

Introduced by: Borough Manager
Requested by: Borough Assessor
Drafted by: Borough Assessor
Introduced: 12/05/2013
Public Hearing: 01/02/2014
Adopted: 01/02/2014

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**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2014-10**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND
BOROUGH AMENDING VARIOUS SECTIONS IN TITLE 3 *REVENUE
AND FINANCE* CHAPTER 3.35 *REAL PROPERTY TAX* AND CHAPTER
3.40 *PERSONAL PROPERTY TAX***

- WHEREAS,** this ordinance would bring this section more in line with Alaska Statutes; and
- WHEREAS,** it would add emphasis to the taxation of possessory interest in personal property at Section 3.35.020, consistent with existing requirements regarding real and personal property; and
- WHEREAS,** it would make property not expressly exempt by ordinance subject to annual taxation by the Kodiak Island Borough; and
- WHEREAS,** it would delineate standards, guidelines and procedures for municipal property tax exemption requests at Section 3.35.030; and
- WHEREAS,** it would properly emphasize the taxability of possessory interests at Section 3.35.030 (C1); and
- WHEREAS,** it would define exempt properties in greater detail at Section 3.35.030 (C2&3); and
- WHEREAS,** it would set forth at Section 3.35.030(C3A) the requirements for applications for municipal property tax exemptions, and would identify the documents that must be submitted to the borough assessor before an exemption may be granted; and
- WHEREAS,** it would clarify which improvements made to a property may qualify for an exemption from municipal property taxation, at Section 3.35.080(G), and recodify this section as Section 3.35.030; and
- WHEREAS,** it would establish the conditions necessary for a property to qualify for a community purpose exemption; and
- WHEREAS,** it would emphasize the taxability of a possessory interest to Section 3.35.040 (A4) that is consistent with the provisions set forth at 3.35.020; and

45 **WHEREAS**, it would reinforce the Assessor's right to obtain the documents necessary to
46 value properties, at Section 3.35.040(A5); and

47
48 **WHEREAS**, it would preserve the confidentiality of certain records and information
49 received by the assessor's office with the understanding of confidentiality, at Section
50 3.35.040 (A6); and

51
52 **WHEREAS**, it would establish the last day of February as the Kodiak Island Borough's
53 deadline for mailing assessment notices, at Section 3.35.040 (B); and

54
55 **WHEREAS**, it would make corrections to the language that must be included on annual
56 assessment notices, set forth at 3.35.040(c); and

57
58 **WHEREAS**, it would establish an informal review period, at Section 3.35.040 (D); and

59
60 **WHEREAS**, it would add language to establish clear deadlines for appealing Board of
61 Equalization decisions to the Alaska Superior Court, at Section 3.35.050 (F); and

62
63 **WHEREAS**, it would establish the date by which the annual assessment roll must be
64 certified, at Section 3.35.060A.

65
66 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND**
67 **BOROUGH THAT:**

68
69 **Section 1:** This ordinance is of a general and permanent nature and shall become a part
70 of the Kodiak Island Borough Code of Ordinances; and

71
72 **Section 2:** That the list of sections set forth at Title 3 *Revenue and Finance*, Chapter
73 3.35 *Real Property Tax*, is hereby amended as follows:

74
75 **Chapter 3.35**
76 **REAL PROPERTY TAX**

- 77 Sections:
- 78 | 3.35.010 State law adopted.(NO CHANGES)
 - 79 | 3.35.020 Property subject to tax.
 - 80 | 3.35.030 ~~Definitions~~ **Real and personal property exempted from taxation.**
 - 81 | 3.35.040 Method of assessment.
 - 82 | 3.35.050 Board of equalization.
 - 83 | 3.35.060 -Final and supplemental assessment rolls.
 - 84 | 3.35.070 Addresses – Responsibility of persons subject to taxation.
 - 85 | ~~3.35.080 Real and personal property exempted from taxation.~~
 - 86 | 3.35.085 Method of determining the assessed value of property that qualifies for a low-
87 income housing tax credit under 26 USC 42. NO CHANGES
 - 88 | 3.35.090 Property tax billing. NO CHANGES

- 89 | 3.35.100 Correction of errors-
- 90 | 3.35.110 City taxes. NO CHANGES
- 91 | 3.35.120 Tax due dates and delinquency. NO CHANGES
- 92 | 3.35.130 Exceptions. NO CHANGES
- 93 | 3.35.140 Late payments – Penalty and interest.NO CHANGES
- 94 | 3.35.150 Enforcement of tax liens on real property.NO CHANGES
- 95 | 3.35.160 Preparation of the foreclosure list. NO CHANGES
- 96 | 3.35.170 Publication of the foreclosure list. NO CHANGES
- 97 | 3.35.180 Notice of foreclosure proceeding. NO CHANGES
- 98 | 3.35.190 Clearing delinquencies before sale. NO CHANGES
- 99 | 3.35.200 Notice of foreclosure list to lien holder.NO CHANGES
- 100 | 3.35.210 Apportionment of costs. NO CHANGES
- 101 | 3.35.220 Enforcement by personal action. NO CHANGES
- 102 | 3.35.230 Foreclosure proceedings. NO CHANGES
- 103 | 3.35.240 Effect of redemption.NO CHANGES
- 104 | 3.35.250 Notice of expiration of redemption.NO CHANGES
- 105 | 3.35.260 Deed to borough.NO CHANGES

106

107 | **Section 3:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
108 | 3.35.020, is hereby amended as follows

109

110 | **3.35.020 Property subject to tax.**

111 | ~~All real and personal property within the borough and not expressly exempted by the~~
112 | ~~borough through ordinance shall be subject to annual taxation at a rate not to exceed three~~
113 | ~~percent of its full and true value in money as assessed on the first day of January of the~~
114 | ~~assessment year, the tax to be used for borough purposes and for such other purposes as~~
115 | ~~are or may be authorized.~~

116 | **A. All real and personal property situated within the borough that is not exempt**
117 | **under the laws of the State of Alaska, the Alaska Constitution, or the ordinances**
118 | **of this borough, is subject to taxation at a rate not to exceed three percent of its**
119 | **full and true value in money as assessed on the first day of January of the**
120 | **assessment year.**

121 | **1. There is no limitation on taxes to pay bonds.**

122 | **B. A private leasehold, contract, preferential use agreement, or other interest in any**
123 | **real or personal property that is exempt from taxation pursuant to state or federal**
124 | **law, or for any other reason, remains taxable to the extent of the private interest.**
125 | **(AS 29.45.030(A)).**

126 | **C. The following definitions shall apply to this section unless otherwise expressly**
127 | **indicated:**

128 | **1. “Personal property” includes all property, whether corporeal ~~corporate~~ real or**
129 | **incorporeal ~~incorporate~~ real, that is not specifically included in this section’s**
130 | **definition of “real property”, and includes mobile homes, trailers, house**
131 | **trailers, trailer coaches, and camper trailers, so long as they are not attached**
132 | **to the land or connected to water, gas, electric, or sewage facilities, and are**

133 not registered with the State of Alaska Department of Motor Vehicles as rolling
134 stock.

135 2. "Real property" includes not only the land itself, whether laid out in lots or
136 otherwise, but also all buildings, structures, improvements, fixtures of any
137 kind thereon, and also any possessory rights and privileges belonging to or in
138 any way appertaining thereto. and the word "tract" includes all lands, pieces,
139 or parcels of land which may be separately assessed, together with fixtures
140 and improvements thereon. "Real property" also includes mobile homes,
141 trailers, house trailers, double-wide-type mobile or modular homes, trailer
142 coaches and similar property, which are used or intended to be used for
143 residential, office, or commercial purposes, and are attached to the land or
144 connected to water, gas, electric, or sewage facilities, except for those mobile
145 homes and house trailers which are held for sale by persons engaged in the
146 business of selling mobile homes.

147

148 **Section 4:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
149 3.35.030, *Definitions*, is hereby amended as follows:

150

151 **3.35.030 Definitions Real and personal property exempted from taxation.**

152 ~~"Personal property" includes all other property, corporate real and incorporate real, not~~
153 ~~specifically included in "real property" and includes mobile homes, trailers, house trailers,~~
154 ~~trailer coaches, and camper trailers not attached to the land or connected to water, gas,~~
155 ~~electric, or sewage facilities.~~

156 ~~"Real property" includes not only the land itself, whether laid out in lots or otherwise, but also~~
157 ~~all buildings, structures, improvements, fixtures of whatsoever kind thereon, and also~~
158 ~~possessory rights and privileges belonging to or in any way appertaining thereto; and the~~
159 ~~word "tract" includes all lands, pieces, or parcels of land which may be separately assessed,~~
160 ~~together with fixtures and improvements thereon. "Real property" also includes mobile~~
161 ~~homes, trailers, house trailers, double-wide-type mobile or modular homes, trailer coaches~~
162 ~~and similar property, used or intended to be used for residential, office, or commercial~~
163 ~~purposes and attached to the land or connected to water, gas, electric or sewage facilities~~
164 ~~except those mobile homes and house trailers which are held for sale by persons engaged~~
165 ~~in the business of selling mobile homes.~~

166 **A. The following described properties shall be exempt from any and all taxation**
167 **otherwise imposed under the foregoing sections:**

168 1. **All real and personal property belonging to the United States of America, the**
169 **State of Alaska, the borough, the City of Kodiak, or any other incorporated city**
170 **lying and being within the boundaries of the borough, and except for property**
171 **acquired through foreclosure or by deed in lieu of foreclosure. However, a**
172 **private leasehold interest in otherwise exempt properties that is created by**
173 **lease, loan, contract, preferential use agreement or otherwise, and is made**
174 **available to and used by a private person or private enterprise, shall be taxable**
175 **to the extent of that interest pursuant to AS 29.45.030(a)(1)(A) and KIB**
176 **3.25.020.**

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2. Real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d) (ANCSA).
3. All property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational —purposes (classroom space only), is exempt from taxation for the calendar year in which application is timely filed if the assessor determines that the application demonstrates the property qualifies for exemption as provided by Alaska Statutes 29.45.030. Property used for religious purposes includes the residence of a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization and to further include all other improved property of such organization not used for business, rent, or profit. Property of any religious, educational, or charitable organization from which the organization derives any rentals or profits shall not be exempt. Unimproved or vacant real property of any such organization which is not currently used for religious, hospital, educational, cemetery, or charitable purposes shall be deemed to be property held or used for profit, unless by deed restriction or otherwise the real property has been effectually dedicated to future use for religious, educational, or charitable purposes only and cannot be sold or used for any other purposes. Any vacant land which initially qualifies for an exemption under this section, and for which an application is filed, but is not placed in use within two years of January 1 of the first tax year, shall be subject to taxation in each tax year, retroactive to the first tax year for which the exemption was granted.
 - a. To qualify for an exemption under paragraph 3, the applicant organization shall provide the following information to the assessor or designee to support a determination of exempt status:
 - i. The articles of incorporation.
 - ii. Documentation to support the organization's not-for-profit status (e.g., IRS § 501(c)(3) determination letter, or equivalent).
 - iii. A description of the property's use, demonstrating its consistency with the requested exemption.
 - iv. Contracts of any type that describe or memorialize the use of the property by a person or entity other than the applicant organization.
 - v. A description of any remuneration received by the applicant organization including:
 1. Any property, or portion of property, from which rentals or income are derived.
 2. Actual operating expenses, excluding debt service or depreciation.
 3. Where property is leased by the organization to other entities, financial statements for the past tax year, including income and expense reports, and a description of any debt service or depreciation reported in the financial statements for the property.
 - vi. For property used for an educational purpose, a description of course curriculum and classroom space.

- 220 vii. For property used as a religious residence, a description of the
221 resident's ordination, commission, or license (according to the
222 standards of the religious organization), and proof of the resident's
223 employment by the religious organization as its spiritual leader.
- 224 b. The borough assessor may request additional information prior to making
225 a determination, as reasonably necessary to determine the exempt status
226 of a property in accordance with borough code and regulations and state
227 law.
- 228 4. Any vacant land which initially qualifies for an exemption under this section,
229 but which is not placed in use within two years from January 1 of the first tax
230 year, for which an application is filed, shall be subject to taxation in each tax
231 year, retroactive to the first tax year for which the exemption was granted.
- 232 a. No single organization shall receive more than two exempt vacant parcels,
233 and the exemption for any one parcel shall not exceed the average
234 assessed value of a single, similarly zoned property, as determined by the
235 assessor on an annual basis.
- 236 5. The property of any organization which is not organized for business purposes
237 and whose membership is composed entirely of veterans of any wars of the
238 United States, as recognized and chartered by the Congress of the United
239 States, and the property of the auxiliary of any such organization. Property of
240 any such veteran's organization or auxiliary from which the organization
241 derives any rentals or profits shall not be exempt.
- 242 6. As described in AS 29.45.030(e), the first \$150,000 of assessed value of the real
243 property owned and occupied as the primary residence and permanent place
244 of abode by:
- 245 a. A resident 65 years of age or older;
- 246 b. A disabled veteran or;
- 247 c. A resident at least 60 years old who is the widow or widower of a person
248 who has previously qualified for an exemption for the same residence
249 under a or b of this subsection, and who jointly owned or occupied the
250 residence with the requestor.
- 251 7. Definitions. For purposes of section 3.35.030(A)(6) only, the following words
252 are defined as:
- 253 *Primary residence and permanent place of abode* shall mean a dwelling which
254 is owned by and in which the person resides at least 185 days in the year prior
255 to the exemption year and when absent, the dwelling is not leased or rented to
256 another.
- 257 *Resident* shall mean a person who has a fixed habitation in the Kodiak Island
258 Borough for at least 185 days per calendar year, and when absent, intends to
259 return to the borough and does not claim residency outside the borough or
260 claim a resident exemption in another state or country, or other borough of
261 Alaska or take action or is absent under circumstances inconsistent with the
262 intent to remain and make a home indefinitely in the borough.

263 **Disabled veteran** shall mean a disabled person separated from the military
264 service of the United States under a condition that is not dishonorable who is a
265 resident of the state, whose disability was incurred or aggravated in the line of
266 duty in the military service of the United States, and whose disability has been
267 rated as fifty (50) percent or more by the branch of service in which that
268 person served or by the United States Department of Veterans Affairs.

269 **Widow or widower** shall mean the surviving un-remarried spouse.

270 | **B.** To be eligible for any exemption set forth in AS 29.45.030(e), the individual
271 applying for the exemption must also meet at least one of the two following
272 requirements:

273 1. The individual shall be eligible for a permanent fund dividend under AS
274 43.23.005 for the year for which an exemption is requested; or
275 2. If the individual has not applied or does not apply for the permanent fund
276 dividend, the individual would have been eligible for the permanent fund
277 dividend for that same year had the individual applied. To meet this
278 requirement, the applicant must provide adequate documentation to the
279 assessor that they meet this qualification based on the requirements of AS
280 43.23.005.

281 **C.** Only one exemption may be granted for the same property. If two or more persons
282 are eligible for an exemption under this subsection in regard to the same property,
283 then the parties shall decide between or among themselves who is to receive the
284 benefit of the exemption.

285 **D.** In the event that a claimant fails to apply for a senior exemption as provided by AS
286 29.45.030(e) by January 15th of the assessment year for which the exemption is
287 sought, the borough assessor for good cause shown may waive the claimant's
288 failure to make timely application for the exemption for that year and shall accept
289 the application, as if timely filed, subject to the provisions contained in AS
290 29.45.030(e).

291 1. A waiver may only be granted for the year in which an application is filed and
292 for the year immediately prior. Assessor's rulings under this provision may be
293 appealed to the borough assembly which for good cause shown may waive an
294 applicant's failure to file timely and may direct the assessor to accept the
295 application as if timely filed subject to the provisions contained in AS
296 29.45.030(e) and this subsection D.

297 **E.** Applications for exemptions. The borough assessor shall grant or deny all
298 applications for exemptions, except for community purpose exemptions, which
299 must be granted by the borough assembly.

300 1. Strict enforcement of deadlines to file an exemption application and annual
301 certification.

302 a. Properties qualifying for an exemption under this section must be owned
303 and in use on January 1 of the applicable tax year. There shall be no
304 proration of taxes under this section.

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- 306 b. Written application for real property exemptions under this section,
307 including any required supporting documentation, must be received by
308 the assessor no later than January 15 of the tax year in which the
309 exemption is requested.
- 310 c. Once an exemption has been approved, the assessor will review the
311 subject property's exempt status annually, and may require the exempt
312 party to provide annual certification that the exempt use of the property
313 remains consistent with the use described and approved in the original
314 application.
- 315 d. Reapplication for the exemption shall be required upon any change in the
316 ownership or use of the property, and shall meet the deadlines prescribed
317 under this chapter.
- 318 e. The deadline for filing an application for exemption, filing a reapplication
319 if necessary, requesting an administrative review from the assessor, and
320 filing an appeal to court, shall be strictly enforced and shall not be waived
321 except as provided by section 3.35.030(E)(1)(b).
- 322 f. If the assessor determines that a property is not eligible for an exemption,
323 all taxes, penalty, and interest due for all tax years, beginning with the
324 first year that the property should have been subject to taxation, shall
325 become due and owing.
- 326 g. No exemption shall be available under this section if, by the
327 determination of the assessor, the subject property has been conveyed to
328 the applicant for the primary purpose of obtaining the exemption.
- 329 **F. The private interests, other than fee simple record ownership, in real property of**
330 **an individual residing in the property if the property has been developed,**
331 **improved, or acquired with federal funds for the provision of low-income housing,**
332 **and is owned or managed as low-income housing by either the Alaska State**
333 **Housing Authority pursuant to AS 18.55.100-960 or a regional housing authority**
334 **formed under AS 18.55.996. This section does not prohibit the borough from**
335 **continuing to receive payments in lieu of taxes authorized under federal law. This**
336 **section applies only to those low-income housing units in existence prior to**
337 **January 1, 1989, hence, any new projects, real property acquisitions, and**
338 **additions to the existing properties after January 1, 1989, shall require an**
339 **ordinance of the assembly prior to the granting of an exemption under this**
340 **section;**
- 341 **G. Judicial Review of the assessor's denial of an exemption under AS 29.45.030.**
- 342 1. Only the owner of record may appeal a decision by the assessor to deny an
343 exemption under this section, and must be made to the Superior Court, Third
344 Judicial District, Alaska.
- 345 2. An appeal of the Assessor's denial of an application for exemption under this
346 code must be filed within 30 days of the assessor's denial.
- 347 3. For purposes of computing time, the date that the assessor's written denial
348 was mailed shall be deemed the date of the denial.

- 349 H. The property of an organization not organized for business or profit-making
350 purposes which is used exclusively for community purpose activities, may be
351 exempted from taxation by the borough assembly under this section. In order to
352 qualify for a community purpose exemption:
- 353 1. The property must be dedicated for use by the general public, must provide a
354 benefit to the community as a whole, and any income derived from rental of
355 the property must not exceed the actual cost to the owner of the use by the
356 renter.
 - 357 2. Any entity requesting a community purpose property tax exemption pursuant
358 to this chapter must include with its initial application certified copies of its
359 most recent Return of Organization Exempt from Income Tax Return (Form
360 990) and Federal Unrelated Business Income Tax Return (Form 990T, or any
361 other equivalent forms that may be adopted by the federal government). If a tax
362 exemption is granted to the applicant organization, it must thereafter submit to
363 the borough, within 30 days of the required filing date with the Internal
364 Revenue Service, exact copies of its Return of Organization Exempt from
365 Income Tax Return (Form 990) and Federal Unrelated Business Income Tax
366 Return (Form 990T).
 - 367 3. The borough assembly may by ordinance grant tax exemptions for community
368 purpose property if the application meets state law requirements (AS
369 29.45.050(b)(1)(A)) and the assembly determines that there is a direct and
370 substantial benefit to the borough from the applicant's property use. The
371 assembly, in determining whether to grant an exemption and the amount of
372 exemption to be granted, may consider various factors including, but not
373 limited to, whether:
 - 374 a. The property is open to public use regardless of sex, race, creed, color, or
375 national origin.
 - 376 b. The applicant organization is qualified as an exempt organization under
377 Section 501(c)(3) of the Internal Revenue Code, as amended from time to
378 time.
 - 379 c. No part of the net earnings of the applicant inures to the benefit of any
380 private entity or individual.
 - 381 d. There is no evidence of a dominant financial motive such as excessive
382 charges, excessive employee compensation, or income that exceeds
383 operating expenses and any rental income does not exceed the actual cost
384 to the owner of the use by the renter.
 - 385 e. There is no evidence that the property is being used to financially benefit
386 any officer, trustee, director, shareholder, member, or contributor, of the
387 applicant.
 - 388 f. The property is used for the actual operation of the community activity and
389 does not exceed an amount of property reasonably necessary for the
390 accomplishment of the community activity.

- 391 g. The fees and charges for the use of such property and facilities thereon do
392 not effectively deny to a significant portion of the borough the privileges
393 and benefits provided by such property.
- 394 h. The applicant organization is governed by a volunteer board of directors.
- 395 i. Whether and to what extent a tax exemption is necessary to provide the
396 community benefit.
- 397 j. The organization's property is used exclusively for community purposes.
- 398 k. The existence of substantially similar community benefits through other
399 public or private entities; and
- 400 l. The degree to which the organization's use of the property impacts the
401 quality of life of borough residents.
- 402 4. The assessor shall act as the administrator for community purpose exemption
403 applications gathering the necessary information and making
404 recommendations to the assembly. Also, the assessor may periodically require
405 such information as is reasonably necessary to determine the character of the
406 organization and the nature of uses made for the continuation of the
407 exemption provided in this section. This includes, but is not limited to:
- 408 a. The applicant organization's certificate of incorporation.
- 409 b. Documentation to support the organization's not-for-profit status (i.e., IRS §
410 501(c)(3) determination letter, or equivalent).
- 411 c. A description of the use of the property and consistency with the requested
412 exemption.
- 413 d. Contracts of any type that describe or memorialize use of the property by a
414 person or entity other than the applicant organization.
- 415 e. A description of any remuneration received by the applicant organization
416 including:
- 417 i. Any property, or portion of property, from which rentals or income are
418 derived.
- 419 ii. Actual operating expenses, excluding only debt service or
420 depreciation.
- 421 iii. Financial statements for the past tax year including a copy of Form 990
422 as filed with the IRS, income and expense reports, and description of
423 any debt service or depreciation included in the financial statements
424 for the property.
- 425 5. Under this subsection, there shall be no proration of taxes for exemptions.
426 Properties qualifying for an exemption shall be in use under the exempt
427 purpose as of January 1 of the year for which the exemption is granted.
- 428 6. The borough assessor may request additional information prior to the
429 determination, as reasonably necessary to determine the exempt status of a
430 property in accordance with Borough Code and regulations and Alaska law.
- 431 7. Administrative review of denial for continuation of a community purpose
432 exemption by the assessor.

- 433 a. If the assessor denies an application for the continuance of an exemption
 434 under this section, the assessor shall state the reason for the denial in a
 435 written notice to the owner of record.
- 436 b. A denial by the assessor under this section may be appealed to the
 437 borough assembly by means of a written request from the owner of
 438 record, which must be received by the borough clerk no later than 30 days
 439 after the date of denial.
- 440 c. Only an owner of record may request the administrative review of the
 441 assessor's decision to deny the continuance of an exemption.
- 442 d. For the purposes of computing time for the purposes of an appeal under
 443 this section, the date that the assessor's written notice of denial shall be
 444 deemed the date of the denial. The date of receipt by the borough clerk
 445 shall be the date of the request for administrative review.
- 446 e. As this is an optional exemption pursuant to AS 29.45.050, the borough
 447 assembly shall have the final determination of granting a continuance of
 448 the exemption.
- 449 8. The property owned by the following organizations shall be exempt from real
 450 and personal property taxation under this section:
- 451 a. The Kodiak Island Sportsman's Association;
 452 b. The Kodiak Senior Center;
 453 c. The Kodiak State Fairgrounds;
 454 d. The Kodiak Jaycees;
 455 e. The Kodiak Chamber of Commerce; and
 456 f. The Kodiak Island Convention and Visitors Bureau

457

458 **Section 5:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
 459 3.35.040, *Method of assessment*, is hereby amended as follows:

460

461 **3.35.040 Method of assessment.**

- 462 **A.** All taxable property must be assessed at its ~~just and fair~~ **full and true** value as of the
 463 first day of January of the assessment year. ~~All assessments shall be equal and uniform~~
 464 ~~and based upon the actual value of the property assessed. The assessor shall complete~~
 465 ~~the listing of the annual assessment roll of all real and personal property within the~~
 466 ~~corporate limits of the borough before the first day of April of that assessment year. The~~
 467 ~~listing of all taxable property may be made upon permanent separate ledger cards,~~
 468 ~~which will be the combined assessment roll and tax ledger.~~ **The full and true value is**
 469 **the estimated price that the property would bring in an open market sale between**
 470 **a willing seller and a willing buyer both conversant with the property, under the**
 471 **then-prevailing market conditions and with prevailing general price levels. The**
 472 **assessor shall strive to make all assessments fair and equitable. Taxable interests**
 473 **in otherwise non-taxable property, both real and personal, shall be taxed based on**
 474 **the lessee's possessory interest in the property.**
- 475 1. Real property shall be assessed to the owner of record as shown on the records of
 476 the Kodiak district recorder; provided, however, that any other person having an

477 interest in the property may be listed on the assessment records with the owner. The
478 person in whose name any property is listed as owner thereof shall be conclusively
479 presumed to be the legal owner of record for tax purposes. If the owner of the land is
480 unknown, such land may be assessed to the unknown owner or unknown owners.
481 No assessment shall be invalidated by a mistake, omission, or error in the matter of
482 the owner of real property assessed, if the property is correctly described. It shall be
483 the responsibility of the owners of the property to keep the assessor properly
484 informed as to their current address and no assessment shall be invalidated **on the**
485 **basis of improper notice** if it is shown that a ~~the notice of value that taxes are due~~
486 ~~and payable~~ has been sent to the last known address of the owner of record.

487 **2. Personal property shall be assessed to the last reported owner of record as**
488 **contained in borough records. No assessment shall be invalidated by a**
489 **mistake or omission or error regarding ownership of personal property. It is**
490 **the responsibility of the owners of personal property to keep the assessor**
491 **properly informed as to the current status of their business, whether active or**
492 **inactive and their current mailing address.**

493 **3. The assessor may list real property located in any subdivision by lot and block or**
494 **tract description, by unsubdivided property according to the land office, by section**
495 **and township survey description, or by giving the boundaries thereof, or by reference**
496 **to the book and page of the records of the Kodiak district recorder where the**
497 **description may be found, by designation of tax lot number referring to a public**
498 **record kept by the assessor of descriptions of real property, or in such other manner**
499 **as to cause the description to be capable of being made certain. Initial letter,**
500 **abbreviations, fractions, and exponents to designate the township, range, section or**
501 **part of a section, or the number of any lot or block or part thereof, or any distance,**
502 **course, bearing, or direction may be employed in any such description of real**
503 **property.**

504 **4. A private interest in public property is taxable. When any real or personal**
505 **property which would otherwise be exempt from taxation because of**
506 **ownership or control by a federal, state, or municipal government, or by some**
507 **other tax exempt entity is leased, loaned, or otherwise made available to and**
508 **used by a private person, such person's interest therein shall be taxed in the**
509 **same manner as taxes assessed to owners of real property, except that taxes**
510 **assessed under this subsection shall be a lien only on the interest in the**
511 **property of such person. Private leaseholds, contracts or other interest in land,**
512 **or property owned or held by the United States, the state, or other political**
513 **subdivisions and other tax exempt entities shall be taxable to the extent of the**
514 **value of the possessory interest.**

515 **5. The assessor, either personally, or through any designated assistant, shall, after**
516 **identifying themselves, have the right to enter upon and inspect the premises of any**
517 **person at reasonable times for the purpose of making an examination, evaluation or**
518 **assessment of the real property. The assessor or the assessor's agent shall have**
519 **access to and may examine all property records relevant to its valuation, including**
520 **but not limited to income and expense statements, rent rolls, leases, pertinent**

521 ~~income tax forms, and sale closing documents.~~ and ~~a~~Any person shall, upon
522 request, furnish to the assessor or designated assistant every facility and assistance
523 for the purpose of such examination, evaluation, or assessment.

524 **6. The borough shall keep confidential all proprietary records received by the**
525 **assessor's office, for which there exists a reasonable expectation of**
526 **confidentiality, shall be confidential. Such records may include tax returns,**
527 **rent rolls, income and expense statements, sales and finance information, and**
528 **other financial information that is not readily accessible by some other means.**

529 B. Contents of Assessment Roll. **The assessor shall complete the listing of the annual**
530 **assessment roll of all real and personal property within the corporate limits of the**
531 **borough before the last day of February of that assessment year.** The assessor
532 shall prepare an annual assessment roll ~~in duplicate~~ upon which shall be entered the
533 following particulars:

- 534 1. The names and last known addresses of all persons with property liable to
535 assessment and taxation;
536 2. A description of all taxable property; and
537 3. The assessed value, ~~quantity, or amount of said~~ **of all taxable** property.

538 C. Notice, Publication, and Correction of Assessment Roll.

539 1. The assessor shall give to every person named in the assessment roll a notice of
540 assessment showing the assessed value of their property. On the ~~back of each~~
541 assessment notice shall be printed a brief summary of the information for the
542 taxpayer; of the dates when the taxes are payable, delinquent and subject to interest
543 and penalty; **final dates for appeal of the assessment to the board of**
544 **equalization**; dates when the board will sit for equalization purposes; and any other
545 particulars specified by the borough assembly. The assessment notice shall be
546 directed to the person to whom it is to be given and shall be sufficiently given if it is
547 mailed by first-class mail addressed to, or is delivered at, the address as last known
548 by the assessor. If the address is not known to the assessor, the notice may be
549 addressed to the person at the post office nearest to the place where the property is
550 situated. The date on which the notice is mailed ~~or delivered~~ shall be deemed to be
551 the date on which the notice is given for purposes of this chapter.

552 2. When valuation notices have been mailed, the assessor shall cause notice that the
553 assessment rolls have been completed to be published in a newspaper of general
554 circulation, published in the borough at least once each week for two successive
555 weeks. If no newspaper of general circulation is published in the borough, the
556 assessor shall have the notice posted at two public places for a period of two weeks.
557 The notice shall state when and where the equalization hearings will be held.

558 3. The assessor may correct an error or supply an omission in the assessment roll at
559 any time before the sitting of the board of equalization. ~~Every person receiving a~~
560 ~~notice of assessment shall advise the assessor of any error or omission in the~~
561 ~~assessment of his property.~~ **It shall be the duty of every person who receives a**
562 **notice of assessment to advise the borough assessor of any error or omission**
563 **in the assessment of the person's property, so that the borough assessor may**
564 **correct any errors in the assessment roll.**

- 565 4. **Period of review.** The borough assessor or designees may perform reviews of
566 assessed values within thirty days of the date that assessment notices have
567 been mailed.
- 568 a. A property owner may appeal an assessment of their property to the
569 assessor or designees and upon providing credible information or upon a
570 more in depth inspection and analysis of the property at the owner's
571 request the assessor may adjust the assessment appropriately if found to
572 be in error.
- 573 b. The property owner may appeal the assessor's valuation to the Board of
574 Equalization, using forms provided by the Borough, within the original
575 thirty day time frame from the mailing of the original notice. The assessor
576 review will not suspend or delay the final date of written appeal to the
577 Board of Equalization.

578

579 **Section 6:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
580 3.35.050, *Board of equalization*, is hereby amended as follows:

581

582 **3.35.050 Board of equalization.**

583

A. Membership, Qualification, Duties, Terms.

584

1. Members. The board of equalization shall be composed of five persons, not
585 assembly members, appointed by the assembly. At least one alternate member shall
586 be appointed.

587

2. Qualifications. Members and alternate members should be appointed on the basis of
588 their expertise in real and personal property appraisal, the real estate market, the
589 personal property market, and other fields related to their functions as board
590 members. Each member shall be a qualified voter of the borough and shall remain a
591 resident of the borough while in office. Borough employees may be appointed to
592 serve on the board of equalization unless they are employed by the finance or
593 assessing departments.

594

3. Duties. The board may determine equalizations on properties brought before the
595 board by appellants. It shall only hear appeals for relief from an alleged error in
596 valuation on properties before the board by an appellant.

597

4. Terms of Office. Upon confirmation, members and alternate members shall serve for
598 three years or until their successors are appointed and confirmed. Of the members
599 initially appointed, two shall serve three-year terms, two shall serve two-year terms,
600 and one shall serve a one-year term.

601

5. Hearing Dates. The board shall commence hearings on the first Monday in May,
602 unless otherwise changed by resolution. Hearings will continue from day to day as
603 established by the board and the borough clerk until all properly filed appeals have
604 been heard.

605

B. Chairperson. The board annually shall elect a member to serve as its chairperson. The
606 chairperson may call meetings of the board, shall exercise such control over meetings
607 as to ensure the fair and orderly resolution of appeals, shall make rulings on the
608 admissibility of evidence, and shall conduct the proceedings of the board in conformity

609 with this chapter. A vice-chairperson shall also be selected to serve in the chairperson's
610 absence. If both are absent, the members present shall select a person to preside.

611 C. Appeals to the Board.

- 612 1. A person whose name appears on the assessment roll, or the authorized
613 representative of that person, may appeal to the board for relief for an alleged error
614 in valuation not adjusted by the assessor to the taxpayer's satisfaction. The
615 authorized representative shall be named by the property owner in writing to the
616 assessor and board of equalization at the time of filing or no later than three days in
617 advance of hearing. The time requirement for providing a representative in writing
618 may be waived at the determination of the board during the hearing, if good cause is
619 shown that may include, but not limited to, the following: stranded from Kodiak due to
620 inclement weather, serious medical condition, serious family emergency, or death in
621 the family.
- 622 2. The appellant shall, within 30 calendar days after the date of mailing of notice of
623 assessment, submit to the assessor a written appeal specifying grounds for such
624 appeal. The board shall prescribe the form in which written notices of appeal shall be
625 made. Otherwise, the right of appeal ceases unless the board of equalization finds
626 that the taxpayer was unable to comply within the 30-day appeal period and grants a
627 hearing to the appellant.
- 628 3. The assessor shall notify the appellant by mail, and email if provided, of the time and
629 place for the hearing and assign a docket number of appeal.
- 630 4. If parties to whom notice was mailed as provided herein fail to appear, the board may
631 proceed with the hearing in their absence. All parties, their authorized
632 representatives, and witnesses must appear in person at the hearing.
- 633 5. The assessor shall prepare for use by the board of equalization a summary of
634 assessment data relating to each assessment that is appealed. This summary shall
635 be provided to the board and made available to the appellant at least 10 calendar
636 days before the hearing. Summary of assessment data for late-filed appeals granted
637 by the board will be provided as soon as practicable.
- 638 6. A city in the borough may appeal an assessment to the borough board of
639 equalization in the same manner as a taxpayer. Within five days after receipt of the
640 appeal, the assessor shall notify the person whose property assessment is being
641 appealed by the city.
- 642 7. A property owner who seeks to appeal the assessor's valuation, after the 30-day
643 filing period has closed, shall file a letter with the assessor stating the reasons why
644 the property owner was unable to comply with the 30-day appeal period. The
645 deadline to file a late-file request is on April 15th of the current assessment year.
646 Should April 15th fall on a Saturday or Sunday, late filers shall have until 4:30 p.m.
647 on the first Monday following to file their request.

648
649 On the next business day following the deadline to file a late-file request or as soon
650 as is practicable, the board shall consider each letter and shall only consider reasons
651 the appellant was unable to comply with the 30-day appeal period. It shall not
652 consider evidence regarding property valuation. The appellant may not make an oral

653 presentation at the hearing. The determination shall be based on the letter and
654 supporting documents. The board shall interpret the term “unable to comply” as
655 meaning that a property owner must demonstrate compelling reasons or
656 circumstances which would prevent a reasonable person under the circumstances
657 from filing an appeal in a timely manner during the 30-day appeal period.
658

659 If the late-file request is granted, the property owner shall have five calendar days
660 from the decision of the board to file an appeal and submit to the assessor’s office all
661 documentary evidence in their possession which they wish to be considered and
662 which is relevant to the resolution of the appeal. If the late-file request is denied, the
663 assessor shall notify the property owner of the board’s decision in writing.
664

664 D. Quorum and Voting.

- 665 1. Quorum. A quorum shall consist of four members.
- 666 2. Voting. The granting of any appeal or part thereof shall require the concurring vote of
667 at least three board members. Any appeal or part thereof which is not granted by the
668 board shall be considered denied.

669 E. Hearings, Procedures.

- 670 1. Record. The clerk is the ex officio clerk of the board and shall prepare the board's
671 minutes. The clerk shall keep electronic recordings of the board’s hearings per the
672 borough retention schedule. The board of equalization summary certification will
673 constitute the board’s minutes.
- 674 2. Counsel. All parties may be represented by counsel during hearings before the
675 board. On procedural matters, the borough attorney may offer legal counsel to the
676 board in the course of its proceedings. Upon the recommendation of the borough
677 attorney, the board may retain legal counsel from another attorney for a particular
678 matter.
- 679 3. Appeal Number. Every appeal shall be assigned a docket number which, along with
680 the name of the appellant, shall be read into the record before the hearings on the
681 appeal may commence.
- 682 4. Burden of Proof. The burden of proof rests with the appellant, who must convince the
683 board by clear and convincing evidence that the assessment was unequal,
684 excessive, improper, or undervalued based on the facts stated in a written appeal or
685 proven at the appeal hearing in accordance with subsections (E)(5) and (7) of this
686 section. If the valuation is found to be too low, the board may raise the assessment.
687 The borough shall make available to the appellant all reasonably pertinent
688 documents requested for presentation of the appeal, including but not limited to
689 documents presented or requested by the board of equalization for presentation of
690 the appeal in accordance with subsection (C)(5) of this section.
- 691 5. Rules of Evidence. Evidence shall only be presented by the appellant and the
692 assessor or their authorized representative. The board shall not be restricted by the
693 formal rules of evidence; however, the chairperson may exclude evidence irrelevant
694 to the issues appealed. Hearsay evidence may be considered, provided there are
695 adequate guarantees of its trustworthiness and that it is more probative on the point
696 for which it is offered than any other evidence which the proponent can procure by

697 reasonable efforts. The appellant must submit to the assessor's office by April 15th
698 all documentary evidence in their possession which they wish to be considered and
699 which is relevant to the resolution of the appeal. Should April 15th fall on a Saturday
700 or Sunday, appellants shall have until 4:30 p.m. on the first Monday following to
701 submit their evidence.

702
703 This evidence includes but is not limited to purchase and closing documents,
704 appraisal reports, brokers' opinion of value, engineers' reports, estimates to repair,
705 rent rolls, leases, and income and expense information. The board of equalization
706 may in its discretion decline to accept documents offered at the hearing which should
707 have been provided by April 15th. In exercising this discretion, the board shall
708 consider the relevance and probative value of the documents which are under
709 consideration, accepting those documents which in all fairness are necessary to a
710 fair resolution of the appeal. Prior to the board meeting, the appellant and assessor
711 may agree to an extension of time for the production of evidence.

712 6. Order of Presentation. The order of presentation is as follows:

- 713 a. The appellant shall present evidence and argument not to exceed five minutes.
714 b. Following the appellant, the assessor shall present the borough's evidence and
715 argument not to exceed five minutes.
716 c. The appellant may make a rebuttal presentation directed solely to the issues
717 raised by the assessor not to exceed two minutes.
718 d. The assessor may address the rebuttal by the appellant not to exceed two
719 minutes.

720 Each party shall be allowed a total of five minutes to present evidence and make oral
721 argument. The time limits allotted include presentations from either the appellants or
722 assessor's authorized representatives, counsels, or witnesses. Additional time may
723 be permitted by the board depending on the complexity of the case. The members of
724 the board may ask questions, through the chairperson, of either the appellant or the
725 assessor, authorized representatives, counsels, or witnesses at any time during the
726 hearing. After both the appellant and the assessor have made their presentations,
727 each may question the other through the chairperson. The chairperson may end the
728 questioning and call for a motion from the other members.

729 7. Witnesses, Exhibits and Other Evidence. The appellant and the assessor may offer
730 the oral testimony of witnesses and documentary evidence during the hearing. At the
731 request of the appellant, evidence submitted pursuant to subsection (E)(5) of this
732 section relating to the assessed valuation of property used in an income-producing
733 commercial enterprise shall be confidential. The assessor and the appellant may
734 stipulate to facts to be presented to the board, provided the assessor has received
735 credible and reliable evidence to establish the facts.

736 |
737 The only exhibits that shall be admitted into the record at the hearing are those
738 exhibits provided pursuant to subsection (E)(5) of this section. However, at the
739 hearing, parties may use demonstrative or illustrative exhibits; provided, that all such
740 exhibits are duplicates of exhibits or information provided to the board pursuant to

741 subsection (E)(5) of this section. Additionally, witnesses may write on a board while
742 orally testifying to illustrate their testimony. The limitation on the use of exhibits in this
743 section shall not preclude the parties from presenting oral testimony at the hearing.

744 8. Decisions.

- 745 a. The assessor may recommend changes to the existing value during the hearing.
746 b. After the appellant and assessor have presented their cases, the hearing shall be
747 closed by the chairperson, and no further evidence shall be offered or considered
748 in deliberations unless a member of the board of equalization asks for additional
749 information from either party. Both parties shall be given an equal opportunity to
750 respond to any such requests for additional information.
751 c. The board may decide the appeal after the presentations, or it may defer a
752 decision no later than 30 days after the hearing date. Final board action shall be
753 taken by motions that set out specific findings of fact at the meeting and shall not
754 be reconsidered, amended, or rescinded by the board. Only one motion may be
755 on the floor at a time, and the board shall vote on the motions until its findings
756 are established. The vote must be taken and entered in the permanent record of
757 the proceedings. The motions available for the board are:
758 i. Motion to uphold the assessor's valuation.
759 ii. Motion to reduce the assessment.
760 iii. Motion to increase the assessment.
761 iv. Motion to dismiss the appeal.
762 v. Motion to defer the decision.
763 vi. Or any other motion set out in Alaska Statutes and regulations governing
764 board of equalization appeals.
765 d. No later than 30 days following the hearing, the board shall render a written
766 decision which includes findings of fact based on evidence presented at the
767 hearing clearly stating the grounds upon which the panel relied to reach its
768 decision and advising all parties of their right to appeal the decision to superior
769 court.

770 9. Certification. The board shall certify its actions to the assessor within seven days
771 following its adjournment.

772 F. Further Appeals. Any appeal of a decision of the board shall be made to the superior
773 court. No appeal of a board's decision to the superior court may be taken unless the
774 action is filed and the borough attorney is served with notice of such appeal within thirty
775 days following the board's written decision.

776
777

778 **Section 7:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
779 3.35.060, *Final and supplemental assessment rolls*, is hereby amended as
780 follows:

781
782

783 **3.35.060 Final and supplemental assessment rolls.**

784 A. ~~After the hearing~~ **Within fifteen days after the board of equalization certifies its**
785 **actions,** the assessor shall, ~~at the time fixed by the assembly,~~ complete and certify the
786 annual assessment roll. The assessment roll shall be based on values as of January 1st
787 ~~immediately preceding of the assessment year.~~

788 B. All taxes levied or collected shall be calculated, levied, and collected upon the assessed
789 values entered in the assessment roll and certified by the assessor as correct, subject to
790 the taxpayer's rights of appeal, and to the corrections and amendments made in the
791 rolls, **including any court-ordered amendments. These assessed values shall be**
792 **valid and binding on all persons, notwithstanding any defect, error, omission, or**
793 **invalidity in the assessment roll or proceedings pertaining to the assessment roll.**
794 ~~All duties imposed on the assessor with respect to the annual assessment roll and all~~
795 ~~provisions of this chapter relating to the assessment roll shall, as far as applicable, apply~~
796 ~~to the supplementary rolls.~~

797 C. ~~The assessment roll as completed and certified by the assessor and as corrected and~~
798 ~~amended by him in conformity with this chapter and the decisions of the board are,~~
799 ~~except as amended as a result of an appeal to the court as provided herein, valid and~~
800 ~~binding on all persons, notwithstanding any defect, error, omission, or invalidity in the~~
801 ~~assessment roll or proceedings pertaining to the assessment roll.~~ **When the assessor**
802 **discovers that an omission has been made in either the real or personal property**
803 **rolls, the assessor shall include the property omitted from the assessment roll on**
804 **a supplementary roll. All procedures set forth in this chapter, or mandated by**
805 **state law, shall apply to the supplementary rolls.**

806 D. When the final assessment records are completed by the assessor, the assessor shall
807 deliver to the assembly a statement of the total assessed valuation of all real property in
808 the borough. The assembly shall then fix the rate of tax levy and designate the number
809 of mills upon each dollar of value of assessed taxable real property that shall be levied
810 for borough purposes including the borough government, assessment, and collection of
811 taxes, education, and planning and zoning, and shall levy the tax accordingly. The levies
812 for school and municipal purposes shall be separately made and fixed, but the
813 aggregate of them shall not exceed three percent of the assessed value of the property
814 assessed.

815 E. At such time as the assessment function of property taxes has been accomplished, to
816 include the appeal process to the board of review, the assessor will furnish the borough
817 treasurer a copy of the certified assessment roll.

818

819 **3.35.070 Addresses – Responsibility of persons subject to taxation.**

820 It shall be the responsibility of every person who owns or controls real or personal property
821 subject to tax by the municipality to file with the office of the assessor the address where he
822 will receive notices, bills, or other correspondence regarding taxation. No person shall be
823 excused from paying taxes or penalties thereon for the reason that he did not receive a tax
824 notice, bill, or any other correspondence due to an improper mailing of assessment notice,
825 billings, or other correspondence. [Ord. 78-21-O §4, 1978. Formerly §3.20.062].

826

827 **Section 8:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
828 3.35.085, *Method of determining the assessed value of property that qualifies*
829 *for a low-income housing tax credit under 26 USC 42*, is hereby amended as
830 follows:

831

832 **3.35.085 Method of determining the assessed value of property that qualifies for a**
833 **low-income housing tax credit under 26 USC 42.**

834 A. In accordance with AS 29.45.110(d)(1), the full and true value of all property within the
835 Kodiak Island Borough that first qualifies for low-income housing tax credit under 26
836 USC 42 before January 1, 2001, shall be based on the actual income derived from the
837 property and may not be adjusted based on the amount of any federal income tax credit
838 for the property.

839 B. Pursuant to AS 29.45.110(d)(2), the full and true value of all property within the Kodiak
840 Island Borough that first qualifies for a low-income housing credit under 26 USC 42 on or
841 after January 1, 2001, shall be exempt from the requirement that the value be based on
842 the actual income derived from the property. For property that first qualifies for a low-
843 income housing credit under 26 USC 42 on or after January 1, 2001, the assembly may
844 determine, by parcel, whether the property shall be assessed based on AS 29.45.110(a)
845 or on the basis of actual income derived from the property without adjustment based on
846 the amount of any federal income tax credit given for the property. Once the manner of
847 assessment of the property has been determined under this subsection, the assembly
848 may not change the manner of assessment of that parcel of property if debt relating to
849 the property incurred in conjunction with the property qualifying for the low-income
850 housing tax credit remains outstanding.

851 C. To secure an assessment based upon the actual income derived from the property under
852 this section, an owner of property that qualifies for the low-income housing tax credit
853 under 26 USC 42 shall apply to the assessor before May 15th of each year in which the
854 assessment is desired. The property owner shall submit an application on forms
855 prescribed by the assessor and shall include information that may reasonably be
856 required by the assessor to determine the entitlement of the applicant and to assess the
857 property under this subsection. All such applications shall be forwarded to the assembly
858 for determination, by resolution, of the manner of assessment.

859

860 **3.35.090 Property tax billing.**

861 The treasurer, upon receipt of the certified assessment roll and with the millage rate
862 established by the assembly, will cause to produce property tax bills for all property owners
863 of record. These tax bills will be mailed to the most recent address on file.

864

865 **Section 9:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
866 3.35.080, *Real and personal property exempted from taxation*, is deleted, and
867 its contents incorporated into Section 3.35.030.

868

869

870 **Section 10:** Title 3 *Revenue and Finance*, Chapter 3.35 *Real Property Tax*, Section
871 3.35.100, *Correction of errors*, is hereby amended as follows:
872

873 **3.35.100 Correction of errors.**

874 A. Correction of Error in Billing of Penalty and Interest. When it is shown to the chief fiscal
875 officer that a taxpayer has been billed erroneously for tax, tax penalty, or interest
876 because of administrative error by the borough, the chief fiscal officer may adjust the tax
877 bill accordingly.

878 B. Correction of Errors in Assessment. ~~When the assessor discovers an error or omission~~
879 ~~has been made in a real or personal property assessment or billing, the assessor, upon~~
880 ~~receipt of proper documentation showing error or omission, may assess, bill, or rebill for~~
881 ~~such property. Taxable property which has been omitted from assessment for any year~~
882 ~~may thereafter be assessed and taxed for that year at any future time. The assessor~~
883 **may correct errors or omissions in the roll before the board of equalization**
884 **hearing. No changes to the roll can be made once the board has certified their**
885 **actions except:**

886 **8. The assessor may correct a manifest clerical error in the assessment roll at**
887 **any time. A manifest clerical error is a typographical, computational, or other**
888 **similar error readily apparent from the assessment notice, tax statement or**
889 **other borough tax and assessment records and made by a borough employee**
890 **in the performance of typing, record keeping, filing or other similar duties. A**
891 **manifest clerical error does not require extrinsic evidence to make it clear.**

892 **9. The assessor may correct an omission of the roll as described in 3:35.60(C) at**
893 **any time.**

894 C. All rights provided by this chapter, including but not limited to rights to appeal and times
895 for making payments, shall be reserved to the person receiving a corrected assessment
896 or tax bill as of the time the new assessment or billing is mailed.
897

898 **Section 11:** Title 3 *Revenue and Finance*, Chapter 3.40 *Personal Property Tax*, Section
899 3.40.010, *Property subject to taxation*, is hereby amended as follows:
900

901 **Chapter 3.40**
902 **PERSONAL PROPERTY TAX**

903 Sections:

- 904 3.40.010 Property subject to taxation.
905 3.40.020 Exemptions.
906 3.40.030 Assessment return.
907 3.40.040 Tax situs of personal property.
908 3.40.050 Liability for and collection of.
909 3.40.060 Penalties and interest.
910 3.40.070 Classification of boats and vessels. NO CHANGE
911 3.40.080 Classification of aircraft. NO CHANGE

912 * For statutory provisions granting the power to assess and collect taxes, see AS
913 29.35.170; for provisions governing municipal assessment and taxation generally,
914 see AS 29.45.

915 Prior legislation: Code 1974 §§ 3.24.060, 3.24.070, 3.24.080 and 3.24.090 and Ords.
916 83-53-O, 84-25-O, 96-21 and 2007-16.

917

918 **3.40.010 Property subject to taxation.**

919 **A. Except as otherwise provided in this chapter a Tangible personal property which has**
920 **with a tax situs within the borough is subject to taxation, except where otherwise**
921 **exempted by borough ordinance or state statute. Business personal property is**
922 **taxable to the extent that a taxpayer's total assessed value for all business personal**
923 **property within the borough of Kodiak exceeds \$20,000. Tangible Business personal**
924 **property includes all personal property including, but not limited to, furniture, furnishings,**
925 **fixtures, machinery, and equipment used by a business, stock animals, watercraft,**
926 **aircraft, tools, dies, jigs, patterns and stock used in trade (including inventories,**
927 **supplies, materials in process, and other similar items) or in a business capacity.**

928 **B. All private interests in personal property which is otherwise exempt due to**
929 **ownership by the federal government, state, borough, other state municipal**
930 **subdivision or other tax-exempt entity is taxable under this code to the extent of**
931 **that interest.**

932

933 **Section 12:** Title 3 *Revenue and Finance*, Chapter 3.40 *Personal Property Tax*, Section
934 3.40.020, *Exemptions*, is hereby amended as follows:

935

936 **3.40.020 Exemptions.**

937 **A. Individual personal property utilized solely and exclusively for personal, nonbusiness,**
938 **noncommercial, nonagricultural and nonincome producing uses or purposes is exempt**
939 **from taxation under this chapter. This includes aircraft, boats and vessels used for**
940 **nonbusiness, nonagricultural, noncommercial and nonincome producing purposes.**

941 **B. A taxpayer who files a timely business property return with the assessor shall be**
942 **exempted from the first \$20,000 of assessed value of business personal property**
943 **owned by each taxpayer shall be exempt from borough property taxation. For a taxpayer**
944 **with more than one business personal property tax account, the \$20,000 exemption shall**
945 **be distributed pro rata among all of the taxpayer accounts, based on the proportion of**
946 **the assessed value in each account to the total assessed value of that taxpayer's**
947 **business personal property.**

948 **C. Pursuant to AS 29.45.050(b)(2), the inventories of businesses possessing a valid**
949 **business license from the state of Alaska are exempt from the tax imposed by this**
950 **chapter. As used herein, "inventories" means personal property in the hands of a retail or**
951 **wholesale merchant held for sale or personal property held in the form of raw materials**
952 **or component parts for the manufacture or production of goods.**

953 **D. Pursuant to AS 29.45.050(b)(2), fishing gear (i.e., nets, seines, crab pots, long lines,**
954 **trawls) and any or all associated paraphernalia utilized for commercial fishing is exempt**
955 **from property tax.**

956 **Section 13:** Title 3 *Revenue and Finance*, Chapter 3.40 *Personal Property Tax*, Section
957 3.40.030, *Assessment return*, is hereby amended as follows:
958

959 **3.40.030 Assessment return.**

960 A. Every person with ownership in **taxable business** personal property shall submit to the
961 borough assessor a personal property return of any property owned by him, or in which he
962 has an interest, and of the property held or controlled by him in a representative capacity, in
963 the manner prescribed, which return shall be based on property values existing as of the
964 first day of January of the year for which the return is made. The person making the return in
965 every case shall state an address to which all notices required to be given to him under this
966 section may be mailed or delivered. The return shall show the nature; quantity; description,
967 **including date of manufacture**; amount; value; purchase price, new or used; depreciable
968 basis; and current condition of all personal property, the place where the property is
969 situated, and said return shall be in such form and include such additional information as the
970 **assembly assessor** may prescribe, and shall be signed and verified under oath by the
971 person liable, or his or its authorized agent or representative.

972 B. Said return shall be filed on or before the fifteenth day of January of each tax year,
973 **unless the property owner requests, and the assessor approves, an extension that**
974 **may not exceed thirty days. The extension must be requested prior to the January**
975 **15th due date.**

976 C. The borough assessor may, by notice in writing to any person by whom a return has
977 been made, require from him a further return containing additional details and more explicit
978 particulars and, upon receipt of the notice, that person shall comply fully with its
979 requirements within 30 days.

980 D. In the event of any person failing, refusing, or neglecting to make or file said personal
981 property return of property owned by him, as required herein, the assessor shall make an
982 assessment which shall be as fair and equitable as he is able to make from the best
983 information in his possession concerning said property **and this assessment shall be**
984 **prima facie evidence for all legal purposes and any related proceedings.** (AS
985 29.45.130(a))
986

987 **Section 14:** Title 3 *Revenue and Finance*, Chapter 3.40 *Personal Property Tax*, Section
988 3.40.040, *Tax situs of personal property*, is hereby amended as follows:
989

990 **3.40.040 Tax situs of personal property.**

991 ~~A. Tax Situs. All personal property which has a tax situs within the borough on January 1st~~
992 ~~of the tax year is subject to taxation. "Tax situs" means the principal place where an item~~
993 ~~of personal property is located, having due regard to the residence and domicile of its~~
994 ~~owner, the place where it is registered or licensed, whether it is taxed by other~~
995 ~~municipalities, and any other factors which may indicate the principal location of the~~
996 ~~property.~~

997 ~~B. Tax Situs, Conclusive Presumptions~~

998 ~~1. Tax situs shall be conclusively presumed to be within the borough when the property,~~
999 ~~although not within the borough on January 1st of the assessment year, either:~~

1000 ~~a. Has been or is usually, normally, or regularly kept or used within the borough;~~

- 1001 ~~b. Has been or is kept or used within the borough for any 90 days or more in the 12~~
- 1002 ~~months preceding the January 1st assessment; or~~
- 1003 ~~e. Has been or is kept or used within the borough for any length of time preceding~~
- 1004 ~~January 1st of the assessment year if such presence or use is intended to be~~
- 1005 ~~permanent; "permanent" in this subsection means for a period of 90 days or~~
- 1006 ~~more.~~
- 1007 ~~2. Tax situs shall also be presumed conclusively to be within the borough where the~~
- 1008 ~~ownership, maintenance, or use of such property requires a license or permit, and a~~
- 1009 ~~license or permit has been issued by the state of Alaska, or the borough, city or any~~
- 1010 ~~other political subdivision within the borough, and:~~
- 1011 ~~a. The property is so licensed or permit so issued and either the actual residence~~
- 1012 ~~address or the mailing address of the licensee or permittee, or of the permissive~~
- 1013 ~~user thereunder, is within the borough; or~~
- 1014 ~~b. The property is so licensed or the permit so issued and the domicile of the~~
- 1015 ~~licensee or permittee, or the permissive user thereunder, is in the borough; this~~
- 1016 ~~subsection is to apply expressly to, but is not limited to, situations wherein the~~
- 1017 ~~subject property is in the custody of persons in educational institutions outside of~~
- 1018 ~~the borough; or~~
- 1019 ~~c. The property is so licensed or the permit is issued and the property is~~
- 1020 ~~permanently outside the borough when such licensing frees the owner, user or~~
- 1021 ~~custodian of liability for similar taxes in any other country, state, or political~~
- 1022 ~~subdivision thereof.~~

- 1023 **A. The tax situs of personal property is presumed to be the Kodiak Island Borough if:**
- 1024 **1. it is located within the borough on January 1 of the assessment year, and has**
- 1025 **been located in the borough for more than a temporary period in the year prior**
- 1026 **to January or;**
- 1027 **2. it is normally located within the borough, even though it is outside the**
- 1028 **borough on January 1 of the assessment year, if it is located outside the**
- 1029 **borough for only a temporary period of time during the year prior to January 1**
- 1030 **of the assessment year or;**
- 1031 **3. it is not located in the borough on January 1, but has been kept or used within**
- 1032 **the borough for any sixty (60) days during the year preceding the January 1st**
- 1033 **assessment date or;**
- 1034 **4. it normally is returned to the borough between uses elsewhere, and is not**
- 1035 **located in any one place for more than a temporary period.**

1036 **B. For purposes of this code, "temporary period" is defined as sixty (60) days.**

1037

1038 **Section 15:** Title 3 *Revenue and Finance*, Chapter 3.40 *Personal Property Tax*, Section

1039 3.40.050, *Liability for and collection of*, is hereby amended as follows:

1040

1041 **3.40.050 Liability for and collection of personal property taxes.**

- 1042 **A. The owner of personal property assessed is personally liable for the amount of taxes**
- 1043 **assessed against the property. The tax, together with penalty and interest, may be**
- 1044 **collected in a personal action brought in the name of the borough.**

- 1045 B. If the tax on personal property is not paid when due, the borough may, in addition to
1046 other remedies available, enforce the tax lien by distraint and sale of the property after
1047 first making demand of the person assessed for the amount of the tax, penalty, and
1048 interest. The demand shall be in writing addressed to the person whose name appears
1049 on the last assessment roll as the owner of the property, describing the personal
1050 property assessed and the amount of the tax, penalty, and interest and demanding that
1051 the total be paid within 10 days after service of the demand personally or by registered
1052 mail.
- 1053 C. If the tax has not been paid after the expiration of 10 days from service of demand, the
1054 clerk may issue a warrant directing a peace officer to seize the personal property for
1055 which the tax was levied and to sell it at public auction after at least 15 days' notice of
1056 the sale by posting and publication. If the proceeds from the property sold are not
1057 sufficient to satisfy the tax, penalty, interest and costs of sale, the warrant may authorize
1058 the seizure of other personal property sufficient to satisfy the tax, penalty, interest, and
1059 costs of sale.
- 1060 **D. The borough has the right to seek payment of any unpaid portion of the tax,
1061 penalty and interest by all methods available under law.**
1062

1063 **Section 16:** Title 3 *Revenue and Finance*, Chapter 3.40 *Personal Property Tax*, Section
1064 3.40.060, *Penalties and interest*, is hereby amended as follows:
1065

1066 **3.40.060 Penalties and interest.**

- 1067 ~~A. A person who fails, refuses, or neglects to file a personal property return in accordance~~
1068 ~~with KIBC 3.40.010 and 3.40.020 shall, in addition to other penalties provided by law, be~~
1069 ~~liable for a penalty of 20 percent of the tax assessed, in accordance with AS 29.45.250~~
1070 ~~in accordance with AS 29.45.. Said person shall pay interest at the rate of 12 percent per~~
1071 ~~year, exclusive of penalty, from the due date until paid in full. This section shall apply to~~
1072 ~~all persons having personal property within the borough, irrespective of residence.~~
1073 ~~However, when such penalty and interest amount to \$1.00 or less, there shall be~~
1074 ~~assessed a minimum penalty of \$1.00. A person who files a completed return after the~~
1075 ~~filing deadline, but before the mailing of the assessment notices shall, in addition to other~~
1076 ~~penalties provided by law, will be liable for a penalty of five percent of the tax assessed~~
1077 ~~against said personal property for that tax year.~~
- 1078 **B. A person who, either for himself or as agent for another, or as agent, officer, or**
1079 **manager of a corporation, fails to file a return as required by this code prior to**
1080 **February 28th of the current assessment year shall be fined a penalty in the**
1081 **amount of \$300.**
- 1082 **C. A person who, either on his own behalf, as agent for another, or as the agent,**
1083 **officer, or manager of a corporation, knowingly makes a false statement, return or**
1084 **list required by this section relating to the amount, kind, or value of personal**
1085 **property subject to taxation by the borough with intent to avoid or evade the**
1086 **assessment on taxation of the property, or part of it, with intent to avoid or evade**
1087 **the assessment or taxation of the property or part of it, is guilty of a violation of**
1088 **this chapter, and this action is punishable by a fine of \$1000.00. (AS 29.45.140)**

1089 **Section 17:** This ordinance will take effect upon adoption.

1090

1091

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS SECOND DAY OF JANUARY, 2014**

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KODIAK ISLAND BOROUGH

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1097

1098 ATTEST:




Jerrol Friend, Borough Mayor

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Nova M. Javier, MMC, Borough Clerk