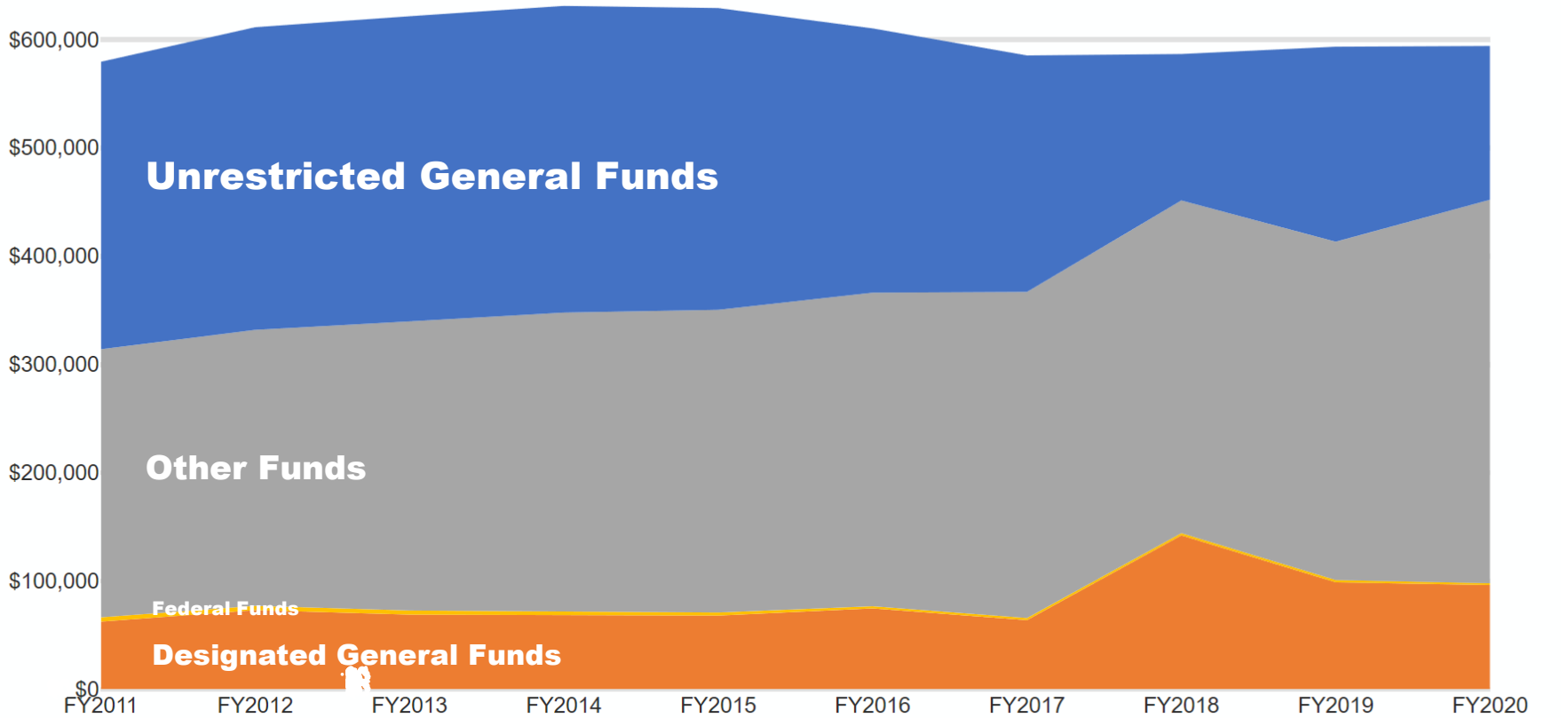
9 Weigh Stations

2.5 mile Anton Anderson Memorial Tunnel

Approximately \$12.6B in transportation assets

3,386 permanent full-time, part-time and non-permanent employees in 8 labor unions in 83 locations

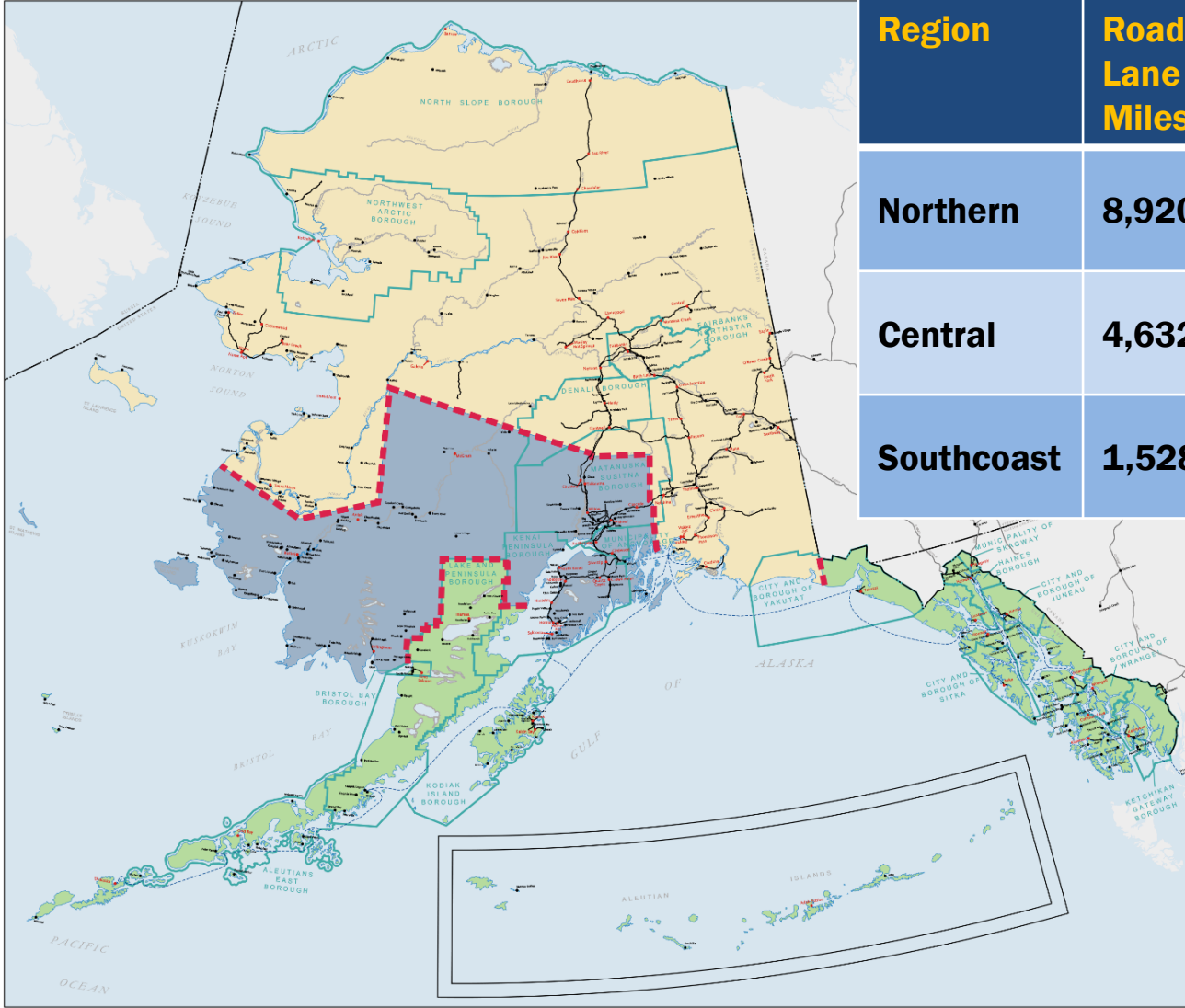
10-year Operating History



	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
UGF	\$ 265,396.5	\$ 279,460.7	\$ 281,760.8	\$ 283,168.4	\$ 278,604.6	\$ 244,014.4	\$ 218,336.1	\$ 135,191.8	\$ 179,988.8	\$ 141,949.7
OTHER	\$ 247,459.1	\$ 254,722.2	\$ 266,834.3	\$ 275,387.7	\$ 279,414.1	\$ 289,447.4	\$ 301,013.5	\$ 307,133.2	\$ 312,404.7	\$ 354,072.3
FED	\$ 3,957.2	\$ 3,972.9	\$ 3,827.7	\$ 3,844.6	\$ 2,850.4	\$ 2,028.7	\$ 2,033.9	\$ 2,066.2	\$ 2,135.1	\$ 1,617.1
DGF	\$ 62,583.9	\$ 73,194.7	\$ 69,053.3	\$ 68,640.8	\$ 68,167.7	\$ 74,777.4	\$ 63,904.3	\$ 142,201.3	\$ 98,821.0	\$ 96,369.1
TOTAL	\$ 579,396.7	\$ 611,350.5	\$ 621,476.1	\$ 631,041.5	\$ 629,036.8	\$ 610,267.9	\$ 585,287.8	\$ 586,592.5	\$ 593,349.6	\$ 594,008.2

Budgeted, Management Plan
\$ in Thousands (1,000)

Three Regions



Region	Road Lane Miles	Maintenance Stations	Airports
Northern	8,920	37	101
Central	4,632	20	70
Southcoast	1,528	19	69





Priorities in Construction

Improving safety & mobility

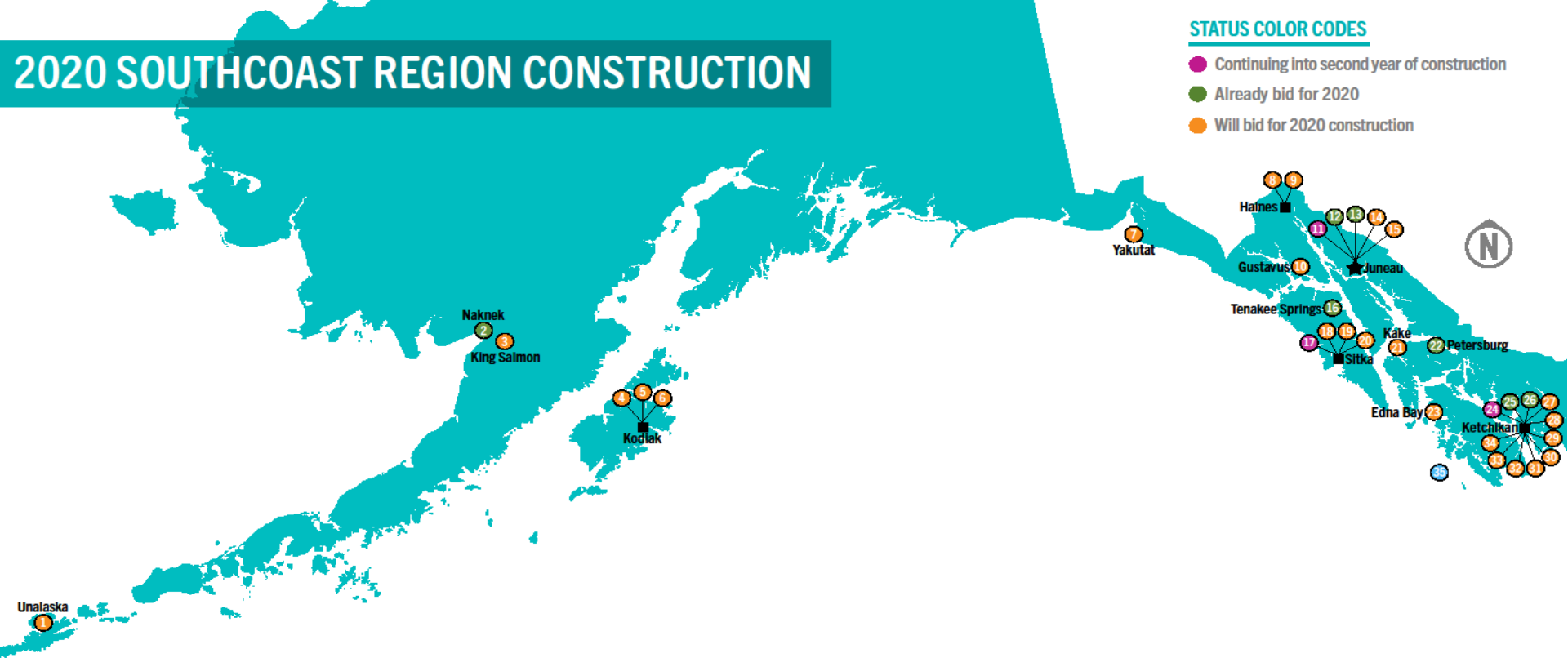
Preserving our infrastructure

Reducing operating costs

STATUS COLOR CODES

- Continuing into second year of construction
- Already bid for 2020
- Will bid for 2020 construction

2020 SOUTHCOAST REGION CONSTRUCTION



- | | | |
|--|--|---|
| 1 UNALASKA: AIRPORT TAXIWAY AND APRON REHABILITATION | 13 JUNEAU: GLACIER HIGHWAY - TWIN LAKES CULVERT ASSESSMENT | 25 KETCHIKAN: AIRPORT PERIMETER FENCING UPGRADES |
| 2 NAKNEK: SOUTH NAKNEK - AIRPORT RUNWAY RESURFACING | 14 JUNEAU: MENDENHALL LOOP ROAD IMPROVEMENTS | 26 KETCHIKAN: RECONSTRUCT GRAVINA ROAD TO AIRPORT BOUNDARY |
| 3 KING SALMON: AIRPORT PERIMETER FENCING UPGRADES | 15 JUNEAU: GLACIER HIGHWAY IMPROVEMENTS (LEMON CREEK) | 27 KETCHIKAN: REVILLA/GRAVINA NEW & REFURBISH FERRY BERTHS AND UPLAND IMPROVEMENTS |
| 4 KODIAK: AIRPORT PERIMETER FENCING UPGRADES | 16 TENAKEE SPRINGS: FERRY TERMINAL IMPROVEMENTS | 28 KETCHIKAN: GRAVINA FERRY LAYUP & FREIGHT FACILITIES |
| 5 KODIAK: HARBOR CHANNEL BRIDGE IMPROVEMENTS | 17 SITKA: KATLIAN BAY ROAD | 29 KETCHIKAN: KETCHIKAN TO SHELTER COVE ROAD, STAGE 3 |
| 6 KODIAK: REZANOFF DRIVE RESURFACE - AIRPORT TO CHINIAK HIGHWAY | 18 SITKA: HALIBUT POINT ROAD & PETERSON AVENUE INTERSECTION SAFETY IMPROVEMENTS | 30 KETCHIKAN: TONGASS AVENUE IMPROVEMENTS |
| 7 YAKUTAT: SCHOOL ZONE CROSSING IMPROVEMENTS | 19 SITKA: SAWMILL CREEK ROAD RESURFACE - JEFF DAVIS TO SMITH STREET | 31 KETCHIKAN: NORTH TONGASS HIGHWAY RESURFACE - AIRPORT FERRY TO WARD CREEK BRIDGE |
| 8 HAINES: HAINES HIGHWAY RESURFACE - ALLEN ROAD TO MP 0.7 | 20 SITKA: SAWMILL CREEK RESURFACING & PEDESTRIAN IMPROVEMENTS | 32 KETCHIKAN: WARD CREEK BRIDGE ABUTMENT REPAIR |
| 9 HAINES: HAINES HIGHWAY RECONSTRUCTION - MP 3.9 TO 25.0 | 21 KAKE: ACCESS PRE-WORK PACKAGE | 33 KETCHIKAN: NON-NHS SLOPE STABILIZATION |
| 11 JUNEAU: EGAN DRIVE - 10TH STREET TO MAIN STREET | 22 PETERSBURG: AIRPORT PERIMETER FENCING UPGRADES | 34 KETCHIKAN: WATER STREET TRESTLE NO. 1 IMPROVEMENT |
| 12 JUNEAU: STEPHEN RICHARDS INTERSECTION | 23 EDNA BAY: EDNA BAY HARBOR IMPROVEMENTS | 35 REGIONWIDE: VARIOUS PRIMARY/NON-PRIMARY AIRPORT VISUAL AID REPLACEMENTS |
| | 24 KETCHIKAN: WATERFALL CREEK BRIDGE REPLACEMENT | |



Northern Region Projects Improving Safety and Mobility

- Richardson Highway MP 353-357 Access Improvements
- University & Airport Reconstruction
- Chena Hot Springs Road Roundabouts
- Fairbanks Area Signal Upgrades
- Tanana Loop & South Chandalar Drive
- McGrath Road Upgrade

Northern Region Projects Infrastructure Preservation & Reducing Operating Costs

- **Johansen Expressway & Danby Road Bike Path Resurfacing**
- **Chena Pump Bike Path Rehabilitation**
- **Chena Hot Spring Road MP 0-6 Rehab**
- **Davis Road Resurfacing**
- **Wendell Avenue Bridge Replacement**



Central Region

- **Seward Highway MP 114 to Dimond Blvd. Pavement Preservation.**
- **Seward Highway MP 100-105 Improvements**
- **Seward Highway Rockfall Mitigation**
- **Seward Hwy to Tudor Road Pavement Preservation & HSIP Minnesota Drive: Weaving Lane: Int'l Airport to Raspberry**
- **Fireweed Lane Pavement Preservation**
- **Old Sterling Highway MP 0-8.7 Pavement Preservation (Kenai)**
- **Homer Lake Street Rehabilitation**

Central Region Continued

- **Anchor River Bridge Replacement**
- **Seward Highway Passing Lanes MP 37-52**
- **Dillingham Downtown Streets Rehabilitation**
- **Palmer-Wasilla Highway, Center Left Turn Lane Widening**
- **Willow Fishhook MP 34**
- **Parks Hwy: MP 48.8 TO 52.3 Reconstruction, Pittman Road to Big Lake Road**
- **Mat-Su September 2012 Flooding Permanent Repairs**
- **Various earthquake repairs**

Project Information

The screenshot shows the Alaska DOT&PF website. At the top, there is a search bar with the text "Google DOT&PF" and a magnifying glass icon. Below the search bar is a navigation menu with tabs for "Travel", "Business", "News and Social", "Projects", and "About Us". The "Projects" tab is highlighted, and a dropdown menu is open, showing options for "Central Region", "Northern Region", "Southcoast Region", and "Statewide". Below the navigation menu is a banner for "Winter Season Resources" with a background image of a snowplow. The banner text includes "511 Driving Conditions", "Snowplow Hotlines", "Road Cameras", "Local Resources", "Studded Tire Information", "Driving Tips", and "Snow Avalanche Programs". Below the banner is a row of icons representing various transportation services: 511 Traveler Information, Aviation & Airports, Ferries, Roads & Highways, Measures & Commercial Vehicles, Facilities Services, Transit, and Bicycles & Pedestrians. Below the icons is a section titled "DOT&PF in the News" featuring a photo of John MacKinnon, Commissioner, and a list of news items dated from February 7 to February 18, 2020.

Alaska Department of
TRANSPORTATION and PUBLIC FACILITIES

Google DOT&PF

Travel Business News and Social Projects About Us

Winter Season Resources

511 Driving Conditions • Snowplow Hotlines • Road Cameras
Local Resources • Studded Tire Information • Driving Tips
Snow Avalanche Programs • and more...

You are here: DOT&PF > Welcome to DOT&PF!

511 Traveler Information Aviation & Airports Ferries Roads & Highways Measures & Commercial Vehicles Facilities Services Transit Bicycles & Pedestrians

DOT&PF in the News

- Feb. 18: Draft Alaska Statewide Transportation Improvement Program Out for Comment; *Public Comments Accepted Through March 20 at 5 p.m.*
- Feb. 13: ANC Reports Record Passenger Numbers in 2019
- Feb. 10: AMHS Working to Provide Interim Passenger and Freight Service
- Feb. 7: ANC Operations Continue, with Precautions in Place for Novel Coronavirus
- Feb. 7: DOT&PF Deputy Commissioner Mary Siroky Re-retiring; Position will be filled by Rob Carpenter
- Feb. 7: Fairbanks International Airport Preparing for Record Passenger Numbers in Summer

Project information is found on the DOT&PF home page under the “Projects” tab. dot.alaska.gov

Also found further down the page:

The screenshot shows the "Project Information" section of the DOT&PF website. At the top, there are navigation tabs for "Find it Fast!", "Project Information", "Regions", and "Safety". Below the tabs is a section titled "Project Reporting - Check the status of active statewide Projects". Underneath, there are three columns of project information: "Statewide Projects", "Northern Region", and "Southcoast Region". Each column lists specific projects and includes a "More....." link for each.

Find it Fast! Project Information Regions Safety

Project Reporting - Check the status of active statewide Projects

Statewide Projects

- Alaska DOT&PF Projects/Gasline Corridor
- Alaska State Rail Plan
- Statewide Long Range Transportation Plan
- AMHS Shore Facilities Condition Survey Report
- More.....

Northern Region

- 2019 Construction Map
- Elliott Highway MP 0-12 Rehabilitation
- University Avenue Rehabilitation and Widening
- More.....

Southcoast Region

- Gravina Access Project
- Haines Highway
- Ketchikan International Airport
- Juneau Access
- Juneau Mendenhall Loop Road Capacity Improvements
- More.....

Central Region

- Parks Highway MP 44-52 Reconstruction
- Glenn Highway Integrated Corridor Management (ICM) Study
- Seward Highway MP 17-22.5 Rehabilitation
- More.....

Project Reporting/Status Search

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Search [] Search []
● DOT&PF ● State of Alaska

Home Travel Business News and Social Projects About Us

You are here: DOT&PF > Status of Active SW Projects

Status of Active Statewide Projects

Welcome to Alaska Department of Transportation & Public Facilities' project information database. We continue to expand and update this database with the ultimate goal that it serves as the gateway to all project-related information. This database is maintained by Department Project Managers and may not include all current projects.

This project database provides project information in real time. It does not constitute either the official financial accounting, or obligation and expenditure record of the agency. For details regarding a project's current financial status or balance(s), please contact the Project Manager listed on the Project Data Page. If no Project Manager is listed, contact the Regional Public Information Officer:

Central Region: Jill Reese, 907-269-0772, jill.reese@alaska.gov
Northern Region: Caitlin Frye, 907-451-5307, caitlin.frye@alaska.gov
Southcoast Region and Headquarters: Meadow Bailey, 907-451-2240, meadow.bailey@alaska.gov

This project search provides you with basic information about projects in and around your community. Use drop-down boxes to select criteria and press the "Search" button to view the results.

The results of your search will display in a table below the form. Click on the appropriate project to view more information.

Filters

Region: [] Fund source: [] AMATS/FMATS: []

2013 House district: [] Community: [] Status: []

Name search: []
Enter a fragment, not case sensitive.

Search []

Project Status/Reporting search can be found here on home page or on the project pages.

Find it Fast! Project Information Regions Safety

Project Reporting - Check the status of active statewide Projects

Statewide Projects

- Alaska DOT&PF Projects/Gasline Corridor
- Alaska State Rail Plan
- Statewide Long Range Transportation Plan
- AMHS Shore Facilities Condition Survey Report
- More.....

Northern Region

- 2019 Construction Map
- Elliott Highway MP 0-12 Rehabilitation
- University Avenue Rehabilitation and Widening
- More.....

Southcoast Region

- Gravina Access Project
- Haines Highway
- Ketchikan International Airport
- Juneau Access
- Juneau Mendenhall Loop Road Capacity Improvements
- More.....

Central Region

- Parks Highway MP 44-52 Reconstruction
- Glenn Highway Integrated Corridor Management (ICM) Study
- Seward Highway MP 17-22.5 Rehabilitation
- More.....



511.Alaska.gov

Traveler Alaska Department of Transportation and Public Facilities
511info KNOW B4 U GO

Google Custom Search



Home

Other Info ▾

Help ▾



Location ▾



Map Legend

- Alerts
- Driving Conditions
 - Hazardous
 - Very Difficult
 - Difficult
 - Fair
 - Good
 - Mountain Pass
- Weather Watches
- Cameras
- Weather
 - Live
- Planned Events
- Future Planned Events
- Message Boards
- Travel Not Advised- No Winter Maintenance
- MM Mile Markers

Road conditions can change quickly; we offer no warranty that this report is accurate or complete.

10 km / 10 mi

Driving Conditions Definitions | Winter Driving Tips | Route Summary Report | Text View | Alaska Route #'s | Alaska Mileposts



Social Media



Alaska Department of Transportation & Public Facilities ...

November 18, 2018 · 🌐

We've got a little bit of weather moving in to start the week! #Fairbanks: you've got a slight chance of freezing rain and expected snow Monday. The Richardson, Glenn, and Tok Cutoff Highways near Glennallen, Gakona, Copper Center, and between Delta and Paxson are difficult to hazardous with freezing rain.

DOT&PF crews are working the roads to make them safer and they're preparing for what's to come. What are you doing to prepare?

511.alaska.gov | dot.alaska.gov/winter



 alaska_dotpf
Fairbanks, Alaska

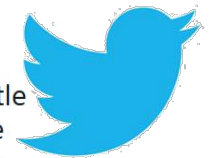


alaska_dotpf Check out this bird's e University Avenue in #Fairbanks! Th was taken by our Fairbanks signals lighting foreman, Eric Slay, this weel repaired a fixture and replaced a 40 pressure sodium bulb. Eric worked f bucket truck as temperatures hover zero degrees. Does your office feel a little warmer now? #winterinalaska #alaska #zerodegrees #outsideoffice #alaskastrong northernngospel Thanks for keeping the lights on! What is timetable for led replacements? 🍷

tylerkramer I swear the people who control the traffic light timers take the bus ericslay @northernngospel within the next 3-5 years everything should be LED. 🍷



Alaska DOT&PF
@AlaskaDOTPF



New Year's Eve driving conditions are a little dicey out there, Alaska! Warmer temps are making some roads slick. If you plan to go out and celebrate tonight, make sure you have a designated driver! Don't take any chances on our winter roads. 511.alaska.gov



HAPPY WINTER!

ENJOY THE SNOW,
DRIVE FOR THE CONDITIONS
AND ALWAYS BE PREPARED.



511.alaska.gov



Rural Airport System Scope and Scale

237 DOT&PF owned/operated airports & seaplane bases

**173 gravel & 46 paved airports;
17 Seaplane Bases & 1 heliport**

19 Part 139 certificated airports (jet hubs)

**Primary access for 82% of Alaskan communities off the
contiguous road system**

**Rural System is not self sustaining; primarily funded by GF,
some revenue via leases**

Major Rural Airport System AIP Construction Projects expected to be funded in FFY'20 & FFY'21

Pavement Rehab

- Barrow
- Bethel
- Gustavus
- Kotzebue
- McGrath
- Nome

Rural Access

- Angoon
- Bettles
- Crooked Creek
- Deering
- Kaltag
- Kasigluk
- Kongiganak
- Newtok
- Point Hope
- Seward

Buildings

- Barrow
- Cold Bay
- Napaskiak
- Seward

Alaska Airport Needs Directory: dot.alaska.gov/airport-portal-newsres.shtml



Alaska Marine Highway System Service Gaps

FY2020 Budget

FY2021 Gov. Proposed Budget

Prince William Sound:
7 month gap in service

Prince William Sound:
3 ½ month gap in service
(8 week overhaul plus 6 weeks)

Homer – Kodiak Island:
3 month gap in service

Homer – Kodiak Island:
3 month gap in service

Northern Panhandle Villages (SE):
2 month gap in service

Northern Panhandle Villages (SE):
2 ½ month gap in service
No service to Pelican and Tenakee

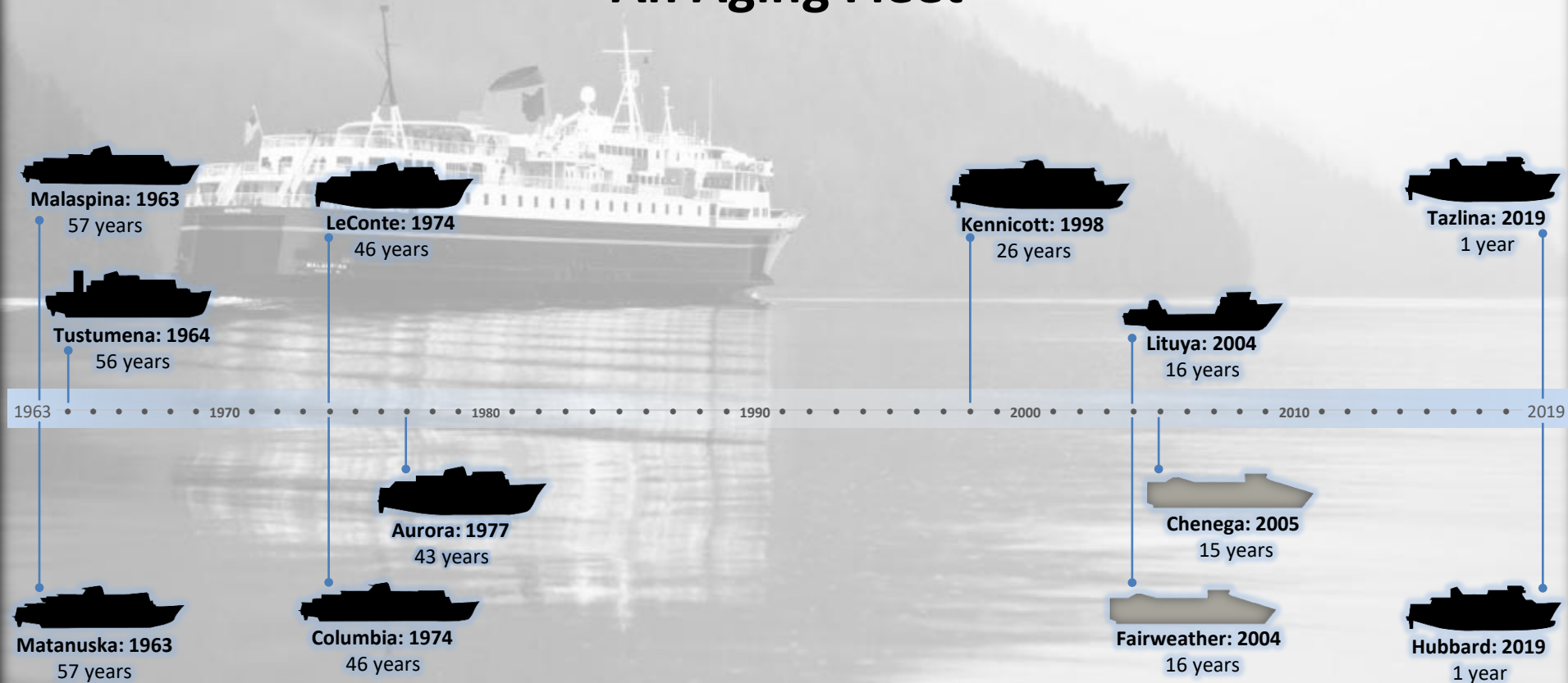
Southeast Alaska:
50% service reduction
(compared to FY2019)

Southeast Alaska:
50% service reduction continued
(compared to FY2019)



Alaska Marine Highway System

An Aging Fleet



Most fleets retire their ships at 30-35 years.



Alaska Marine Highway System

Challenges

Aging terminals and vessels

Gaps in service

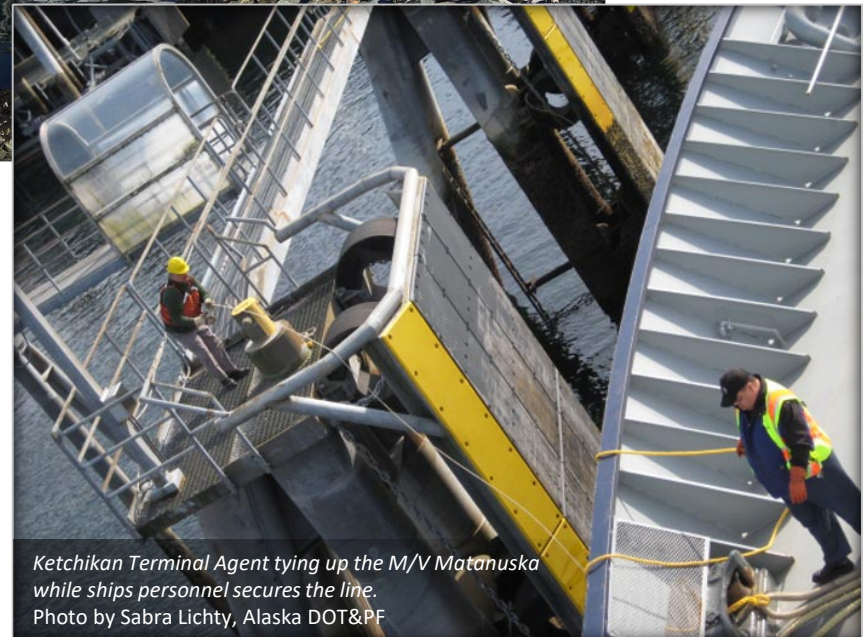
Federal law changes

Collective bargaining agreements

Turnover and recruitment



M/V Tazlina
Photo by Alaska DOT&PF



Ketchikan Terminal Agent tying up the M/V Matanuska while ships personnel secures the line.
Photo by Sabra Lichty, Alaska DOT&PF



Thank You!

Mary Siroky
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Mary.Siroky@Alaska.gov

