

Introduced by:	Borough Manager
Requested by:	Finance Director
Drafted by:	Revenue Accountant
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**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2015-10**

**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**

WHEREAS, the Borough assesses, taxes and forecloses on property pursuant to borough code and state statute, and this ordinance will align this section of borough code with the state; and

WHEREAS, it would clarify the definition of mobile home and the responsibility of persons subject to taxation; and

WHEREAS, it would assign the identity of the party responsible for annual ownership updates of mobile homes residing on rented property; and

WHEREAS, it would clarify the Judicial District to which Board of Equalization appeals are to be made; and

WHEREAS, it would clarify the delivery requirements for timely and delinquent tax payments; and

WHEREAS, it would repeal foreclosure codes in favor of establishing the foreclosure process as defined by Alaska State Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH that:

Section 1: This ordinance is of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances.

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

**CHAPTER 3.35
REAL PROPERTY TAX**

Sections:		
3.35.010	State law adopted	NO CHANGES
3.35.020	Property subject to tax.	
3.35.030	Real and personal property exempted from taxation	NO CHANGES

- 48 3.35.040 Method of assessment.
- 49 3.35.050 Board of equalization.
- 50 3.35.060 Final and supplemental assessment rolls. NO CHANGES
- 51 3.35.070 Addresses – Responsibility of persons subject to taxation.
- 52 3.35.080 Repealed. NO CHANGES
- 53 3.35.085 Method of determining the assessed value of property that qualifies for a
- 54 low-income housing tax credit under 26 USC 42. NO CHANGES
- 55 3.35.090 Property tax billing.
- 56 3.35.100 Correction of errors.
- 57 3.35.110 City taxes. NO CHANGES
- 58 3.35.120 Tax due dates and delinquency.
- 59 3.35.130 Exceptions. NO CHANGES
- 60 3.35.140 Late payments – Penalty and interest.
- 61 3.35.150 Enforcement of tax liens on real property.
- 62 3.35.160 ~~Preparation of the foreclosure list.~~ Foreclosure.
- 63 ~~3.35.170 — Publication of the foreclosure list.~~
- 64 ~~3.35.180 — Notice of foreclosure proceeding.~~
- 65 ~~3.35.190 — Clearing delinquencies before sale.~~
- 66 ~~3.35.200 — Notice of foreclosure list to lien holder.~~
- 67 ~~3.35.210 — Apportionment of costs.~~
- 68 ~~3.35.220 — Enforcement by personal action.~~
- 69 ~~3.35.230 — Foreclosure proceedings.~~
- 70 ~~3.35.240 — Effect of redemption.~~
- 71 ~~3.35.250 — Notice of expiration of redemption.~~
- 72 ~~3.35.260 — Deed to borough~~

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74 **Section 3:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
 75 3.35.020 *Property subject to tax* is hereby amended as follows:

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77 **3.35.020 Property subject to tax**

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

82 1. There is no limitation on taxes to pay bonds.

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

86 C. The following definitions shall apply to this section unless otherwise expressly
 87 indicated:

88 1. "Personal property" includes all property, whether corporeal or incorporeal, that
 89 is not specifically included in this section's definition of "real property," and
 90 includes mobile homes, trailers, house trailers, trailer coaches, and camper
 91 trailers, so long as they are not attached to the land or connected to water, gas,
 92 electric, or sewage facilities, and are not registered with the State of Alaska
 93 Department of Motor Vehicles as rolling stock.

- 94 2. "Real property" includes not only the land itself, whether laid out in lots or
95 otherwise, but also all buildings, structures, improvements, fixtures of any kind
96 thereon, and also any possessory rights and privileges belonging to or in any
97 way appertaining thereto. The word "tract" includes all lands, pieces, or parcels
98 of land which may be separately assessed, together with fixtures and
99 improvements thereon. "Real property" also includes mobile homes, trailers,
100 house trailers, double-wide-type mobile or modular homes, trailer coaches and
101 similar property, which are used or intended to be used for residential, office, or
102 commercial purposes, and are attached to the land or connected to water, gas,
103 electric, or sewage facilities, except for those mobile homes and house trailers
104 which are held for sale by persons engaged in the business of selling mobile
105 homes. [Ord. FY2014-10 §3, 2014; Ord. 84-16-O §1, 1984; prior code Ch. 3
106 subch. 1 §2. Formerly §3.20.020].
- 107 3. "Mobile homes," more specifically classified as "manufactured housing"
108 are all forms of prefabricated housing that is largely assembled in
109 factories and then transported to sites of use. The definition of the term in
110 the United States is regulated by federal law (Code of Federal Regulations,
111 24 CFR 3280), paraphrased here: Manufactured homes are built as
112 dwelling units of at least 320 square feet (30 m²) in size with a permanent
113 chassis to assure the initial and continued transportability of the home.
114 The requirement to have a wheeled chassis permanently attached
115 differentiates "manufactured housing" from other types of prefabricated
116 homes, such as modular homes. For purposes of this code a mobile home
117 or manufactured home is a dwelling structure built on a steel chassis and
118 fitted with wheels that is intended to be hauled to a usually permanent site.
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120 **Section 4:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
121 3.35.040 *Method of assessment* is hereby amended as follows:
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123 **3.35.040 Method of assessment**

124 A. All taxable property must be assessed at its full and true value as of the first day of
125 January of the assessment year. The full and true value is the estimated price that the
126 property would bring in an open market sale between a willing seller and a willing buyer
127 both conversant with the property, under the then-prevailing market conditions and with
128 prevailing general price levels. The assessor shall strive to make all assessments fair and
129 equitable. Taxable interests in otherwise non-taxable property, both real and personal,
130 shall be taxed based on the lessee's possessory interest in the property.

- 131 1. Real property shall be assessed to the owner of record as shown on the
132 records of the Kodiak district recorder; provided, however, that any other person
133 having an interest in the property may be listed on the assessment records with
134 the owner. The person in whose name any property is listed as owner thereof
135 shall be conclusively presumed to be the legal owner of record for tax purposes.
136 If the owner of the land is unknown, such land may be assessed to the unknown
137 owner or unknown owners. No assessment shall be invalidated by a mistake,
138 omission or error in the matter of the owner of real property assessed, if the
139 property is correctly described, and it shall be the responsibility of the owners of

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the property to keep the assessor properly informed as to their current address and no assessment shall be invalidated on the basis of improper notice if it is shown that the notice of value has been sent to the last known address of the owner of record.

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

3. **On or before February 1st of each year, the owners of mobile home parks or other properties upon which are situated one or more mobile homes that do not belong to the owner of the underlying land, shall submit to the borough assessor a report that, to the best of their knowledge, identifies the owner of record for each mobile home located on their property, as well as the mailing addresses and other contact information for those owners. If this information is not received by the assessor by February 1, all mobile homes, structures and fixtures situated on the land shall be assessed to the land owner unless the borough otherwise confirms ownership by another owner of record.**

~~3.~~ 4. The assessor may list real property located in any subdivision by lot and block or tract description, and unsubdivided property according to the land office, section and township survey description, or by giving the boundaries thereof, or by reference to the book and page of the records of the Kodiak district recorder where the description may be found, or by designation of tax lot number referring to a public record kept by the assessor of descriptions of real property, or in such other manner as to cause the description to be capable of being made certain. Initial letter, abbreviations, fractions and exponents to designate the township, range, section or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing, or direction may be employed in any such description of real property.

~~4.~~ 5. A private interest in public property is taxable. When any real or personal property which would otherwise be exempt from taxation because of ownership or control by a federal, state, or municipal government, or by some other tax exempt entity is leased, loaned, or otherwise made available to and used by a private person, such person's interest therein shall be taxed in the same manner as taxes assessed to owners of real property, except that taxes assessed under this subsection shall be a lien only on the interest in the property of such person. Private leaseholds, contracts or other interest in land, or property owned or held by the United States, the state, or other political subdivisions and other tax exempt entities shall be taxable to the extent of the value of the possessory interest.

~~5.~~ 6. The assessor, either personally, or through any designated assistant, shall, after identifying themselves, have the right to enter upon and inspect the premises of any person at reasonable times for the purpose of making an examination, evaluation or assessment of the real property. The assessor or the assessor's

186 agent shall have access to and may examine all property records relevant to its
187 valuation, including but not limited to income and expense statements, rent rolls,
188 leases, pertinent income tax forms, and sale closing documents. Any person
189 shall, upon request, furnish to the assessor or designated assistant every facility
190 and assistance for the purpose of such examination, evaluation, or assessment.

191 ~~6.~~ 7. The borough shall keep confidential all proprietary records received by the
192 assessor's office, for which there exists a reasonable expectation of
193 confidentiality. Such records may include tax returns, rent rolls, income and
194 expense statements, sales and finance information, and other financial
195 information that is not readily accessible by some other means.

196 B. Contents of Assessment Roll. The assessor shall complete the listing of the annual
197 assessment roll of all real and personal property within the corporate limits of the borough
198 before the last day of February of that assessment year. The assessor shall prepare an
199 annual assessment roll upon which shall be entered the following particulars:

- 200 1. The names and last known addresses of all persons with property liable to
201 assessment and taxation;
- 202 2. A description of all taxable property; and
- 203 3. The assessed value of all taxable property.

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

- 205 1. The assessor shall give to every person named in the assessment roll a notice
206 of assessment showing the assessed value of his property. On the assessment
207 notice shall be printed a brief summary of the information for the taxpayer; of the
208 dates when the taxes are payable, delinquent and subject to interest and
209 penalty; final dates for appeal of the assessment to the board of equalization;
210 dates when the board will sit for equalization purposes; and any other particulars
211 specified by the borough assembly. The assessment notice shall be directed to
212 the person to whom it is to be given and shall be sufficiently given if it is mailed
213 by first-class mail addressed to, or is delivered at, his address as last known by
214 the assessor. If the address is not known to the assessor, the notice may be
215 addressed to the person at the post office nearest to the place where the
216 property is situated. The date on which the notice is mailed shall be deemed to
217 be the date on which the notice is given for purposes of this chapter.

- 218 2. When valuation notices have been mailed, the assessor shall cause notice that
219 the assessment rolls have been completed to be published in a newspaper of
220 general circulation, published in the borough at least once each week for two
221 successive weeks. If no newspaper of general circulation is published in the
222 borough, the assessor shall have the notice posted at two public places for a
223 period of two weeks. The notice shall state when and where the equalization
224 hearings will be held.

- 225 3. The assessor may correct an error or supply an omission in the assessment roll
226 at any time before the sitting of the board of equalization. It shall be the duty of
227 every person who receives a notice of assessment to advise the borough
228 assessor of any error or omission in the assessment of the person's property, so
229 that the borough assessor may correct any errors in the assessment roll.

- 230 4. Period of Review. The borough assessor or designees may perform reviews of
231 assessed values within 30 days of the date that assessment notices have been
232 mailed.
- 233 a. A property owner may appeal an assessment of their property to the
234 assessor or designees and upon providing credible information or
235 upon a more in depth inspection and analysis of the property at the
236 owner's request the assessor may adjust the assessment
237 appropriately if found to be in error.
- 238 b. The property owner may appeal the assessor's valuation to the board
239 of equalization, using forms provided by the borough, within the
240 original 30-day time frame from the mailing of the original notice. The
241 assessor review will not suspend or delay the final date of written
242 appeal to the board of equalization. [Ord. FY2014-10 §5, 2014; Ord.
243 82-33-O, 1982; Ord. 81-47-O, 1981; Ord. 71-4-O, 1971; prior code
244 Ch. 3 subch. 1 §4A. Formerly §3.20.040].
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246 **Section 5:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
247 3.35.050 *Board of equalization* is hereby amended as follows:
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249 **3.35.050 Board of equalization**

250 **A. Membership, Qualification, Duties, Terms.**

- 251 1. **Members.** The board of equalization shall be composed of five persons, not
252 assembly members, appointed by the assembly. At least one alternate member
253 shall be appointed.
- 254 2. **Qualifications.** Members and alternate members should be appointed on the
255 basis of their expertise in real and personal property appraisal, the real estate
256 market, the personal property market, and other fields related to their functions
257 as board members. Each member shall be a qualified voter of the borough and
258 shall remain a resident of the borough while in office. Borough employees may
259 be appointed to serve on the board of equalization unless they are employed by
260 the finance or assessing departments.
- 261 3. **Duties.** The board may determine equalizations on properties brought before the
262 board by appellants. It shall only hear appeals for relief from an alleged error in
263 valuation on properties before the board by an appellant.
- 264 4. **Terms of Office.** Upon confirmation, members and alternate members shall
265 serve for three years or until their successors are appointed and confirmed. Of
266 the members initially appointed, two shall serve three-year terms, two shall
267 serve two-year terms, and one shall serve a one-year term.
- 268 5. **Hearing Dates.** The board shall commence hearings on the first Monday in May,
269 unless otherwise changed by resolution. Hearings will continue from day to day
270 as established by the board and the borough clerk until all properly filed appeals
271 have been heard.

- 272 **B. Chairperson.** The board annually shall elect a member to serve as its chairperson.
273 The chairperson may call meetings of the board, shall exercise such control over
274 meetings as to ensure the fair and orderly resolution of appeals, shall make rulings
275 on the admissibility of evidence, and shall conduct the proceedings of the board in

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

279 C. Appeals to the Board.

- 280 1. A person whose name appears on the assessment roll, or the authorized
281 representative of that person, may appeal to the board for relief for an alleged
282 error in valuation not adjusted by the assessor to the taxpayer's satisfaction.
283 The authorized representative shall be named by the property owner in writing
284 to the assessor and board of equalization at the time of filing or no later than
285 three days in advance of hearing. The time requirement for providing a
286 representative in writing may be waived at the determination of the board during
287 the hearing if good cause is shown that may include, but not limited to, the
288 following: stranded from Kodiak due to inclement weather, serious medical
289 condition, serious family emergency, or death in the family.
- 290 2. The appellant shall, within 30 calendar days after the date of mailing of notice of
291 assessment, submit to the assessor a written appeal specifying grounds for
292 such appeal. The board shall prescribe the form in which written notices of
293 appeal shall be made. Otherwise, the right of appeal ceases unless the board of
294 equalization finds that the taxpayer was unable to comply within the 30-day
295 appeal period and grants a hearing to the appellant.
- 296 3. The assessor shall notify the appellant by mail, and email if provided, of the time
297 and place for the hearing and assign a docket number of appeal.
- 298 4. If parties to whom notice was mailed as provided herein fail to appear, the board
299 may proceed with the hearing in their absence. All parties, their authorized
300 representatives, and witnesses must appear in person at the hearing.
- 301 5. The assessor shall prepare for use by the board of equalization a summary of
302 assessment data relating to each assessment that is appealed. This summary
303 shall be provided to the board and made available to the appellant at least 10
304 calendar days before the hearing. Summary of assessment data for late-filed
305 appeals granted by the board will be provided as soon as practicable.
- 306 6. A city in the borough may appeal an assessment to the borough board of
307 equalization in the same manner as a taxpayer. Within five days after receipt of
308 the appeal, the assessor shall notify the person whose property assessment is
309 being appealed by the city.
- 310 7. A property owner who seeks to appeal the assessor's valuation, after the 30-day
311 filing period has closed, shall file a letter with the assessor stating the reasons
312 why the property owner was unable to comply with the 30-day appeal period.
313 The deadline to file a late-file request is on April 15th of the current assessment
314 year. Should April 15th fall on a Saturday or Sunday, late filers shall have until
315 4:30 p.m. on the first Monday following to file their request.

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317 On the next business day following the deadline to file a late-file request or as
318 soon as is practicable, the board shall consider each letter and shall only
319 consider reasons the appellant was unable to comply with the 30-day appeal
320 period. It shall not consider evidence regarding property valuation. The appellant
321 may not make an oral presentation at the hearing. The determination shall be

322 based on the letter and supporting documents. The board shall interpret the
323 term "unable to comply" as meaning that a property owner must demonstrate
324 compelling reasons or circumstances which would prevent a reasonable person
325 under the circumstances from filing an appeal in a timely manner during the 30-
326 day appeal period.

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328 If the late-file request is granted, the property owner shall have five calendar
329 days from the decision of the board to file an appeal and submit to the
330 assessor's office all documentary evidence in their possession which they wish
331 to be considered and which is relevant to the resolution of the appeal. If the late-
332 file request is denied, the assessor shall notify the property owner of the board's
333 decision in writing.

334 D. Quorum and Voting.

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

339 E. Hearings, Procedures.

- 340 1. Record. The clerk is the ex officio clerk of the board and shall prepare the
341 board's minutes. The clerk shall keep electronic recordings of the board's
342 hearings per the borough retention schedule. The board of equalization
343 summary certification will constitute the board's minutes.
- 344 2. Counsel. All parties may be represented by counsel during hearings before the
345 board. On procedural matters, the borough attorney may offer legal counsel to
346 the board in the course of its proceedings. Upon the recommendation of the
347 borough attorney, the board may retain legal counsel from another attorney for a
348 particular matter.
- 349 3. Appeal Number. Every appeal shall be assigned a docket number which, along
350 with the name of the appellant, shall be read into the record before the hearings
351 on the appeal may commence.
- 352 4. Burden of Proof. The burden of proof rests with the appellant, who must
353 convince the board by clear and convincing evidence that the assessment was
354 unequal, excessive, improper, or undervalued based on the facts stated in a
355 written appeal or proven at the appeal hearing in accordance with subsections
356 (E)(5) and (7) of this section. If the valuation is found to be too low, the board
357 may raise the assessment. The borough shall make available to the appellant all
358 reasonably pertinent documents requested for presentation of the appeal,
359 including but not limited to documents presented or requested by the board of
360 equalization for presentation of the appeal in accordance with subsection (C)(5)
361 of this section.
- 362 5. Rules of Evidence. Evidence shall only be presented by the appellant and the
363 assessor or their authorized representative. The board shall not be restricted by
364 the formal rules of evidence; however, the chairperson may exclude evidence
365 irrelevant to the issues appealed. Hearsay evidence may be considered,
366 provided there are adequate guarantees of its trustworthiness and that it is more
367 probative on the point for which it is offered than any other evidence which the

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

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

6. Order of Presentation. The order of presentation is as follows:
 - a. The appellant shall present evidence and argument not to exceed five minutes.
 - b. Following the appellant, the assessor shall present the borough's evidence and argument not to exceed five minutes.
 - c. The appellant may make a rebuttal presentation directed solely to the issues raised by the assessor not to exceed two minutes.
 - d. The assessor may address the rebuttal by the appellant not to exceed two minutes.

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

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

The only exhibits that shall be admitted into the record at the hearing are those exhibits provided pursuant to subsection (E)(5) of this section. However, at the

414 hearing, parties may use demonstrative or illustrative exhibits; provided, that all
415 such exhibits are duplicates of exhibits or information provided to the board
416 pursuant to subsection (E)(5) of this section. Additionally, witnesses may write
417 on a board while orally testifying to illustrate their testimony. The limitation on
418 the use of exhibits in this section shall not preclude the parties from presenting
419 oral testimony at the hearing.

420 8. Decisions.

- 421 a. The assessor may recommend changes to the existing value during
422 the hearing.
- 423 b. After the appellant and assessor have presented their cases, the
424 hearing shall be closed by the chairperson, and no further evidence
425 shall be offered or considered in deliberations unless a member of
426 the board of equalization asks for additional information from either
427 party. Both parties shall be given an equal opportunity to respond to
428 any such requests for additional information.
- 429 c. The board may decide the appeal after the presentations, or it may
430 defer a decision no later than 30 days after the hearing date. Final
431 board action shall be taken by motions that set out specific findings
432 of fact at the meeting and shall not be reconsidered, amended, or
433 rescinded by the board. Only one motion may be on the floor at a
434 time, and the board shall vote on the motions until its findings are
435 established. The vote must be taken and entered in the permanent
436 record of the proceedings. The motions available for the board are:
 - 437 i. Motion to uphold the assessor's valuation.
 - 438 ii. Motion to reduce the assessment.
 - 439 iii. Motion to increase the assessment.
 - 440 iv. Motion to dismiss the appeal.
 - 441 v. Motion to defer the decision.
 - 442 vi. Or any other motion set out in Alaska Statutes and
443 regulations governing board of equalization appeals.
- 444 d. No later than 30 days following the hearing, the board shall render a
445 written decision which includes findings of fact based on evidence
446 presented at the hearing clearly stating the grounds upon which the
447 panel relied to reach its decision and advising all parties of their right
448 to appeal the decision to superior court.

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

451 F. Further Appeals. Any appeal of a decision of the board shall be made to the **S**uperior
452 **C**ourt, **Third Judicial District, State of Alaska**. No appeal of a board's decision to the
453 superior court may be taken unless the action is filed and the borough attorney is served
454 with notice of such appeal within 30 days following the board's written decision. [Ord.
455 FY2014-10 §6, 2014; Ord. FY2012-04 §4, 2011; Ord. FY2011-12 §2, 2011; Ord. 98-03 §2,
456 1998; Ord. 78-21-O §1, 1978. Formerly §3.20.050].

457

458 **Section 6:** Title 3 Revenue and Finance, Chapter 3.35 Real Property Tax and Chapter
459 3.35.070, Addresses – Responsibility of persons subject to taxation, is
460 hereby amended as follows:
461

462 **3.35.070 Addresses – Responsibility of persons subject to taxation**

463 It shall be the responsibility of every person who owns or controls real or personal property
464 subject to tax by the municipality to file with the office of the assessor the address where
465 he will receive notices, bills, or other correspondence regarding taxation. No person shall
466 be excused from paying taxes or penalties thereon for the reason that he did not receive a
467 tax notice, bill, or any other correspondence due to an improper mailing of assessment
468 notice, billings, or other correspondence. **The owners of mobile homes located within
469 mobile home parks, or on land not owned by the mobile home owner, are not
470 exempted from the requirements of this section, notwithstanding the provisions set
471 forth at section 3.35.040(A)(3).** [Ord. FY2014-10 §7, 2014; Ord. 78-21-O §4, 1978.
472 Formerly §3.20.062].
473

474 **Section 7:** Title 3 Revenue and Finance, Chapter 3.35 Real Property Tax and Chapter
475 3.35.090, Property tax billing, is hereby amended as follows:
476

477 **3.35.090 Property tax billing**

478 The ~~treasurer~~ **finance director**, upon receipt of the certified assessment roll and with the
479 millage rate established by the assembly, will cause to produce property tax bills for all
480 property owners of record. These tax bills will be mailed to the most recent address on file.
481 [Ord. FY2014-10 §8, 2014; Ord. 82-7-O, 1982. Formerly §3.20.085].
482

483 **Section 8:** Title 3 Revenue and Finance, Chapter 3.35 Real Property Tax and Chapter
484 3.35.100, Correction of errors, is hereby amended as follows:
485

486 **3.35.100 Correction of errors**

487 A. Correction of Error in Billing of Penalty and Interest. When it is shown to the ~~chief~~
488 ~~fiscal officer~~ **finance director** that a taxpayer has been billed erroneously for tax, tax
489 penalty, or interest because of administrative error by the borough, the ~~chief fiscal officer~~
490 **finance director** may adjust the tax bill accordingly.

491 B. Correction of Errors in Assessment. The assessor may correct errors or omissions in
492 the roll before the board of equalization hearing. No changes to the roll can be made once
493 the board has certified their actions except:

- 494 1. The assessor may correct a manifest clerical error in the assessment roll at any
495 time. A manifest clerical error is a typographical, computational, or other similar
496 error readily apparent from the assessment notice, tax statement or other
497 borough tax and assessment records and made by a borough employee in the
498 performance of typing, record keeping, filing or other similar duties. A manifest
499 clerical error does not require extrinsic evidence to make it clear.

- 500 2. The assessor may correct an omission of the roll as described in KIBC
501 3.35.060(C) at any time.

502 C. All rights provided by this chapter, including but not limited to rights to appeal and
503 times for making payments, shall be reserved to the person receiving a corrected

504 assessment or tax bill as of the time the new assessment or billing is mailed. [Ord.
505 FY2014-10 §10, 2014; Ord. 82-7-O, 1982; Ord. 78-21-O §3, 1978. Formerly §3.20.086].

506

507 **Section 9:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
508 3.35.120 *Tax due dates and delinquency* is hereby amended as follows:

509

510 **3.35.120 Tax due dates and delinquency**

511 Taxes are due when billed. If payment is by a single payment, such payment must be
512 **physically** received in the **borough** finance office **on or before fifteen day of October in**
513 **the year in which taxes are levied**, or postmarked by the United States Postal Service
514 **Office (USPO~~S~~)**, not metered machines, ~~prior to midnight on or before October 15th~~ **by the**
515 **due date**. Taxes levied in any given year may be paid in two equal installments. If the
516 taxpayer elects this option, then the first half is delinquent unless it is ~~delivered to~~
517 **physically received by** the borough office or postmarked by the **USPO~~S~~**, not metered
518 machines, ~~prior to midnight~~ on or before the fifteenth day of August in the year in which the
519 taxes are levied. The second half of the taxes thus levied is delinquent unless it is
520 ~~delivered to~~ **physically received by** the borough **finance** office or postmarked by the
521 **USPO~~S~~**, not metered machines, ~~prior to midnight~~ on or before the fifteenth day of
522 November in the year in which the taxes are levied. If the annual levy is made on or after
523 the first day of June, the borough assembly may by resolution establish a later
524 delinquency date. Taxes normally become delinquent after the dates mentioned in this
525 section. [Ord. 99-02 §2, 1999; Ord. 88-30-O, §2, 1987; Ord. 84-24-O, 1984; Ord. 82-33-O,
526 1982. Formerly §3.20.088].

527

528 **Section 10:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
529 3.35.140 *Late payments – Penalty and interest* is hereby amended as
530 follows:

531

532 **3.35.140 Late payments – Penalty and interest**

533 If the first payment is not paid when due, the entire tax becomes delinquent and subject to
534 a penalty of 10 percent of the entire tax and interest shall accrue on the unpaid principal
535 balance, excluding the penalty, at the rate of 12 percent per year. If the first payment is
536 paid when due but the second payment is not paid when due, the unpaid balance of the
537 tax becomes delinquent and subject to a penalty of 10 percent of the unpaid balance, and
538 interest shall accrue on the unpaid principal balance, excluding the penalty, at the rate of
539 12 percent per year. Partial payments shall be applied first to accrued penalties, then to
540 interest, then to principal. Notwithstanding the acceptance of partial payment, the unpaid
541 balance remains delinquent and the lien therefore enforceable in accordance with law. For
542 the purposes of this section, a payment is paid when due only if it is physically received in
543 the **borough** finance office by the due date or **is** postmarked by the **USPO~~S~~ United States**
544 **Postal Service**, ~~not metered machines, prior to midnight~~ on **or before** the due date.
545 **Payments received after the due date that bear a postmark generated by a metered**
546 **machine that is not in the possession and control of the United States Postal**
547 **Service shall be deemed delinquent**. [Ord. 99-02 §2, 1999; Ord. 93-36 §2, 1993; Ord.
548 86-25-O, 1986; Ord. 82-33-O, 1982; Ord. 80-22-O §1, 1980. Formerly §3.20.090].

549

550 **Section 11:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
551 3.35.150 *Enforcement of tax liens on real property* is hereby amended as
552 follows:
553

554 **3.35.150 Enforcement of tax liens on real property**

555 A. Real Property Tax, Lien, Date. Taxes on real property are a prior and paramount lien
556 on the property upon which the taxes are levied. The lien includes any penalty or interest
557 which may accrue from the delinquency date. The lien attaches on the first day of the tax
558 and/or assessment year in which the taxes are levied.

559 B. If the tax on real property is not paid when due, the **assembly borough** may enforce a
560 lien on the tax by the sale of the property assessed after foreclosure in the special
561 proceedings provided for by the Alaska Statutes, by order of the superior court of the
562 district where the property assessed is located, **with the exception that delinquent real**
563 **property taxes for mobile homes that are located on land that is not owned by the**
564 **mobile home's owner of record may be enforced by a personal action against the**
565 **delinquent taxpayer brought in the district or superior court, in addition to other**
566 **remedies available to enforce the lien.**

567 C. If the tax on a leasehold interest in a tax exempt property is not paid when due, the
568 borough may enforce the tax by a personal action against the delinquent taxpayer brought
569 in the magistrate or superior court, in addition to other remedies available to enforce the
570 lien. [Ord. 84-1-O §1, 1984; prior code Ch. 3 subch. 1 §9. Formerly §3.20.100].
571

572 **Section 12:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
573 3.35.160 ~~*Preparation of the foreclosure list.*~~ **Foreclosure**, is hereby
574 amended as follows:
575

576 **3.35.160 Preparation of the foreclosure list Foreclosure**

577 ~~When the assembly elects to proceed under the Alaska Statutes to enforce the lien of~~
578 ~~taxes against real property, the treasurer shall, within such time as the assembly directs,~~
579 ~~make up a roll in duplicate of all real property subject to foreclosure. The rolls shall show~~
580 ~~the name of each person appearing on the latest tax roll as the owner of tax-delinquent~~
581 ~~property, a description of each property as it appears on the latest tax roll, the year or~~
582 ~~years for which the taxes are delinquent, the amount of delinquent taxes for each year and~~
583 ~~penalty and interest thereon accruing the day six months after the day of delinquency of~~
584 ~~taxes of the latest year. The treasurer shall endorse on the roll a certificate under his hand~~
585 ~~and the corporate seal that it is a true and correct roll of the delinquent taxes of the~~
586 ~~borough for the years shown. The roll shall be known as the foreclosure list of the borough~~
587 ~~for the year in which it is made up, and the original of it shall be filed with the clerk and~~
588 ~~remain open to inspection by the public. [Ord. 82-7-O, 1982; prior code Ch. 3 subch. 1~~
589 ~~§10. Formerly §3.20.110].~~

590 **A. The borough shall prepare an annual foreclosure list pursuant to A.S. 29.45.330.**

591 **B. The provisions of A.S. 29.45.330 through 29.45.490 apply to borough delinquent**
592 **property tax foreclosures.**

593 **C. The borough shall not foreclose against property that it knows has been**
594 **determined by a federal, state or local agency to be contaminated or found to**
595 **contain hazardous materials subject to regulation by a federal, state or local**

596 government. The borough may proceed with a personal action against the
597 delinquent taxpayer to collect the tax, costs, penalty and interest.

598

599 **Section 13:** Title 3 Revenue and Finance Chapter 3.35 Real Property Tax and Chapter
600 3.35.170 Publication of the foreclosure list is hereby repealed:

601

602 **335.170 Publication of the foreclosure list**

603 ~~After the completion of the foreclosure list, the treasurer shall, under the direction of the~~
604 ~~assembly, have published in the official newspaper of the corporation, or in a newspaper~~
605 ~~of general circulation in the borough designated by the assembly, a notice under the hand~~
606 ~~of the treasurer setting forth the foreclosure list of real property for the year, naming it as~~
607 ~~complete and open for public inspection at the office of the clerk, and that on a day certain~~
608 ~~not less than 30 days after the final publication or posting, where posting is authorized of~~
609 ~~the notice, the foreclosure list will be presented to the superior court of judgment and order~~
610 ~~of same. [Ord. 82-7-O, 1982; prior code Ch. 3 subch. 1 §11. Formerly §3.20.120].~~

611

612 **Section 14:** Title 3 Revenue and Finance Chapter 3.35 Real Property Tax and Chapter
613 3.35.180 Notice of foreclosure proceeding is hereby repealed:

614

615 **3.35.180 Notice of foreclosure proceeding**

616 ~~A. On the day designated in the notice provided herein, a certified copy of the~~
617 ~~foreclosure list together with a petition for judgment shall be presented to the superior~~
618 ~~court. Notice of the foreclosure proceedings shall be given by four weekly publications of~~
619 ~~the foreclosure list in a newspaper of general circulation in the borough designated by the~~
620 ~~assembly. The first publication shall be made on the day of the filing of the list and petition.~~
621 ~~The price charged by the newspaper shall be at the rate provided by law. The publication~~
622 ~~of the foreclosure list is sufficient service on each person having an interest in the~~
623 ~~property. The treasurer shall, within 10 days after the first date of publication, mail to each~~
624 ~~person to whom a tract is assessed, at his last known address, a notice describing the~~
625 ~~property and the amount due as stated on the foreclosure list.~~

626 ~~B. In the event there is no newspaper being published in the borough, the assembly~~
627 ~~may, instead of publication in the newspaper, post the notice and foreclosure list at the~~
628 ~~front door of the post office and three other conspicuous public places within the borough.~~
629 ~~The posting of the foreclosure list is sufficient service on each person interested in the~~
630 ~~property. However, if the notice is posted, the treasurer shall, within 10 days after the~~
631 ~~posting, mail to each person to whom a tract is assessed, at his last known address, a~~
632 ~~notice describing the property and the amount due as stated on the foreclosure list.~~

633 ~~C. All persons owning or claiming interest in property included in the foreclosure list are~~
634 ~~charged with notice of the proceedings and of all steps thereunder. [Ord. 82-7-O, 1982;~~
635 ~~prior code Ch. 3 subch. 1 §12. Formerly §3.20.130].~~

636

637 **Section 15:** Title 3 Revenue and Finance Chapter 3.35 Real Property Tax and Chapter
638 3.35.190 Clearing delinquencies before sale is hereby repealed:

639

640 **3.35.190 Clearing delinquencies before sale**

641 ~~A.— If the treasurer receives delinquent tax payments at least one week before the filing of~~
642 ~~the foreclosure list and petition, the treasurer shall remove the property from both the list~~
643 ~~and the petition.~~

644 ~~B.— During the publication or posting of the foreclosure list and up to the time of sale, a~~
645 ~~person may pay the taxes, together with the penalty and interest, and a proportionate~~
646 ~~share of the costs of publication and foreclosure. The treasurer shall make a notation of~~
647 ~~the payment on both the original delinquent tax roll and foreclosure list. [Ord. 82-7-O,~~
648 ~~1982; prior code Ch. 3 subch. 1 §13. Formerly §3.20.140].~~

649

650 **Section 16:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
651 3.35.200 *Notice of foreclosure list to lien holder* is hereby repealed:

652

653 **3.35.200 Notice of foreclosure list to lien holder**

654 ~~A.— A holder of a mortgage or other recorded lien on real property may file with the~~
655 ~~treasurer a request that notice of a foreclosure list which includes the real property in~~
656 ~~which he has a lien be given to him. The request shall contain the name and address of~~
657 ~~the person filing it, the description of the property, the name of the owner, and the date of~~
658 ~~expiration of the lien. Notice need not be given after expiration of the lien unless a further~~
659 ~~request for notice is filed. If the lien holder furnishes a duplicate of his request for notice,~~
660 ~~the treasurer shall certify on it to the filing and return it to the person making the request.~~

661 ~~B.— Whenever property described in the request for notice is included in a foreclosure list,~~
662 ~~the treasurer shall send written notice by registered mail to the lien holder. At the time of~~
663 ~~mailing the notice, the treasurer shall note that fact in ink in the latest tax roll opposite the~~
664 ~~description of the property. The notation in the tax roll is prima facie evidence that the~~
665 ~~notice was mailed. Where the same lien holder has filed requests for notice on two or~~
666 ~~more properties included in a foreclosure list, one notice may be mailed covering all~~
667 ~~properties. [Ord. 82-7-O, 1982; prior code Ch. 3 subch. 1 §14. Formerly §3.20.150].~~

668

669 **Section 17:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
670 3.35.210 *Apportionment of costs* is hereby repealed:

671

672 **3.35.210 Apportionment of costs**

673 ~~A foreclosure and publication fee, as set by resolution of the assembly, will be added to~~
674 ~~each property on the foreclosure list. The intent of this fee is to cover all costs of~~
675 ~~publication and foreclosure. [Ord. 93-36 §3, 1993; Prior code Ch. 3 subch. 1 §15. Formerly~~
676 ~~§3.20.160].~~

677

678 **Section 18:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
679 3.35.220 *Enforcement by personal action* is hereby repealed:

680

681 **3.35.220 Enforcement by personal action**

682 ~~A.— The manager may, at any time prior to execution of deed to borough, remove property~~
683 ~~from the foreclosure list when the financial benefits of foreclosure are exceeded by the~~
684 ~~costs of foreclosure and the liabilities of the ownership of the property involved. The~~
685 ~~borough shall thereafter collect any real property taxes due, plus penalties, costs and~~
686 ~~interest, by a personal action against the landowner.~~

687 ~~B. The title to any property which is removed from the foreclosure list after a decree of~~
688 ~~foreclosure has been entered shall revert to the parties entitled thereto. [Ord. 98-03 §2,~~
689 ~~1998; Ord. 90-38 §2, 1990. Formerly §3.20.165].~~

691 **Section 19:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
692 3.35.230 *Foreclosure proceedings* is hereby repealed:

693
694 **3.35.230 Foreclosure proceedings**

695 ~~The borough shall bring one general proceeding to foreclose the tax liens against each of~~
696 ~~the properties included in the foreclosure list. The person whose name appears in the~~
697 ~~latest tax roll as the owner of a property described shall be considered the owner of the~~
698 ~~property.~~

699
700 ~~On the day of the first publication, a certified copy of the foreclosure list shall be presented~~
701 ~~to the superior court, together with a petition praying for a judgment and decree~~
702 ~~foreclosing the tax liens. The foreclosure proceedings for the enforcement of tax liens on~~
703 ~~real property shall comply with the provisions of Alaska laws presently in force or as~~
704 ~~amended.~~

705
706 ~~All real properties sold to the borough under the provisions of the Alaska Statutes shall be~~
707 ~~held by the borough for one year from the date of judgment and decree of foreclosure,~~
708 ~~unless sooner redeemed. During the one-year period, a person having an interest in the~~
709 ~~property at the date of the judgment and decree of foreclosure, or any heir or devisee of~~
710 ~~such person or a person holding a lien of record on the property, or an independent school~~
711 ~~district or public utility district having a lien on the property may redeem the property by~~
712 ~~paying the amount applicable under the judgment and decree with interest as provided by~~
713 ~~law, and the costs charged against the property. Property redeemed is subject to~~
714 ~~assessment for taxation during the period of redemption as though it has continued in~~
715 ~~private ownership. A person holding a mortgage or other lien of record, covering a part~~
716 ~~only of a parcel of real property included in judgment and decree of foreclosure, may~~
717 ~~redeem that part by paying the proportionate amount applicable under the judgment and~~
718 ~~decree. [Prior code Ch. 3 subch. 1 §16. Formerly §3.20.170].~~

719
720 **Section 20:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
721 3.35.240 *Effect of redemption* is hereby repealed:

722
723 **3.35.240 Effect of redemption**

724 ~~The receipt of the redemption money by the treasurer operates to release all claims of the~~
725 ~~borough under the judgment of foreclosure to the property redeemed. The treasurer, on~~
726 ~~receipt of the redemption money, shall immediately make the proper increase in the~~
727 ~~records of his office showing that the property has been redeemed from the sale of the~~
728 ~~borough, and he shall deliver to the person redeeming the property a certificate of~~
729 ~~redemption. The certificate shall contain a description of the property redeemed, the total~~
730 ~~amount paid, and the date of entry of the judgment and decree of foreclosure and sale.~~
731 ~~The certificate shall be signed by the treasurer and shall be filed by the redemptioner with~~
732 ~~the recorder who, on payment of the recording fee, shall enter the certificate in the proper~~

733 records of his office. The clerk of the court shall then file the certificate of redemption as
734 part of the judgment roll in the foreclosure proceedings. [Ord. 82-7-O, 1982; prior code Ch.
735 3-subch. 1 §17. Formerly §3.20.180].
736

737 **Section 21:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
738 3.35.250 *Notice of expiration of redemption* is hereby repealed:
739

740 **3.35.250 Notice of expiration of redemption**

741 ~~Not earlier than 30 days before the expiration of the redemption period, the treasurer shall~~
742 ~~publish a redemption period expiration notice. The notice shall contain the date of~~
743 ~~judgment, the date of expiration of the period of redemption and a warning to the effect~~
744 ~~that all properties ordered sold under the judgment, unless redeemed, shall be deeded to~~
745 ~~the borough immediately on expiration of the period of redemption and that every right or~~
746 ~~interest of any person in the properties shall be forfeited forever to the borough. The notice~~
747 ~~shall be published once a week for four consecutive weeks in a newspaper of general~~
748 ~~circulation distributed within the borough. The treasurer shall send a copy of the published~~
749 ~~notice by certified mail to each record owner of property against whom a judgment of~~
750 ~~foreclosure has been taken. The notice will be mailed within five days of first publication to~~
751 ~~the last address of record of the property owner. The right of redemption expires 30 days~~
752 ~~after the date of first publication of the notice. [Ord. 82-7-O, 1982; Ord. 74-11-O §1, 1974;~~
753 ~~prior code Ch. 3 subch. 1 §18. Formerly §3.20.190].~~
754

755 **Section 22:** Title 3 *Revenue and Finance* Chapter 3.35 *Real Property Tax* and Chapter
756 3.35.260 *Deed to borough* is hereby repealed:
757

758 **3.35.260 Deed to borough**

759 ~~Upon filing proof of publication of notice of expiration of redemption, the properties not~~
760 ~~redeemed within the one-year period shall be deeded to the borough by the clerk of the~~
761 ~~court. All rights of redemption terminate on the execution of the deed to the borough. No~~
762 ~~return of confirmation of the sale or of the deed to the borough is necessary. [Prior code~~
763 ~~Ch. 3 subch. 1 §19. Formerly §3.20.200].~~
764


765 **Section 23:** This ordinance will take effect upon adoption.
766

767 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
768 **THIS FOURTH DAY OF JUNE, 2015**

770 KODIAK ISLAND BOROUGH

771 
772 _____
773 Jerrol Friend, Borough Mayor

774 ATTEST:

775 
776 _____
777 Nova M. Javier, MMC, Borough Clerk
778