

Introduced by: Borough Manager  
Drafted by: Borough Manager  
Introduced on: 02/06/2020  
Public Hearing Date: 02/20/20  
Adopted on: 2/20/20

**KODIAK ISLAND BOROUGH  
ORDINANCE NO. FY2020-09**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH AMENDING  
TITLES 1, 6, 8, 9, 10, 13, 15, 16, 17 AND 18 OF THE BOROUGH CODE TO CLARIFY AND  
MAKE CONSISTENT LANGUAGE RELATING TO CODE ENFORCEMENT**

**WHEREAS,** in 2014 the Borough Assembly chose to proceed with modifications to the Kodiak Island Borough Code to accommodate inclusion of certain Borough Code violations in the Alaska Uniform Minor Offense Table (UMOT), thus allowing enforcement with citations; and

**WHEREAS,** the Assembly finds that potential jail time and labelling certain code violations as misdemeanors restricts the ability to enforce those offenses through a citation process; and

**WHEREAS,** the Assembly finds that it is appropriate to update references to enforcement officers in the Borough Code to eliminate different terms referring to the same functions; and

**WHEREAS,** the Assembly finds that it is in the public interest to enable Borough staff to enforce the Borough Code using the minor offense process through the Alaska Court system.

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

**Section 1:** Sections 2 through 17 of this ordinance are of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances.

**Section 2:** Kodiak Island Borough Code Chapter 1.20, General Penalty, is amended to read as follows:

**Chapter 1.20  
GENERAL PENALTY**

Sections:

1.20.010 Designated.

1.20.020 Scope of prohibitions.

1.20.030 Code enforcement officer designation.

1.20.040 Application of fine schedule.

1.20.050 Fine schedule.

**1.20.010 Designated.**

45 A. A violation of a provision of this code is an offense punishable by a penalty not to exceed a fine  
46 of \$1,000, in addition to the surcharge required under AS 12.55.039. If another penalty is  
47 established by ordinance for the provision violated and that penalty is listed in the schedule of  
48 fines adopted by the borough assembly, that penalty shall apply.

49  
50 B. In accordance with AS 29.25.070(a), citations for the certain offenses of KIBC may be disposed  
51 of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment of  
52 the fine amounts established in a schedule of fines adopted by the borough assembly by  
53 ordinance resolution, plus the state surcharge required by AS 12.55.039 and 29.25.074. For  
54 purposes of elevated fines for subsequent offenses, a prior offense is within the time  
55 period for consideration if the conviction for that offense occurred within 3 years prior to  
56 the date of the present alleged violation. The Rules of Minor Offense Procedure in the Alaska  
57 Rules of Court apply to all offenses listed in the established schedule of fines. Citations charging  
58 these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with  
59 one of these offenses appears in court and is found guilty, the penalty imposed for the offense  
60 may not exceed the fine amount for that offense listed. If an offense is not listed on this schedule  
61 of fines, or if an offense is listed as requiring a mandatory court appearance, the defendant  
62 must appear in court to answer to the charges. The ~~se~~ fines prescribed in the fine schedule may  
63 not be judicially reduced.

64  
65 C. The borough or an aggrieved person may institute a civil action against a person, including a  
66 minor as provided in this subsection, who violates any provision of this code. In addition to  
67 injunctive and compensatory relief, the penalty listed in the schedule of fines adopted by the  
68 borough assembly, and not to exceed \$1,000, may be imposed for each violation. An action to  
69 enjoin a violation may be brought notwithstanding the availability of any other remedy. On  
70 application for injunctive relief and a finding of a violation or a threatened violation, the superior  
71 court shall grant the injunction. Each day that a violation of an ordinance continues constitutes a  
72 separate violation.

73  
74 D. The borough shall provide written notice to the commissioner of health and social services or  
75 to the commissioner's designee of the commencement of a civil enforcement action for the  
76 violation of an ordinance under subsection C of this section against a minor. Unless the  
77 commissioner and the borough have negotiated an agreement making other arrangements for  
78 the borough to provide the notice required by this subsection, the borough shall provide the notice  
79 by mailing a copy of the citation or other document setting out the notice of the commencement  
80 of the civil enforcement action.

81  
82 E. In this section, "minor" means a person under 18 years of age.

83  
84 F. Unless an ordinance authorizes use of a hearing officer, the enforcement of a civil penalty  
85 against a minor for violation of any provision of this code shall be heard in the district court in the  
86 same manner as for similar allegations brought against an adult, except that the minor's parent,  
87 guardian, or legal custodian shall be present at all proceedings unless the court excuses the  
88 parent, guardian, or legal custodian from attendance for good cause.

90 G. An action for a civil penalty filed against a minor under this section does not give rise to the  
91 right to a trial by jury or to counsel appointed at public expense.

92  
93 **1.20.020 Scope of prohibitions.**

94 When an ordinance of the borough prohibits an act or an omission, it shall be construed to prohibit  
95 causing, aiding, abetting, or concealing the fact of the act or omission.

96  
97 **1.20.030 Code enforcement officer designation.**

98 **The manager may designate in writing as borough code enforcement officers those**  
99 **persons authorized to enforce any part of this code. Any officer so designated to enforce**  
100 **some or all provisions of the KIB Code shall be authorized to issue citations, or notices of**  
101 **violation where permitted, for any violation of this code which the officer is authorized to**  
102 **enforce in the manner provided by AS 12.25.180 through 12.25.230. Borough code**  
103 **enforcement officers appointed under the authority of this section shall not have the**  
104 **general authority of police officers.**

105  
106 **1.20.040 Application of fine schedule.**

107 **A. For voluntary disposition after either arraignment or application for entry of a default**  
108 **judgment, the alleged violator may submit the amount set forth in the fine schedule, along**  
109 **with the required statutory police training surcharge, to the court.**

110  
111 **B. In the event any penalties or fines are not paid within 30 days after the date they are due**  
112 **pursuant to the court's order, such penalties or fines shall be delinquent.**

113  
114 **C. Notwithstanding other provisions of this section, delinquent penalties and fines may be**  
115 **collected through any lawful means. The cost of collection of such accounts shall be added**  
116 **to the amount owed.**

117  
118 **1.20.050 Fine schedule.**

<b><u>Code Section</u></b>	<b><u>Offense</u></b>	<b><u>Penalty/Fine</u></b>
<b><u>KIBC 6.04.020</u></b>	<b><u>Cruelty to Animals</u></b>	<b><u>mandatory court appearance</u></b>
<b><u>KIBC 6.04.060</u></b>	<b><u>Contagious Animals Prohibited (1st offense)</u></b>	<b><u>\$55</u></b>
<b><u>KIBC 6.04.060</u></b>	<b><u>Contagious Animals Prohibited (2nd offense)</u></b>	<b><u>\$83</u></b>
<b><u>KIBC 6.04.060</u></b>	<b><u>Contagious Animals Prohibited (3rd and subsequent offenses)</u></b>	<b><u>\$100</u></b>
<b><u>KIBC 6.04.080</u></b>	<b><u>Annoying Animals Prohibited (1st offense)</u></b>	<b><u>\$28</u></b>
<b><u>KIBC 6.04.080</u></b>	<b><u>Annoying Animals Prohibited (2nd offense)</u></b>	<b><u>\$55</u></b>
<b><u>KIBC 6.04.080</u></b>	<b><u>Annoying Animals Prohibited (3rd and subsequent offenses)</u></b>	<b><u>\$83</u></b>

<u>Code Section</u>	<u>Offense</u>	<u>Penalty/Fine</u>
<u>KIBC 6.04.100(A)</u>	<u>Control of Animals</u>	<u>mandatory court appearance</u>
<u>KIBC 6.04.100(B)&amp;(D)</u>	<u>Control of Animals (1st offense)</u>	<u>\$55</u>
<u>KIBC 6.04.100(B)&amp;(D)</u>	<u>Control of Animals (2nd offense)</u>	<u>\$83</u>
<u>KIBC 6.04.100(B)&amp;(D)</u>	<u>Control of Animals (3rd and subsequent offenses)</u>	<u>\$110</u>
<u>KIBC 6.04.110</u>	<u>Animal Littering Prohibited (1st offense)</u>	<u>\$28</u>
<u>KIBC 6.04.110</u>	<u>Animal Littering Prohibited (2nd offense)</u>	<u>\$55</u>
<u>KIBC 6.04.110</u>	<u>Animal Littering Prohibited (3rd and subsequent offenses)</u>	<u>\$83</u>
<u>KIBC 6.04.120(A,B,C)&amp;(D)</u>	<u>Animal Identification (1st offense)</u>	<u>\$28</u>
<u>KIBC 6.04.120(A,B,C)&amp;(D)</u>	<u>Animal Identification (2nd offense)</u>	<u>\$55</u>
<u>KIBC 6.04.120(A,B,C)&amp;(D)</u>	<u>Animal Identification (3rd and subsequent offenses)</u>	<u>\$83</u>
<u>KIBC 6.04.130</u>	<u>Animal Tag and Collar (1st offense)</u>	<u>\$28</u>
<u>KIBC 6.04.130</u>	<u>Animal Tag and Collar (2nd offense)</u>	<u>\$55</u>
<u>KIBC 6.04.130</u>	<u>Animal Tag and Collar (3rd and subsequent offenses)</u>	<u>\$83</u>
<u>KIBC 8.25.070(B)(3)(b)</u>	<u>Solid Waste Storage and Set-out (1<sup>st</sup> offense)</u>	<u>\$50</u>
<u>KIBC 8.25.070(B)(3)(b)</u>	<u>Solid Waste Storage and Set-out (2<sup>nd</sup> offense)</u>	<u>\$200</u>
<u>KIBC 8.25.070(B)(3)(b)</u>	<u>Solid Waste Storage and Set-out (3<sup>rd</sup> offense)</u>	<u>\$500</u>
<u>KIBC 8.25.070(B)(3)(b)</u>	<u>Solid Waste Storage and Set-out (4<sup>th</sup> and subsequent offenses)</u>	<u>\$1000</u>
<u>KIBC 10.10.010</u>	<u>Junk Vehicles (1<sup>st</sup> offense)</u>	<u>\$450</u>
<u>KIBC 10.10.010</u>	<u>Junk Vehicles (2<sup>nd</sup> and subsequent offenses)</u>	<u>\$600</u>
<u>KIBC 10.20.010</u>	<u>Obstruction of Rights-of-Way (1<sup>st</sup> offense)</u>	<u>\$50</u>
<u>KIBC 10.20.010</u>	<u>Obstruction of Rights-of-Way (2<sup>nd</sup> offense)</u>	<u>\$100</u>
<u>KIBC 10.20.010</u>	<u>Obstruction of Rights-of-Way (3<sup>rd</sup> and subsequent offenses)</u>	<u>\$200</u>
<u>KIBC 10.20.020</u>	<u>Obstruction of Service (1<sup>st</sup> offense)</u>	<u>\$50</u>

<u>Code Section</u>	<u>Offense</u>	<u>Penalty/Fine</u>
<u>KIBC 10.20.020</u>	<u>Obstruction of Service (2<sup>nd</sup> offense)</u>	<u>\$100</u>
<u>KIBC 10.20.020</u>	<u>Obstruction of Service (3<sup>rd</sup> and subsequent offenses)</u>	<u>\$200</u>

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The schedule of fines shall be reviewed annually by the borough assembly during the development of the budget. The community development director shall review the fines for consistency with the State of Alaska’s Rules of Minor Offense Procedure and present the findings to the borough assembly for consideration during its review.

**Section 3:** Kodiak Island Borough Code section 6.04.270, Penalties and remedies, is amended to read as follows:

**6.04.270 Penalties and remedies.**

A. In accordance with AS 29.25.070(a), citations for the certain ~~offenses~~ violations of Chapter 6.04 KIBC may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment of the fine amounts established in a schedule of fines adopted by the borough assembly by ordinance ~~resolution~~ pursuant to Chapter 1.20 KIBC, plus the state surcharge required by AS 12.55.039 and 29.25.074. ~~The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed in the established schedule of fines. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. Alternatively, the person may choose to appear in court and contest the citation. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed. If an offense is not listed on this schedule of fines, the defendant must appear in court to answer to the charges. These fines may not be judicially reduced. If a person is cited for an offense for which a scheduled fine has been established under this chapter and fails to pay a fine or appear in court, the citation shall be considered a summons for a misdemeanor.~~

B. Notwithstanding the availability of any other remedy, the borough or any aggrieved person may bring a civil action to enjoin any violation of this chapter. An action for injunction under this section may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing or threatened violation, the superior court shall enjoin the violation.

C. Each act or condition violating this chapter, and each day during which the act or condition exists when the owner or keeper is known to be aware of the condition, shall be a separate and distinct violation except in circumstances where the violation is acknowledged and actively being corrected.

D. The penalties provided for violation of this chapter are in addition to and not in lieu of any other penalty provided for in state law or any civil remedy available to the borough.

158 **Section 4:** Kodiak Island Borough Code section 8.20.030, Penalties and remedies, is  
159 amended to read as follows:

160  
161 **8.20.030 Penalties and remedies.**

162 A. In accordance with AS 29.25.070(a), citations for the certain ~~offenses~~**-violations** of **Chapter**  
163 **8.20** KIBC may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court  
164 appearance, upon payment of the fine amounts established in a schedule of fines adopted by the  
165 borough assembly by **ordinance resolution** pursuant to Chapter 1.20 KIBC, plus the state  
166 surcharge required by AS 12.55.039 and 29.25.074. ~~The Rules of Minor Offense Procedure in~~  
167 ~~the Alaska Rules of Court apply to all offenses listed in the established schedule of fines. Citations~~  
168 ~~charging these offenses must meet the requirements of Minor Offense Rule 3. Alternatively, the~~  
169 ~~person may choose to appear in court and contest the citation. If a person charged with one of~~  
170 ~~these offenses appears in court and is found guilty, the penalty imposed for the offense may not~~  
171 ~~exceed the fine amount for that offense listed. If an offense is not listed on this schedule of fines,~~  
172 ~~the defendant must appear in court to answer to the charges. These fines may not be judicially~~  
173 ~~reduced. If a person is cited for an offense for which a scheduled fine has been established in the~~  
174 ~~schedule of fines and fails to pay a fine or appear in court, the citation shall be considered a~~  
175 ~~summons for a misdemeanor.~~ In addition, the court may order the person to gather and dispose  
176 of litter in an area and for a length of time to be determined by the court.

177  
178 B. Notwithstanding the availability of any other remedy, the borough or any aggrieved person may  
179 bring a civil action to enjoin any violation of this chapter or to obtain damages for any injury the  
180 plaintiff suffered as a result of the violation.

181  
182 C. Each act or condition violating this chapter and each day during which the act or condition  
183 exists, continues or is repeated shall be a separate and distinct violation.

184  
185 D. The penalties provided for violation of this chapter are in addition to and not in lieu of any other  
186 penalty provided for in state law or any civil remedy available to the borough.

187  
188 **Section 5:** Kodiak Island Borough Code section 8.25.020, Definitions, is amended to read as  
189 follows:

190  
191 **8.25.020 Definitions.**

192 In this chapter, each of the following terms has the respective corresponding meaning:

193  
194 "Bear cart" means a cart designed to be resistant to opening by bears.

195  
196 "Bin" means a receptacle for storing solid waste that is picked up with front-end loading vehicles,  
197 such as those having a three- to eight-yard capacity, sometimes referred to as a "dumpster."

198  
199 "Borough landfill" means the landfill owned by the borough.  
200

201 "Bulky item(s)" means any large item of solid waste, as determined from time to time by the  
202 manager which can be safely lifted by two individuals using a dolly, generated at residential  
203 premises and discarded at residential set-out sites, such as the following:

- 204 1. Furniture, including metal desks and storage cabinets;
- 205 2. Pianos and organs;
- 206 3. Televisions;
- 207 4. Large appliances, including washers, driers, refrigerators, freezers, dishwashers and  
208 stoves;
- 209 5. Toys, bikes, and dismantled swing sets;
- 210 6. Lawn mowers and snow blowers with no gas or oil in them, up to four auto or pickup  
211 tires per customer each calendar month, with rims removed; and
- 212 7. Any item, other than lumber, that can be cut or broken down meeting the following  
213 requirements:
  - 214 a. Not longer than four feet in length; and
  - 215 b. Weighing no more than 70 pounds.

216  
217 "Bulky items" does not mean the following:

- 218 1. Material generated at nonresidential premises, including commercial business  
219 operations;
- 220 2. Bundled yard waste, branches;
- 221 3. Sod, soil, and rock;
- 222 4. Broken concrete and asphalt;
- 223 5. Brick, block, and stone;
- 224 6. Railroad ties or similar type of retaining wall timbers;
- 225 7. Remodeling debris, including shingles;
- 226 8. Carpeting;
- 227 9. Sinks, concrete laundry tubs, and cast iron plumbing fixtures;
- 228 10. Windows and doors;
- 229 11. Lumber;
- 230 12. Animal waste, including all excrement from domestic animals and fowl, and all hay,  
231 straw, or other materials that have been used for animals' or fowls' bedding;
- 232 13. Liquids, including paint;
- 233 14. Hazardous waste, including household hazardous waste;
- 234 15. Fuel oil tanks; and
- 235 16. Any automotive parts, including vehicle batteries and tires.

236  
237 **"C&D (Construction & Demolition) Debris" means any Solid Waste discarded in Dumpsters**  
238 **or Roll-off Containers that the Contract hauler must collect under the On-Call Temporary**  
239 **Dumpster and Roll-Off Collection Service section of the approved Collection contract,**  
240 **such as the following:**

- 241 **1. Bundled yard waste, branches;**
- 242 **2. Sod, soil and rock;**
- 243 **3. Broke concrete and asphalt;**
- 244 **4. Brick, block, and stone;**
- 245 **5. Railroad ties or similar type of retaining wall timbers;**

246 6. Remodeling debris;

247 7. Carpeting;

248 8. Sinks, concrete laundry tubs and cast-iron plumbing fixtures;

249 9. Windows and doors; and

250 10. Lumber.

251

252 “Cart” means a wheeled receptacle for storing solid waste that can be emptied by either  
253 semi- or fully-automated vehicles.

254

255 “Collection contract” means the contract described between the contract hauler and the  
256 borough for collection of solid waste and transportation to the borough landfill.

257

258 “Collection service area” means all premises accessible via roads maintained by the state  
259 of Alaska, the borough, the city of Kodiak, or the U.S. government, in and around Kodiak  
260 City and within the boundaries of the borough, except for the USCG facilities and past  
261 milepost one of Anton Larsen Road.

262

263 “Commercial” describes people, such as customers, places, such as premises, or things,  
264 such as carts or types of solid waste, in the borough that are not residential or multifamily.

265

266 “Compactor” means a receptacle containing a ram that pushes and compresses waste  
267 into a container or bale.

268

269 “Contract hauler” means the contractor under the municipal solid waste collection contract.

270

271 “Dead animal” means the carcass from an animal, large or small, except part of an animal  
272 used for food or other beneficial purpose in accordance with federal, state or local laws  
273 and regulations. Does not include fish or other primary aquatic animal.

274

275 “Disposal” or “dispose” means the act or action of discarding solid waste.

276

277 “Hazardous or toxic waste” means any material that meets the definition of 40 C.F.R. 261  
278 and AS 46.03.900, such as poisons, pesticides, acids, batteries, caustics, infectious or  
279 pathological wastes, radioactive materials, explosive or highly flammable materials, oil  
280 and petroleum products, and burning or smoldering materials.

281

282 “Household hazardous waste” means hazardous waste generated on residential premises.

283

284 “Manager” means the borough manager or designee.

285

286 “Multifamily” describes people, such as customers, places, such as premises, or things,  
287 such as carts or types of solid waste, in the borough that are not residential premises.

288

289 “Multifamily premises” means premises that are not residential premises, and therefore  
290 contains four or more dwelling units, including apartment complexes and trailer courts.



291

292 "Premises" means property having any habitable building, whether residential,  
293 multifamily, or commercial.

294

295 "Recyclables" means materials which can be reprocessed, reconditioned, or adapted to  
296 use again or for a new use or function.

297

298 "Residential premises" means a premises meeting both of the following conditions:

299 1. It contains one, two, or three dwelling unit(s); and

300 2. Each dwelling unit is occupied by related individuals, or by five or fewer unrelated  
301 individuals.

302

303 "Roll-off" means an open-topped rectangular receptacle for storage, collection, and  
304 transport of solid waste that is rolled on and off flatbed collection vehicles via winches or  
305 reeving cylinders (hooks).

306

307 "Scavenging" means the controlled removal of waste materials for recycling or reuse.

308

309 "Sewage solids" means waste that passes the paint filter test, EPA Test Method 9095,  
310 published in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-  
311 846, adopted by reference in 18 AAC 60.365, and has been removed from a wastewater  
312 treatment system, sewer, septic tank, or other wastewater handling equipment; "sewage  
313 solids" includes lagoon dredge, sewer cleanout waste, barscreen grit, and wastewater  
314 treatment sludge.

315

316 "Solid waste" means "municipal solid waste" as defined in AS 46.03.900.

317

318 "Solid waste collection" means the act of removing solid waste from the central storage  
319 point of a primary generating source, such as a residence or business, to a place of solid  
320 waste disposal.

321

322 "Solid waste disposal" means the orderly process of finally disposing of solid waste.

323

324 "Solid waste generator" means anyone who creates solid waste during everyday living  
325 and working.

326

327 "Solid waste storage" means the interim containment of solid waste, in an approved  
328 manner, after generation and prior to collection and disposal.

329

330 **Section 6:** Kodiak Island Borough Code section 8.25.070, Solid waste storage and set-out, is  
331 amended to read as follows:

332

333 **8.25.070 Solid waste storage and set-out.**

334 A. Storage. Each solid waste generator is responsible for the placement of that person's ~~bin or~~  
335 cart so that it will not easily be tipped, such as by an animal or the wind. Lids on ~~the bins~~ or ~~cart~~s

336 must be kept closed to keep out rain, snow, and animals. Surplus liquids must be drained from  
337 solid waste and placed in watertight bags before discarding them in containers.

338  
339 B. Set-Out.

340 1. Site. ~~Anyone who receives solid waste collection service in eCarts or bins service must be~~  
341 ~~placed their container~~ in the following locations by the contract hauler or solid waste collection  
342 service recipient, ~~or as instructed by the contract hauler.~~

343  
344 a. Roadside;

345 b. In an adjacent alley; or

346 c. Within three feet of the roadway on which the contract hauler can drive its collection vehicles.  
347 For example, if the serviced premises are adjacent to more than one street, alley, or roadway, the  
348 contract hauler may instruct the customer to set out containers on only one specified street, alley,  
349 or roadway.

350  
351 The contract hauler may require alternative placement based on site-specific conditions.

352  
353 2. Required Actions. Anyone who receives solid waste collection service, whether in a cart, bin,  
354 or roll-off, must do the following:

355  
356 a. Discard only securely bagged or bundled solid waste inside the cart, bin, or roll-off provided by  
357 the contract hauler for that customer's use; and

358 a. b. Clean up any solid waste discarded, scattered, littered, or otherwise strewn outside  
359 the cart, bin, or roll-off caused by the person discarding the waste or by improper  
360 use of the cart, bin or roll-off which causes solid waste to be left outside the  
361 cart, bin or roll-off. Improper use of a cart, bin or roll-off includes:

362 i. Discarding any material in a container for collection by the contract  
363 hauler except solid waste.

364 ii. Discarding solid waste outside the solid waste container, except for  
365 bulky items discarded at the time when, and place where, the contract  
366 hauler is obligated to collect bulky items.

367 iii. Failing to tightly close, latch or secure container lids.

368 iv. Placing solid waste on top of or allowing solid waste to protrude from the  
369 container.

370 v. Discarding solid waste in containers in excess of the weight limit that the  
371 contract hauler prescribes on the container.

372 vi. Discarding solid waste for pickup anywhere except at the set-out site  
373 designated by the contract hauler.

374  
375 ~~The contract hauler is not required to clean up solid waste discarded, scattered, littered, or~~  
376 ~~otherwise strewn outside the cart, bin, or roll-off, except for solid waste that the contract hauler~~  
377 ~~spills during collection and transportation.~~

378  
379 3. Prohibited Conduct.

380 a. Anyone who ~~receives~~ utilizes solid waste cart collection service, ~~whether in a cart, bin or roll-~~  
381 ~~off~~, must not ~~do any of the following~~: discard dead animals in the cart. The discarding of any  
382 solid waste outside the cart is also prohibited, including the following items:

383  
384 ~~a. Discard dead animals in the cart, bin, or roll-off; or~~

385 ~~b. Discard any solid waste outside the cart, bin, or roll-off, including the following:~~

386  
387 i. Litter;

388 ii. Bulky items, ~~such as appliances, bed springs, mattresses, furniture~~ as defined by KIBC  
389 8.25.020;

390 iii. C&D Debris as defined by KIBC 8.25.020 ~~Nonbulky items listed in the definition of "bulky~~  
391 ~~items" (such as construction/demolition waste, unless as allowed during temporary service as in~~  
392 ~~KIBC 8.25.060(B), tree limbs, lawn clippings, animal waste); and~~

393 iv. Hazardous or toxic waste as defined by KIBC 8.25.020.

394  
395 ~~No one may discard any material in a roll-off except for the roll-off provided by the contract hauler~~  
396 ~~for that person's solid waste collection service.~~

397  
398 b. Anyone who utilizes solid waste bin or roll-off collection services must securely close  
399 and latch the bin or roll-off door or cover. The discarding of any solid waste outside the  
400 bin or roll-off is prohibited, including, but not limited to, the following items:

401  
402 i. Litter:

403 ii. Bulky items as defined by KIBC 8.25.020;

404 iii. C&D Debris as defined by KIBC 8.25.020; and

405 iv. Hazardous or toxic waste as defined by KIBC 8.25.020.

406  
407 No one may discard any material in a roll-off except for the roll-off provided by the contract  
408 hauler for that person's solid waste collection service.

409  
410 C. Clearance and Access. A cart customer must maintain a minimum of three feet of clearance  
411 between each cart and any mailbox, vehicle, snow berm, or other object that would obstruct  
412 collection, including the arm on an automated collection truck. A cart customer must maintain  
413 clear access to the cart set-out site so that the collection vehicles can lift and empty carts,  
414 including clearing away snow and other obstructions, such as parked vehicles.

415  
416 D. Bin Sharing. Two or more bin customers must share bins, and the allocable service charges  
417 for solid waste collection, if directed by the contract hauler when there is limited space for set-out  
418 or collection of bins.

419  
420 E. Safety. Each customer must maintain its set-out site so that it is safely accessible to contract  
421 hauler's vehicles and employees. If the contract hauler determines that the set-out site is not safe,  
422 it is not obligated to provide collection service there. Contractor will coordinate safe set-out  
423 location with customer for each occurrence.

425 **Section 7:** Kodiak Island Borough Code section 8.25.220, Administration, implementation and  
426 enforcement, is amended to read as follows:  
427

428 **8.25.220 Administration, implementation, and enforcement.**

429 The manager is authorized to administer, implement, and enforce this chapter and promulgate  
430 related solid waste policy, unless this chapter expressly names another person. The manager  
431 may request assistance from other persons or request that other persons administer, implement  
432 and enforce all or a portion of this chapter. Examples of other persons are:  
433

- 434 A. The director of finance or the auditor-controller, for example, with respect to collection of user  
435 fees;
- 436 B. City of Kodiak police department;
- 437 C. Borough attorney;
- 438 D. Other borough departments;
- 439 E. District attorney;
- 440 F. Alaska State Department of Environmental Conservation;
- 441 G. Alaska Department of Fish and Game;
- 442 H. Alaska State Troopers; and
- 443 I. An **A Code** enforcement officer designated under KIBC 1.20.030.
- 444

445 **Section 8:** Kodiak Island Borough Code section 8.25.230, Enforcement officer, is repealed.  
446

447 ~~**8.25.230 Enforcement officer.**~~

448 ~~A. Authority. The enforcement officer has the authority to issue citations, summons, and~~  
449 ~~complaints, or notices of violation to anyone who violates this chapter.~~

450 ~~B. Citation. A citation filed in the district court charging a violation under this chapter is deemed~~  
451 ~~as a lawful complaint for purposes of prosecution under this chapter.~~  
452

453 **Section 9:** Kodiak Island Borough Code section 9.10.060, Penalty, is amended to read as  
454 follows:  
455

456 **9.10.060 Penalty.**

457 Penalties for violations of this chapter are as provided in Chapter 1.20 KIBC. In accordance with  
458 AS 29.25.070(a), citations for the certain ~~offenses~~ **violations** of **Chapter 9.10** KIBC may be  
459 disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon  
460 payment of the fine amounts established in a schedule of fines adopted by the borough assembly  
461 by **ordinance** ~~resolution~~ pursuant to Chapter 1.20 KIBC, plus the state surcharge required by AS  
462 12.55.039 and 29.25.074. ~~The Rules of Minor Offense Procedure in the Alaska Rules of Court~~  
463 ~~apply to all offenses listed in the established schedule of fines. Citations charging these offenses~~  
464 ~~must meet the requirements of Minor Offense Rule 3. Alternatively, the person may choose to~~  
465 ~~appear in court and contest the citation. If a person charged with one of these offenses appears~~  
466 ~~in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount~~  
467 ~~for that offense listed. If an offense is not listed on this schedule of fines, the defendant must~~  
468 ~~appear in court to answer to the charges. These fines may not be judicially reduced. If a person~~  
469 ~~is cited for an offense for which a scheduled fine has been established in the schedule of fines~~

470 and fails to pay a fine or appear in court, the citation shall be considered a summons for a  
471 misdemeanor.

472  
473 **Section 10:** Kodiak Island Borough Code Chapter 9.20, Peace Officers, is amended to read as  
474 follows:

475  
476 **Chapter 9.20**  
477 **PEACE BOROUGH CODE ENFORCEMENT OFFICERS**  
478

479 Sections:

480 9.20.010 Authority.

481 9.20.020 Interference with a peace borough code enforcement officer.

482 9.20.030 Penalty.  
483

484 **9.20.010 Authority.**

485 The manager may in writing designate one or more employees of the borough as peace code  
486 enforcement officers per KIBC 1.20.030. ~~with the authority to issue citations, conduct~~  
487 ~~investigations of violations of and enforce the Kodiak Island Borough Code, ordinances, and~~  
488 ~~regulations, and to take other action consistent with the exercise of these enumerated powers~~  
489 ~~when necessary to enforce the Kodiak Island Borough Code, ordinances and regulations and~~  
490 ~~maintain the public peace.~~

491  
492 **9.20.020 Interference with a peace borough code enforcement officer.**

493 No person may interfere with a peace borough code enforcement officer while ~~he is~~ in the  
494 performance of ~~his~~ the officer's duties. A person who does any of the following is guilty of  
495 interfering with a peace borough code enforcement officer:  
496

497 A. By use or threat of force or violence, the person ~~he~~ prevents or attempts to prevent a peace  
498 borough code enforcement officer from carrying out the officer's ~~his~~ duties;

499  
500 B. By use or threat of force or violence, the person ~~he~~ attempts to aid or aids a person in  
501 preventing a borough code enforcement ~~peace~~ officer from carrying out the officer's ~~his~~ duties;  
502 or

503  
504 C. With intent to delay or prevent a borough code enforcement ~~peace~~ officer from discharging  
505 the officer's lawful duties, the person ~~he~~ in any manner physically impedes or hinders the  
506 borough code enforcement ~~peace~~ officer.  
507

508 **9.20.030 Penalty.**

509 A person who interferes with, ~~unlawfully assaults or threatens, or unlawfully strikes or wounds a~~  
510 peace borough code enforcement officer in violation of KIBC 9.20.020 ~~while he is performing~~  
511 ~~his duties~~ is guilty of a violation misdemeanor, punishable by a fine of not more than \$500.00 ~~or~~  
512 ~~by imprisonment in jail for not more than 30 days, or by both,~~ in addition to the surcharge required  
513 to be imposed under AS 12.55.039.  
514

515 **Section 11:** Kodiak Island Borough Code Title 10 Vehicles and Traffic, is amended to read as  
516 follows:

517  
518 **TITLE 10**  
519 **VEHICLES AND TRAFFIC**

520  
521 **Chapters:**

522 10.10 Junk or Abandoned Vehicles.

523 10.20 Stopping, Standing, and Parking.

524  
525 **10.10.005 Definitions.**

526 For the purpose of this chapter the following definitions shall apply:

527  
528 “Abandoned vehicle” means: ~~any motorized or towed vehicle, wheeled or tracked, which has been~~  
529 ~~left unattended for a length of time which has resulted in the vehicle’s deterioration or destruction.~~

530 1. A registered vehicle that reasonably appears to have been left unattended, standing,  
531 parked upon or within 10 feet of the traveled portion of a highway or vehicular way or area  
532 in excess of 48 hours, that reasonably appears to have been left standing or parked on  
533 private property in excess of 24 hours or upon other public property for more than 30 days,  
534 without the consent of the owner or person in charge of the property; or

535 2. A wrecked or junk vehicle that reasonably appears to have been left unattended,  
536 standing, parked upon or within 10 feet of the traveled portion of a highway or vehicular  
537 way or area in excess of 24 hours, or a wrecked or junk vehicle that reasonably appears to  
538 have been left standing or parked on private property or other public property in excess of  
539 24 hours and without the consent of the owner or person in charge of the property.

540  
541 “Junk” means any worn out, cast-off, or discarded article or material which is ready for destruction  
542 or has been collected or stored for conversion or salvage to some other use.

543  
544 “Junk vehicle” means a vehicle that:

545 1. Is not currently registered per A.S. 28.10.11 (except for a vehicle used exclusively for  
546 competitive racing);

547 2. Is stripped, wrecked, or otherwise inoperable due to structural inefficiencies or  
548 mechanical failure;

549 3. Has not been repaired because of mechanical difficulties or because the cost of repairs  
550 required to make it operable exceeds the fair market value of the vehicle; or

551 4. Is in a condition that exhibits more than one of the following elements:

552 a. Broken glass;

553 b. Missing wheels or tires;

554 c. Missing body panels or parts; or

555 d. Missing drive train parts.

556  
557 “Wrecked vehicle” means a vehicle that is disabled and cannot be used as a vehicle  
558 without substantial repair or reconstruction.

- 560 **10.10.010 Junk or abandoned vehicles.**  
561 A. It is unlawful for a person to store or abandon junk or a vehicle on a street or highway within  
562 the borough.  
563  
564 B. It is unlawful for a person to store or abandon junk or a vehicle on public property not set aside  
565 by law as a refuse disposal site open for the disposal of junk or vehicles.  
566  
567 C. It is unlawful for a person, without the consent of the property owner or person in possession  
568 or control of property, to store or abandon junk or a vehicle on said property unless such property  
569 is licensed as a junkyard and is open for disposal, or unless all necessary fees for removal and  
570 storage have been paid and all other requirements of disposal have been met.  
571 ...

- 572  
573 **10.10.080 Penalties and remedies.**  
574 A. In accordance with AS 29.25.070(a), citations for ~~the certain offenses~~ violations of Chapter  
575 10.10 KIBC may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court  
576 appearance, upon payment of the fine amounts established in a schedule of fines adopted by the  
577 borough assembly by ordinance resolution pursuant to Chapter 1.20 KIBC, plus the state  
578 surcharge required by AS 12.55.039 and 29.25.074. ~~The Rules of Minor Offense Procedure in~~  
579 ~~the Alaska Rules of Court apply to all offenses listed in the established schedule of fines. Citations~~  
580 ~~charging these offenses must meet the requirements of Minor Offense Rule 3. Alternatively, the~~  
581 ~~person may choose to appear in court and contest the citation. If a person charged with one of~~  
582 ~~these offenses appears in court and is found guilty, the penalty imposed for the offense may not~~  
583 ~~exceed the fine amount for that offense listed. If an offense is not listed on this schedule of fines,~~  
584 ~~the defendant must appear in court to answer to the charges. These fines may not be judicially~~  
585 ~~reduced. If a person is cited for an offense for which a scheduled fine has been established in the~~  
586 ~~schedule of fines and fails to pay a fine or appear in court, the citation shall be considered a~~  
587 ~~summons for a misdemeanor.~~  
588  
589 B. Notwithstanding the availability of any other remedy, the borough or any aggrieved person may  
590 bring a civil action to enjoin any violation of this chapter, or to obtain damages for any injury the  
591 plaintiff suffered as a result of the violation.  
592  
593 C. Each act or condition violated in this chapter, and each day during which the act or condition  
594 exists, continues or is repeated shall be a separate and distinct violation.  
595  
596 D. The penalties provided for violation of this chapter are in addition to and not in lieu of any other  
597 penalty provided for in state law or any civil remedy available to the borough.  
598

599 **CHAPTER 10.20**  
600 **STOPPING, STANDING, AND PARKING**

601  
602 **Sections:**

603 **10.20.005 Definitions.**

604 **10.20.010 Obstruction of rights-of-way.**

605 10.20.020 Obstruction of service.

606 10.20.030 Penalties and remedies.

607

608 10.20.005 Definitions.

609 “Extreme weather event” means unexpected, unusual, unpredictable, severe, or  
610 unseasonable weather which requires municipal intervention to prevent damage to  
611 property, loss of life, or interruption of necessary public services.

612

613 10.20.010 Obstruction of rights-of-way.

614 A. No person shall place, leave or deposit upon borough-owned streets or improved rights-  
615 of-way any vehicles, debris, or other objects, except that:

616

617 1. person may park a vehicle for a period of time not to exceed 24 hours.

618

619 2. A person may park, or allow or cause to be parked, a disabled or inoperable motor  
620 vehicle for a period not to exceed 24 hours.

621

622 B. No person shall place, leave or deposit upon any street, developed right-of-way or  
623 drainage structure, any accumulation of snow or ice which has been removed from a  
624 private driveway or approach road in a manner that impeded drainage, line of site or  
625 pedestrian or motor vehicle traffic.

626

627 10.20.020 Obstruction of service.

628 A. Any person parking a vehicle on a borough-owned street or improved right-of-way shall  
629 remove the subject vehicle within twelve hours of the issuance of a temporary parking  
630 closure. Temporary parking closure notifications shall be provided by borough officials  
631 or service district representatives via public radio and temporary signage placed in the  
632 vicinity of the closure.

633

634 B. During declared natural disasters, extreme weather events or when a vehicle is  
635 impeding necessary public services, where immediate action by the borough or service  
636 district is required in order to maintain operability of the street or improved right of way, a  
637 minimum of two borough officials, upon agreement, may have vehicles removed from the  
638 right-of-way without notification to the vehicle's owner prior to removal.

639

640 10.20.030 Penalties and remedies.

641 A. In accordance with AS 29.25.070(a), citations for the violation of Chapter 10.20 KIBC  
642 may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court  
643 appearance, upon payment of the fine amounts established in a schedule of fines adopted  
644 by the borough assembly by ordinance pursuant to Chapter 1.20 KIBC, plus the state  
645 surchARGE required by AS 12.55.039 and 29.25.074.

646

647 B. Penalties incurred and/or remedies sought for violations of this chapter are the  
648 responsibility of the registered owner of the vehicle, any person who has acquired legal



649 title to the vehicle from or through the registered owner, or any person who has violated  
650 KIBC 10.20.010 or 10.20.020.

651  
652 C. Notwithstanding the availability of any other remedy, the borough or any aggrieved  
653 person may bring a civil action to enjoin any violation of this chapter, or to obtain damages  
654 for any injury the plaintiff suffered as a result of the violation, including, but not limited to,  
655 the recovery of costs associated with towing and impoundment.

656  
657 D. Each act or condition violated in this chapter, and each day during which the act or  
658 condition exists, continues or is repeated shall be a separate and distinct violation.

659  
660 E. The penalties provided for violation of this chapter are in addition to and not in lieu of  
661 any other penalty provided for in state law or any civil remedy available to the borough.

662  
663 **Section 12:** Kodiak Island Borough Code section 13.20.020, Administration enforcement  
664 action, is amended to read as follows:

665  
666 **13.20.020 Administration enforcement action.**

667 A. In any situation in which the borough engineer, or his authorized representative, has reason to  
668 believe that the public health, safety or welfare requires corrective action, he may:

- 669  
670 1. Exercise the right to entry for investigative purposes at all reasonable times and upon  
671 presentation of proper credentials. If such entry is refused, the borough engineer, or  
672 authorized representative, shall have recourse to every remedy provided by law to secure  
673 entry;
- 674  
675 2. Order any work being done contrary to the provisions of this title to be stopped by serving  
676 notice on any persons engaged in doing or causing the work to be done, and any such  
677 persons shall forthwith stop such work until authorized in writing to proceed. If the order is  
678 issued verbally, a written order shall be issued prior to the conclusion of the next regular  
679 workday stating the nature of the work to be stopped; and
- 680  
681 3. Order the abatement of any condition affecting the public health, safety, and welfare. If the  
682 order is given verbally, a written order shall be issued prior to the conclusion of the next  
683 regular workday setting forth the nature of the abatement action and the time allowed for  
684 compliance.

685  
686 B. Upon complaint by a citizen, or upon his own initiative, the borough engineer may, after  
687 investigation, initiate ~~criminal~~ proceedings against any person for the violation of this title. Except  
688 for prosecution for failing to comply with an order issued under subsection A of this section, the  
689 borough engineer shall give at least 10 days' written notice of intent to prosecute and may initiate  
690 ~~criminal~~ proceedings only if the violation is not cured, and if the person who is the subject of the  
691 notice fails to seek appropriate administration relief within the notice period.

693 **Section 13:** Kodiak Island Borough Code section 13.20.050, Penalties and remedies, is  
694 amended to read as follows:

695  
696 **13.20.050 Penalties and remedies.**

697 A. A person who violates any provision of this title, or any order issued under KIBC 13.20.020(A),  
698 is guilty of a violation ~~misdemeanor~~ and, upon conviction, is punishable by a fine of not more  
699 than \$500.00 for each day of violation, in addition to the surcharge required to be imposed under  
700 AS 12.55.039.

701  
702 B. The borough or any aggrieved person may bring a civil action to enjoin any violation of this  
703 title, or the violation of any order issued under KIBC 13.20.020(A), and to obtain damages for any  
704 injury the plaintiff suffered as the result of the violation. An action for injunction under this section  
705 may be brought notwithstanding the availability of any other remedy. Upon application for  
706 injunctive relief and a finding of an existing or threatened violation, the superior court shall enjoin  
707 the violation.

708  
709 **Section 14:** Kodiak Island Borough Code section 15.50.030, Penalties and remedies, is  
710 amended to read as follows:

711  
712 **15.50.030 Penalties and remedies.**

713 A. A person who violates any provision of this title or any order issued under KIBC 15.50.010 is  
714 guilty of a violation ~~misdemeanor~~ and upon conviction is punishable by a fine of not more than  
715 \$300.00, in addition to the surcharge required to be imposed under AS 12.55.039. Each day of  
716 violation constitutes a separate offense.

717  
718 B. The borough or any aggrieved person may bring a civil action to enjoin any violation of this  
719 title, or any order issued under KIBC 15.50.010, and to obtain damages for any injury the plaintiff  
720 suffered as a result of the violation. An action for injunction under this section may be brought  
721 notwithstanding the availability of any other remedy. Upon application for injunctive relief and the  
722 finding of an existing or threatened violation, the superior court shall enjoin the violation.

723  
724 C. Each act or condition violating this title or any order issued under KIBC 15.50.010, and each  
725 day during which the act or condition exists, continues, or is repeated shall be a separate and  
726 distinct violation.

727  
728 D. The penalties provided for violation of this chapter are in addition to and not in lieu of any other  
729 penalty provided for in state law or any civil remedy available to the borough.

730  
731 **Section 15:** Kodiak Island Borough Code section 16.10.030, Scope and jurisdiction, is  
732 amended to read as follows:

733  
734 **16.10.030 Scope and jurisdiction.**

735 A. This title governs the subdivision of all land within the borough. No subdivision plat requiring  
736 borough approval shall be recorded unless approved by the borough or a standard subdivision  
737 agreement has been executed with the borough.

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B. These subdivision regulations do not apply to any lot or subdivision legally created and filed for record prior to the effective date of these regulations, nor to subdivisions given preliminary or final approval by the commission under the previously existing title, except in the instance of further subdivision of existing lots or tracts.

C. The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been approved and recorded is guilty of a violation ~~misdemeanor~~ and upon conviction is punishable by a fine of not more than \$300.00 for each lot or parcel transferred, sold, or included in a contract to be sold. The borough may enjoin such a transfer, sale, or contract to sell and may recover the penalty by appropriate legal action.

D. No agency of the state or local government may acquire property through the process of eminent domain which results in a boundary change unless the agency or local government first obtains from the commission preliminary approval of the replat showing clearly the location of the proposed public streets, easements, rights-of-way, and other taking of private property. Final approval of the replat shall be obtained within six months of the acquisition. The commission shall treat applications for replat made by state or local governmental agencies in the same manner as replat petitions originated by private land owners.

E. No person may file a plat or seek to have a plat filed unless it bears the approval of the borough. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than \$300.00.

F. The borough or any aggrieved person may bring a civil action to enjoin any violation of this title, any transfer or sale of an unlawfully subdivided parcel, the violation of any term or condition of any plat or other entitlement approved under this title, and to obtain damages for any injury the plaintiff suffered as a result of the violation. An action for injunction under this section may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of an existing or threatened violation, the superior court shall enjoin the violation.

**Section 16:** Kodiak Island Borough Code Chapter 17.210, Enforcement, Penalties and Remedies, is amended to read as follows:

**Chapter 17.210  
ENFORCEMENT, PENALTIES AND REMEDIES**

- Sections:
- 17.210.010 Administrative enforcement action.
  - 17.210.020 Administrative inspections.
  - 17.210.030 Penalties and remedies.
  - 17.210.040 Responsibility for violations.

783 **17.210.010 Administrative enforcement action.**

784 A. The ~~zoning-officer~~ manager or designee may order:

- 785
- 786 1. The discontinuation of unlawful uses of land or structures;
- 787 2. The removal or abatement of unlawful structures, or any unlawful additions or alterations
- 788 thereto;
- 789 3. The discontinuation of construction or other preparatory activity leading to an unlawful
- 790 structure or an unlawful use of a land or structure;
- 791 4. When necessary to ensure compliance with this title, the suspension or revocation of
- 792 building permits, variances, or other borough land use entitlements.
- 793

794 B. Upon complaint by a citizen, or upon ~~his~~ their own initiative, ~~the~~ any borough code

795 enforcement officer authorized to enforce this title ~~zoning-officer~~ may, after investigation,

796 initiate ~~criminal~~ proceedings against any person for the violation of this title. Except for

797 prosecutions for failing to comply with an order issued under subsection A of this section or where

798 the protection of public health and safety require immediate action, the borough code

799 enforcement officer ~~zoning-officer~~ shall give at least 10 days' written notice of intent to prosecute,

800 and may initiate ~~criminal~~ proceedings only if the violation is not cured within the notice period.

801

802 **17.210.020 Administrative inspections.**

803 In accordance with this section, ~~the~~ a borough code enforcement officer ~~zoning-officer~~ may

804 make inspections of buildings or premises to check for zoning violations. When the officer

805 ~~necessary to enforce the provisions of this title. When the zoning-officer~~ has reasonable cause to

806 believe ~~that in any building or on any premises~~ there exists any violation of this title, ~~he~~ the officer

807 may enter such building or premises only if: at any reasonable time to inspect the same or

808 ~~perform any of his duties under this title; provided, that where the Constitution of the United States~~

809 ~~or the state of Alaska requires that the zoning-officer obtain a search warrant before making an~~

810 ~~inspection, he shall not make the inspection until authorized to do so by a search warrant issued~~

811 ~~by a court of competent jurisdiction.~~

812

813 1. The owner or lessee has given consent; or

814 2. A judicially granted search warrant has been obtained.

815

816 **17.210.030 Penalties and remedies.**

817 A. A person who violates any provision of this title, an order issued under KIBC 17.210.010(A) or

818 any term or condition of a conditional use, variance or other entitlement issued under this title, is

819 guilty of a violation ~~misdemeanor~~ and upon conviction is punishable by a fine of not more than

820 \$300.00, in addition to the surcharge required to be imposed under AS 12.55.039.

821

822 B. Notwithstanding the availability of any other remedy, the borough or any aggrieved person may

823 bring a civil action to enjoin any violation of this title, any order issued under KIBC 17.210.010(A),

824 or any term or condition of a conditional use, variance or other entitlement issued under this

825 chapter; or to obtain damages for any injury the plaintiff suffered as a result of a violation. An

826 action for injunction under this section may be brought notwithstanding the availability of any other

827 remedy. Upon application for injunctive relief and the finding of an existing or threatened violation,  
828 the superior court shall enjoin the violation.

829  
830 C. Each act or condition violating this title, any order issued under KIBC 17.210.010(A), or any  
831 term or condition of a conditional use, variance, or other entitlement issued under this title, and  
832 each day during which the act or condition exists, continues or is repeated shall be a separate  
833 and distinct violation.

834  
835 D. The penalties provided for violation of this chapter are in addition to and not in lieu of any other  
836 penalty provided for in state law or any civil remedy available to the borough.

837  
838 **17.210.040 Responsibility for violations.**  
839 **The record owner, and any person in possession or control of property maintained in**  
840 **violation of this title is responsible for the violation and is subject to prosecution in**  
841 **accordance with Chapter 1.20 KIBC and this Chapter 17.210.**

842  
843 **Section 17:** Kodiak Island Borough Code section 18.35.050, Penalties and remedies, is  
844 amended to read as follows:

845  
846 **18.35.050 Penalties and remedies.**

847 A. A person who violates the provisions of this chapter is guilty of a **violation** ~~misdemeanor~~ and  
848 upon conviction is punishable by a fine of not more than \$300.00, in addition to the surcharge  
849 required to be imposed under AS 12.55.039.

850  
851 B. Notwithstanding the availability of any other remedy, the borough or any aggrieved person may  
852 bring a civil action to enjoin any violation of this chapter, or to obtain damages for any injury the  
853 plaintiff suffered as a result of the violation.

854  
855 C. Each act or condition violating this chapter, and each day during which the act or condition  
856 exists, continues or is repeated, shall be a separate and distinct violation.

857  
858 D. The penalties provided for violation of this chapter are in addition to and not in lieu of any other  
859 penalty provided for in state law or any civil remedy available to the borough.

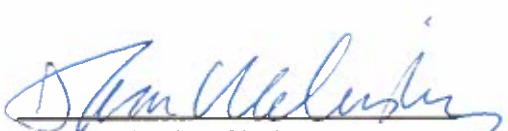
860  
861 **Effective Date:** This ordinance takes effect July 1, 2020. (Note: KIBC 2.30.070 states an  
862 ordinance takes effect upon adoption or at a later date specified in the ordinance.)

863  
864 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**  
865 **THIS TWENTIETH DAY OF FEBRUARY, 2020.**

866  
867 KODIAK ISLAND BOROUGH

ATTEST:

868  
869   
870 \_\_\_\_\_  
871 Bill Roberts, Mayor

  
\_\_\_\_\_  
Tara Welinsky, Clerk

872 **VOTES:** Schroeder, Symmons, Turner, Dvorak  
873 Ayes: Schroeder, Symmons, Turner, Dvorak  
874 Noes: Kavanaugh, Skinner  
875 Absent: Arndt