

Introduced by: Borough Assembly
Requested by: Borough Manager
Drafted by: Borough Assessor
Introduced: 04/16/2015
Public Hearing: 05/07/2015
Postponed: 05/21/2015
Adopted: 08/20/2015

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**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2015-11**

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

WHEREAS, AS 29.45.050 (b) (2) allows a municipality to classify as to type and exempt or partially exempt some or all types of personal property from ad valorem taxes; and

WHEREAS, KIBC 3.40.070 was written with the intention of taxing boats and vessels at a rate determined annually by the assembly during the budget adoption process for boats with an overall length longer than 20 feet, measured bow to stern, rather than on an ad valorem basis; and

WHEREAS, the current tax rate on boats and vessels is \$1 per foot with boats that are equal to or less than 20 feet long exempt from tax; and

WHEREAS, the current tax rate of \$1 per foot does not provide enough funds to make the administration and maintenance of these accounts cost effective for the borough; and

WHEREAS, the borough collects both raw fish tax and severance tax from the fishing fleet; and

WHEREAS, it is the intent of the Kodiak Island Borough Assembly to exempt boats and vessels used for commercial purposes from property tax.

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: Title 3 *Revenue and Finance* Chapter 3.40 *Personal Property Tax* is hereby amended as follows:

45 Sections:

- 46 3.40.010 Property subject to taxation.
- 47 3.40.020 Exemptions.
- 48 3.40.030 Assessment return.
- 49 3.40.040 Tax situs of personal property.
- 50 3.40.050 Liability for and collection of personal property taxes.
- 51 3.40.060 Penalties and interest.
- 52 ~~3.40.070—Classification of boats and vessels~~
- 53 3.40.08070 Classification of aircraft.

54

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

57

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

60

61 **3.40.010 Property subject to taxation.**

62 A. Tangible personal property with a tax situs within the borough is subject to taxation, except
63 where otherwise exempted by borough ordinance or state statute. Tangible personal property
64 includes all personal property including, but not limited to, furniture, furnishings, fixtures,
65 machinery, equipment used by a business, stock animals, watercraft, aircraft, tools, dies, jigs,
66 patterns and stock used in trade (including inventories, supplies, materials in process, and
67 other similar items).

68 B. All private interests in personal property which is otherwise exempt due to ownership by
69 the federal government, state, borough, other state municipal subdivision or other tax-exempt
70 entity is taxable under this code to the extent of that interest. [Ord. FY2014-10 §11, 2014;
71 Ord. FY2011-07 §2, 2010].

72

73 **3.40.020 Exemptions.**

74 A. Individual personal property utilized solely and exclusively for personal, nonbusiness,
75 noncommercial, nonagricultural and nonincome producing uses or purposes is exempt from
76 taxation under this chapter. This includes aircraft, boats and vessels used for nonbusiness,
77 nonagricultural, noncommercial and nonincome producing purposes.

78 B. A taxpayer who files a timely business property return with the assessor shall be exempted
79 the first \$20,000 of assessed value of business personal property. For a taxpayer with more
80 than one business personal property tax account, the \$20,000 exemption shall be distributed
81 pro rata among all of the taxpayer accounts, based on the proportion of the assessed value in
82 each account to the total assessed value of that taxpayer's business personal property.

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

88 D. Pursuant to AS 29.45.050(b)(2), boats and vessels used for commercial purposes
89 such as commercial fishing, charter boat fishing, or freight hauling, and fishing gear
90 (i.e., nets, seines, crab pots, long lines, trawls) and any or all associated paraphernalia
91 utilized for commercial fishing is exempt from property tax. [Ord. FY2014-10 §12, 2014;
92 amended during 7/11 supplement; Ord. FY2011-07 §2, 2010].
93

94 **3.40.030 Assessment return.**

95 A. Every person with ownership in taxable personal property shall submit to the borough
96 assessor a personal property return of any property owned by him, or in which he has an
97 interest, and of the property held or controlled by him in a representative capacity, in the
98 manner prescribed, which return shall be based on property values existing as of the first day
99 of January of the year for which the return is made. The person making the return in every
100 case shall state an address to which all notices required to be given to him under this section
101 may be mailed or delivered. The return shall show the nature; quantity; description, including
102 date of manufacture; amount; value; purchase price, new or used; depreciable basis; and
103 current condition of all personal property, the place where the property is situated, and said
104 return shall be in such form and include such additional information as the assessor may
105 prescribe, and shall be signed and verified under oath by the person liable, or his or its
106 authorized agent or representative.

107 B. Said return shall be filed on or before the fifteenth day of January of each tax year, unless
108 the property owner requests, and the assessor approves, an extension that may not exceed
109 30 days. The extension must be requested prior to the January 15th due date.

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

114 D. In the event of any person failing, refusing, or neglecting to make or file said personal
115 property return of property owned by him, as required herein, the assessor shall make an
116 assessment which shall be as fair and equitable as he is able to make from the best
117 information in his possession concerning said property and this assessment shall be prima
118 facie evidence for all legal purposes and any related proceedings. (AS 29.45.130(a)) [Ord.
119 FY2014-10 §13, 2014; Ord. FY2011-07 §2, 2010; Ord. FY2011-05 §2, 2010; Ord. 92-25 §2,
120 1992; prior code Ch. 3 subch. 2 §1. Formerly §3.40.010. Code 1974 §3.24.010].
121

122 **3.40.040 Tax situs of personal property.**

123 A. The tax situs of personal property is presumed to be the Kodiak Island Borough if:

- 124 1. It is located within the borough on January 1st of the assessment year, and has been
125 located in the borough for more than a temporary period in the year prior to January; or
- 126 2. It is normally located within the borough, even though it is outside the borough on
127 January 1st of the assessment year, if it is located outside the borough for only a
128 temporary period of time during the year prior to January 1st of the assessment year; or
- 129 3. It is not located in the borough on January 1st, but has been kept or used within the
130 borough for any 60 days during the year preceding the January 1st assessment date; or

131 4. It normally is returned to the borough between uses elsewhere, and is not located in
132 any one place for more than a temporary period.

133 B. For purposes of this code, "temporary period" is defined as 60 days. [Ord. FY2014-10 §14,
134 2014; Ord. FY2011-07 §2, 2010; Ord. 85-12-O §1, 1985. Formerly §3.40.015. Code 1974
135 §3.24.015].

136

137 **3.40.050 Liability for and collection of personal property taxes.**

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

141 B. If the tax on personal property is not paid when due, the borough may, in addition to other
142 remedies available, enforce the tax lien by distraint and sale of the property after first making
143 demand of the person assessed for the amount of the tax, penalty, and interest. The demand
144 shall be in writing addressed to the person whose name appears on the last assessment roll
145 as the owner of the property, describing the personal property assessed and the amount of
146 the tax, penalty, and interest and demanding that the total be paid within 10 days after service
147 of the demand personally or by registered mail.

148 C. If the tax has not been paid after the expiration of 10 days from service of demand, the
149 clerk may issue a warrant directing a peace officer to seize the personal property for which
150 the tax was levied and to sell it at public auction after at least 15 days' notice of the sale by
151 posting and publication. If the proceeds from the property sold are not sufficient to satisfy the
152 tax, penalty, interest and costs of sale, the warrant may authorize the seizure of other
153 personal property sufficient to satisfy the tax, penalty, interest, and costs of sale.

154 D. The borough has the right to seek payment of any unpaid portion of the tax, penalty and
155 interest by all methods available under law. [Ord. FY2014-10 §15, 2014; Ord. FY2011-07 §2,
156 2010; Ord. 74-12-O §1, 1974; prior code Ch. 3 subch. 2 §2. Formerly §3.40.020. Code 1974
157 §3.24.020].

158

159 **3.40.060 Penalties and interest.**

160 A. A person who files a completed return after the filing deadline, but before the mailing of the
161 assessment notices shall, in addition to other penalties provided by law, be liable for a penalty
162 of five percent of the tax assessed against said personal property for that tax year.

163 B. A person who, either for himself or as agent for another, or as agent, officer, or manager of
164 a corporation, fails to file a return as required by this code prior to February 28th of the current
165 assessment year shall be fined a penalty in the amount of \$300.00.

166 C. A person who, either on his own behalf, as agent for another, or as the agent, officer, or
167 manager of a corporation, knowingly makes a false statement, return or list required by this
168 section relating to the amount, kind, or value of personal property subject to taxation by the
169 borough with intent to avoid or evade the assessment on taxation of the property, or part of it,
170 is guilty of a violation of this chapter, and this action is punishable by a fine of \$1,000. (AS
171 29.45.140). [Ord. FY2014-10 §16, 2014; Ord. FY2011-07 §2, 2010; Ord. 93-36 §4, 1993; Ord.
172 92-25 §2, 1992; Ord. 74-8-O §3, 1974; Ord. 69-4-O §1, 1969; Ord. 67-11-O §1, 1967; prior
173 code Ch. 3 subch. 2 §3. Formerly §3.40.030. Code 1974 §3.24.030].

174

175 **3.40.070 Classification of boats and vessels.**
176 Pursuant to AS 29.45.050(b)(2), boats and vessels are classified for purposes of taxation as a
177 special category and shall be taxed at the rate determined annually by the assembly during
178 the budget adoption process for boats with an overall length longer than 20 feet, measured
179 bow to stern, rather than on an ad valorem basis. [Ord. FY2011-07 §2, 2010; Ord. FY2006-10
180 §2, 2006; Ord. 85-3 O, 1985; Ord. 81-50 O §1, 1981. Formerly §3.40.050. Code 1974
181 §3.24.050].

182
183 **3.40.08970 Classification of aircraft.**

184 A. Pursuant to AS 29.45.050(b)(2), for purposes of taxation, commercial aircraft that have
185 been issued an N number by the Federal Aviation Administration ("FAA") by January 1st of
186 the tax year and are less than 12,500 pounds takeoff weight shall be totally exempted from ad
187 valorem taxes and shall be taxed at the rate determined annually by the assembly during the
188 budget adoption process.

189 B. The owner of record of an aircraft that has been dismantled, destroyed or crashed and the
190 FAA N number has been retained by the aircraft's owner of record may submit to the
191 assessor proof of condition that would allow for taxation of that aircraft, if approved by the
192 assessor, at a rate determined by the assembly during the budget adoption process. Aircraft
193 for which such registration or licensing has lapsed or that has not passed the annual
194 inspection required by the FAA shall not qualify on this basis alone for ad valorem taxation
195 unless it has been dismantled, destroyed or crashed.

196 C. Commercial aircraft with a gross takeoff weight of more than 12,500 pounds shall be taxed
197 on an ad valorem basis and in accordance with the Kodiak Island Borough landing schedule
198 formula. The KIB landing schedule formula provides for the prorated calculation of scheduled
199 aircraft by dividing the total hours in a year into the total time aircraft operated by a scheduled
200 carrier are in the Kodiak Island Borough, and multiplying the result by the assessed value of
201 each aircraft.

202 D. Definitions. For purposes of this section:

203 "Aircraft" means any engine powered contrivance invented, used, or designed to navigate, or
204 fly in, the air and that is capable of being manned and is required by the FAA to be registered
205 and certified in order to be manned.

206 "Commercial aircraft" means any aircraft transporting passengers and/or cargo or is employed
207 for fish spotting, agricultural, aquacultural or other purposes for some payment, or other
208 consideration, including money or services rendered.


209 "Crashed" means aircraft for which only parts remain that, due to their condition, can no
210 longer be assembled to create any contrivable aircraft. This shall be evidenced by an FAA
211 accident report and/or copy of an insurance claim that determines the aircraft to be a total
212 loss.

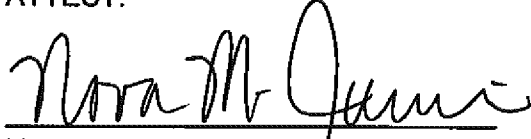
213 "Destroyed" means aircraft that have been damaged by age, weather, neglect and/or external
214 influences outside the owner's control, and only unusable parts remain that, due to their
215 condition, can no longer be assembled to create any contrivable aircraft. This shall be
216 evidenced by photographs and a physical inspection by the borough assessing staff appraiser
217 if deemed necessary by the borough assessor.

218 "Dismantled" means aircraft that have been voluntarily disassembled and only parts remain
219 that can no longer be assembled to create any contrivable aircraft. Evidence such as
220 photographs and a physical inspection by the borough assessing staff appraiser shall be
221 provided or allowed if deemed necessary by the borough assessor.
222 E. An aircraft owner may appeal the determination of the borough assessor under
223 subsections B and C of this section using the same procedures for appeal of real and
224 personal property assessments as set out in KIBC 3.35.040(C)(3) and 3.35.050(C). [Ord.
225 FY2011-07 §2, 2010].

226
227 **Section 3:** This ordinance shall take effect on January 1, 2016.
228

229 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
230 **THIS TWENTIETH DAY OF AUGUST, 2015**

231 **KODIAK ISLAND BOROUGH**
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233 
234 _____
235 Jerrol Friend, Borough Mayor
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237 **ATTEST:**
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240 _____
241 Nova M. Javier, MMC, Borough Clerk