

Proposed by:	Civic Affairs Committee
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First Reading:	10/06/2011
Second Reading:	10/20/2011
Vote: 6 Aye	0 Nay 0 Absent

MUNICIPALITY OF SKAGWAY, ALASKA ORDINANCE NO. 11-24

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 4 REVENUE AND FINANCE BY AMENDING CHAPTERS 4.04 THROUGH 4.10.

WHEREAS, the Civic Affairs Committee is conducting a review of the Municipal Code in conjunction with the code re-write to update the Municipal Code;

NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend Title 4, Revenue and Finance by amending Chapters 4.04 through 4.10.

Section 3. Amendment. The Skagway Municipal Code is hereby amended (~~strike-through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. Chapter 4.04 Management of Funds, Chapter 4.05 Capital Improvements, Chapter 4.06 Municipal Indebtedness, Chapter 4.08 Sales Taxation and Chapter 4.10 Real Property Taxation are hereby amended as follows.

Chapter 4.04 MANAGEMENT OF FUNDS

Sections:

- 4.04.010 Disbursements--Authority and method.
- 4.04.020 Deposit and investment of funds.
- 4.04.030 Purchases and sales.
- 4.04.050 Conflicts of interest.
- 4.04.060 Claims for injuries.
- 4.04.070 Independent annual audit.

- 4.04.010 Disbursements--Authority and method.
 - A. Disbursements of municipal funds shall be made only in accordance with appropriations made as provided in Chapter 4.02 of this title.
 - B. Orders for the payment of money (warrants or checks) shall be signed and countersigned:
 - 1. The chairman of the assembly's finance committee or, in his absence, any other finance committee member shall be the countersigner; and
 - 2. The borough manager (or, when the manager so designates, either the borough clerk or the borough treasurer) shall be the signer.
 - C. The borough clerk shall at least once per month prepare for the assembly's review a listing of all unapproved warrants or checks. Approval of all warrants or checks shall be by a roll call vote.

- 4.04.020 Deposit and investment of funds.
 - A. The prudent man rule shall be applied in the management and investment of municipal funds. The "prudent man rule" means that in making investments the

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same judgment and care under the circumstance then prevailing shall be exercised which an institutional investor of ordinary prudence, discretion and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation, but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

1. Objective – General Fund and Enterprise Funds. Safety of principal is the foremost investment objective of the municipality for these funds. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they be from securities defaults or erosion of market value. The municipality seeks to attain market rates of return on its investments, consistent with constraints imposed by its safety objectives and cash flow considerations that restrict placement of public funds. All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the municipality.
2. Objective – J.M. Frey Land Fund Reserve and the Sales Tax Fund. Growth and Income is the primary objective of the municipality for this fund. The municipality desires to keep portfolio risk below that of common stocks alone, but to pursue a total return greater than that provided by bonds alone. Total return is defined to be the result of capital gains, realized and unrealized, plus income derived from dividends and interest. It is recognized that economic and security market conditions are not constant, but ever changing and, as a result, continuous portfolio adjustments will be required in order to maintain asset productivity. All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the municipality.
3. Treasury management – The responsibility for conducting investment transactions resides with the borough manager. The manager shall not deposit funds in any depository that is not a member of the Federal Deposit Insurance Corporation (FDIC) or the Securities Investor Protection Corporation (SIPC). Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.
4. Permissible investments – Funds of the municipality may be invested in:
 - a. U.S. Treasury bills;
 - b. Notes or bonds issued by the United States Treasury, U.S. government agencies, or government-sponsored enterprises, or the state of Alaska or its political subdivisions or other states of the United States;
 - c. Mortgage-backed and asset-backed obligations denominated in U.S. dollars with a credit rating rated of A2/A3 or better from two national rating agencies,
 - d. Corporate debt obligations of U.S.-domiciled corporations with a credit rating of A2/A3 or better from two national ratings agencies,
 - e. Convertible debt obligations of U.S.-domiciled corporations with a credit rating of A2/A3 or better from two national ratings agencies,
 - f. Federally insured or fully collateralized certificates of deposit of banks and savings and loan associations;

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- g. A state investment pool formed within the state of Alaska and comprised of agencies of the state and/or its political subdivisions;
 - h. Money market mutual funds whose portfolios consist predominantly of U.S. government securities;
 - i. An investment pool authorized by Alaska Statutes 37.23.010 through 37.23.900
 - j. Up to forty percent may be invested in bond mutual funds investing primarily in investment grade corporate and government bonds with a minimum of a five-year track record and at least one billion dollars in asset value.
 - k. In addition to the above listed instruments, the following are also permitted in the J.M. Frey Land Fund Reserve and the Sales Tax Fund.
 - (i) Investment in permitted equities shall not exceed 60% of total portfolio value. This shall be reviewed by July 1 annually.
 - (ii) Common and preferred stock of U.S.-domiciled corporations listed on a national exchange or NASDAQ, with a minimum market capitalization of five hundred million dollars,
 - (iii) Common and preferred stock of foreign corporations which are listed on a national exchange or NASDAQ, traded in the form of American Depository Receipts or similar structure,
 - (iv) Master limited partnerships listed on a national exchange,
 - (v) Real estate investment trusts (REIT's) listed on a national exchange with a market capitalization in excess of five hundred million dollars,
 - (vi) Closed-end stock mutual funds listed on a national exchange with a minimum total net asset value in excess of two hundred million dollars, the individual securities contained therein which may not meet the above requirements.
 - (vii) Open-end stock mutual funds with a minimum four-year track record and at least five hundred million dollars in asset value
 - (viii) Bond mutual funds investing primarily in investment grade corporate and government bonds with a minimum of a five-year track record and at least five hundred million dollars in asset value.
5. Diversification - It is the policy of the municipality to diversify its investment portfolio. Assets shall be diversified to eliminate the risk of loss resulting from over-concentration of assets in a specific issuer or a specific class of securities. Diversification strategies shall be determined and revised annually by the borough manager and the finance committee.
- a. In establishing specific diversification strategies, the following general policies and constraints shall apply:
 - (i) Portfolio maturities shall be staggered to avoid undue concentration of assets in a specific maturity sector. Maturities selected shall provide for stability of income and reasonable liquidity.

b. The following diversification limitations shall be imposed on the portfolio:

(i) To the extent possible, the municipality will attempt to match investments with anticipated cash requirements. Excess funds will be defined, for this policy, as funds in excess of anticipated annually budgeted moneys and cash flows. The fixed income portion of such excess funds shall be invested with an average portfolio maturity not to exceed eight years.

6. Internal Controls – As part of the annual audit there shall be a review by the external auditor to assure the compliance of the municipality's policies and procedures. The borough manager may also, with concurrence of the borough assembly, commission independent reports assessing the absolute and comparative performance of the investment advisor(s) and of compliance with this chapter.
7. Selection of banking services – Depositories shall be selected through a banking selection process every three years. In selecting depositories, the credit worthiness of institutions shall be considered, and the borough manager shall conduct a comprehensive review of prospective depositories' credit characteristics and financial history.
8. Investment advisor – The borough manager, with concurrence of the borough assembly, shall retain a registered investment advisor to manage a portion of the municipality's investment portfolio. Such advisor(s) will be bound by all aspects of this chapter. Investment guidelines given to such advisor(s) may be more restrictive than the policies contained herein, but may not be less restrictive. The advisor shall submit quarterly performance reports to the borough manager. The advisor shall be licensed with the Securities Exchange Commission.
9. Reporting requirements – The borough manager shall generate monthly reports for management purposes. In addition, the borough assembly will be provided quarterly reports that will include data on investment instruments being held, interest earned, comparing the return with budgetary expectations, as well as any narrative necessary for clarification.
10. Investment policy adoption – The municipality's investment policy shall be adopted by ordinance. The finance committee shall review the policy on an annual basis and any modifications made thereto must be approved by the borough assembly.

4.04.030 Purchases and sales.

- A. The borough manager shall contract for purchases of supplies, services, equipment and materials for use by the municipal government for transactions of five thousand dollars (\$5,000.00) or less. For transactions involving larger sums but less than twenty-five thousand dollars (\$25,000.00), the authorization of the assembly's finance committee chairman also shall be required. For transactions exceeding twenty-five thousand dollars (\$25,000.00) in value, the assembly's authorization shall be required.
- B. The borough manager may transfer supplies and equipment between offices and departments. The manager may also sell surplus or obsolete supplies or equipment, subject to such additional terms and conditions as the assembly may by resolution prescribe. Sale of any item of borough-owned personal property valued at more than five thousand dollars (\$5,000.00) shall require assembly

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approval, and shall be done by competitive bidding using a pre-established minimum acceptable bid.

- C. Sales, leases and other dispositions of borough-owned real property or interests therein shall be in accordance with the applicable provisions of Title 16 of this code.
- D. An entire public utility and appurtenant franchises belonging to the municipality may be sold or leased only by authority of an ordinance adopted by the assembly and ratified by an affirmative vote of a majority of the qualified voters voting at a regular or special election.

4.04.050 Conflicts of interest.

Each assembly member, officer or employee of the municipality shall disqualify himself from participating in any official action in which he/she has a substantial financial interest.

4.04.060 Claims for injuries.

- A. In order to safeguard and preserve public funds and to avoid unnecessary litigation, no civil action shall be commenced against the municipality nor shall the municipality be liable for any claim until and unless the claimant serves or causes to be served upon ~~an officer of the municipality upon whom process may be served,~~ the borough manager a written notice stating that the claimant intends to hold the municipality liable for such claims. Such written notice shall set forth ~~substantially~~ the nature and extent of the claim, the time and place it arose, the manner in which it occurred, the names and addresses, and telephone numbers of all known witnesses and persons having knowledge of any information in any way pertaining to the claim, and a description of all known evidence pertaining to the claim and location of such evidence. Such written notice of claim shall be verified under oath by the claimant or the person who submitted such written notice on behalf of the claimant, and shall be presented to the assembly for action.
- B. The authority to settle and compromise claims against the municipality which are presented in the manner provided for in subsection A above and which are for amounts of ~~five hundred~~ one thousand dollars (\$1,000.00) or less is hereby given and delegated to the borough manager.

Section 4.04.070 Independent annual audit.

The borough manager with the approval of the borough assembly shall, prior to the end of each fiscal year, designate a qualified public accountant or accountants, who shall make an independent audit of the accounts and evidences of financial transactions of all municipal departments, offices and agencies keeping separate or subordinate accounts or making financial transactions, and who shall report to the assembly and borough manager. The report shall be open to public inspection. In lieu of the above, the assembly may arrange with an appropriate state authority for such an audit when and if permitted by law.

Chapter 4.05
CAPITAL IMPROVEMENTS

Sections:

- 4.05.015 Purchasing officer; duties.
- 4.05.020 Delegations by purchasing officer.
- 4.05.025 Definitions.
- 4.05.030 Public improvement contracts.
- 4.05.035 Contract amounts.
- 4.05.040 Competitive sealed bid procedure.

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- 4.05.045 Bidding review board.
- 4.05.050 Protests.
- 4.05.055 Administration of protest.
- 4.05.060 Exceptions to competitive sealed bidding and submission of quotations.
- 4.05.065 Authority to debar or suspend.
- 4.05.070 Causes for debarment or suspension.
- 4.05.075 Notice.
- 4.05.080 Hearing.
- 4.05.085 Hearing procedures.
- 4.05.090 Recommendation by a hearing officer.
- 4.05.095 Final decision by the manager.
- 4.05.100 Judicial appeal.
- 4.05.105 Civil and criminal penalties.
- ~~4.05.110 List of persons debarred or suspended.~~
- ~~4.05.115 Limited participation.~~
- 4.05.120 Reinstatement.

- 4.05.015 Purchasing officer; duties.
 - A. The manager shall be the purchasing officer for the Municipality of Skagway Borough.
 - B. Except as otherwise specifically provided by ordinance, the purchasing officer shall:
 - 1. Procure or supervise the procurement of all goods and services purchased by or donated to the municipality;
 - 2. Prescribe the time, manner, and form of all requests for purchases of goods and services purchased by the municipality;
 - 3. With the concurrence of the borough attorney, prescribe standard forms for bids, requests for proposals, and contracts;
 - 4. Prescribe training in public procurement methods for municipal employees;
 - 5. Prescribe administrative policies and procedures which may be necessary to carry out the provision of this chapter;
 - 6. Supervise the opening of bids and evaluations of requests for proposals, and issue notices regarding the award of contracts.

- 4.05.020 Delegations by purchasing officer.
 - A. The Manager may delegate, in writing, to other municipal employees the authority to procure or supervise the procurement of goods and services needed by the municipality.
 - B. A delegation under this section shall be accompanied by the Manager's written determination that the delegate possesses training and experience adequate to the delegation.
 - C. Procurement authority delegated under this section may be limited as to type or amount and may be revoked by the Manager.
 - D. No municipal employee subject to the provisions of Section 4.05.010 shall purchase goods or services with municipal funds, except in accordance with a proper delegation of authority by the purchasing officer, except for purchases established by the manager, any contracts, purchases or procurement entered into in violation of this section are voidable. **It is the responsibility of any person entering into any contract or agreement for the purchase of goods or services with the municipality to independently determine whether the purchasing officer has been authorized by the borough manager or is**

otherwise authorized under this section to enter the contract or agreement for the municipality.

4.05.025 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Skagway bidder and Skagway proposer mean a person who:
 - a. Holds a current state business license;
 - b. Submits a bid or proposal under the name appearing on the bidder's current state business license.
 - c. Has maintained, for a period of six months immediately before the date of the bid or proposal, a place of business within the municipality that regularly provides in the normal course of business supplies or services of the general nature being solicited and that is staffed by the bidder or **full-time** an employee of the bidder;
 - d. Is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the municipality or is a partnership and all partners are residents of the municipality.
 - e. Is not delinquent in the payment of any taxes, charges, or assessments owing to the municipality on account of that business;
 - f. Adds value by actually manufacturing, assembling, creating, performing, controlling, managing, or supervising the goods or services provided; and
 - g. If a joint venture, is composed entirely of ventures that qualify under subsections (a) through (f) of this definition.
2. Lowest qualified bidder means the person submitting the lowest responsive and responsible bid, **as determined by the municipality**.
3. Party means, with respect to a particular procurement, a person submitting a bid or proposal to contract with the municipality pursuant to that procurement. The manager may adopt regulations to implement the provisions of this section.
4. Public improvement, as used in this chapter, and only for purpose of competitive bidding, includes the erection, building, construction, placement, creation and expansion of an improvement to land; it does not include rebuilding, repair, removing, resurfacing, rehabilitating or replacing any chattel, fixture or improvement to land.
5. Services means labor, professional services and consulting services.
6. Supplies means all supplies, materials and equipment.

4.05.030 Public improvement contracts.

- A. Contracts for public improvements for an amount estimated to exceed \$25,000.00 shall be by competitive sealed bid and be awarded to the lowest qualified bidder.
- B. Contracts for public improvements for an amount estimated to be \$25,000.00 or less may be made when feasible and when in the best interest of the municipality by binding competitive written bid, but without newspaper advertisement and without observing the procedure prescribed for the award of formal sealed bid purchases and contracts.

4.05.035 Contract amounts.

Unless otherwise prohibited by this Code:

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1. All contracts for an amount estimated to be \$2,000.00 or less shall be made on the open market with such competition as is reasonable and practical in the circumstances.
2. All contracts, other than professional services, shall be awarded as follows:
 - a. Contracts in an amount estimated to be greater than \$2,000.00 but not more than \$5,000.00 shall be made when feasible and when in the best interest of the municipality in the open market by written or oral quotation or telephone solicitation, without newspaper advertisement and without observing the procedure prescribed for the award of formal sealed bid purchases. Such open market contracts or purchases, whenever practicable, shall be based on at least three competitive quotations and shall be awarded to the lowest qualified bidder. The basis for determining the lowest qualified bidder shall be the same as that used in formal bid purchases, including any preferences established by law.
 - b. Contracts in an amount estimated to be more than \$5,000.00 but not more than \$25,000.00 shall be by written informal bids without newspaper advertisement and without observing the procedure prescribed for the award of formal sealed bid purchases. Bids shall be solicited from bidders included on the interested bidders list, which list shall contain the names of suppliers who have notified the Manager of their interest in being solicited for quotations on specified classes of supplies, equipment or services. Names of suppliers who have become inactive in submitting quotations may be removed from the applicable list. The basis for determining the lowest qualified bidder shall be the same as that used in formal bid purchases.
 - c. Contracts in an amount estimated to be more than \$25,000.00 shall be by formal competitive sealed bid.
 - d. **“Professional services” are defined as those services primarily involving services such as provided by architects, engineers, attorneys, and similar highly specialized consultants. “Professional services” does not include persons or entities offering services such as “program management” or “construction management” or “design-build management.”**
3. All professional services shall be purchased as follows:
 - a. Contracts in an amount estimated to be greater than \$2,000.00 but not more than \$5,000.00 shall be made when feasible and when in the best interest of the municipality in the open market by written or oral proposal, without newspaper advertisement or without observing the procedure prescribed for the award of formal sealed bid purchases. Such open market contracts, whenever practicable, shall be based on competitive proposals and shall be awarded to the responsive and responsible offeror whose proposal is determined to be the most advantageous to the municipality. The method for determining the most advantageous proposal shall be set forth in the request for proposals, shall be based upon a numerical point score, and shall, unless contrary to applicable state or federal statute, regulation or grant requirements, provide that five percent of the total points possible for each proposal shall be awarded if and only if the proposal is submitted by a Skagway proposer.
 - b. Contracts in an amount estimated to be more than \$5,000.00 but not more than \$25,000.00 shall be by written proposal after local newspaper advertisement, and shall be awarded to the responsive and responsible offeror whose proposal is determined to be the most advantageous to the

municipality. The method for determining the most advantageous proposal shall be set forth in the request for proposals, shall be based upon a numerical point score, and shall, unless contrary to applicable state or federal statute, regulation or grant requirements, provide that five percent of the total points possible for each proposal shall be awarded if and only if the proposal is submitted by a Skagway proposer.

- c. Contracts in an amount estimated to be more than \$25,000.00 shall be by formal competitive sealed proposal after newspaper advertisement, and shall be awarded to the responsive and responsible offeror whose proposal is determined to be the most advantageous to the municipality. The method for determining the most advantageous proposal shall be set forth in the request for proposals, shall be based upon a numerical point score, and shall, unless contrary to applicable state or federal statute, regulation or grant requirements, provide that five percent of the total points possible for each proposal shall be awarded if and only if the proposal is submitted by a Skagway proposer.

4.05.040 Competitive sealed bid procedure.

- A. Publication. Where competitive sealed bidding is required, sealed bids shall be solicited by publication in a newspaper calculated to reach prospective bidders. Such publication shall contain at least a general description of the item or work required and shall designate the place where detailed requirements and specifications may be obtained and the time and place where the sealed bids will be opened. The bids shall be opened publicly. Such publication shall be made at least twice, and there shall be sufficient time between the date of last publication and the opening of bids for preparation of bids, which time shall not be less than one week unless the manager finds that an emergency exists. The manager may also solicit bids by sending notice by mail to any active prospective bidders known to him or her.
- B. Bid bond on deposit. All bids for the construction or reconstruction of public improvements required to be submitted by competitive sealed bid shall be accompanied by either cash, a certificate of deposit or certified check or draft, or a cashier's check, or draft on some responsible bank in the United States, in favor of and payable at sight to the municipality, in an amount not less than five percent of the aggregate amount of the bid. If the bidder to whom the contract is awarded, for 15 days after the award of the contract, fails or neglects to enter into the contract and file the required bonds, the borough treasurer shall draw the money due on the certificate of deposit or check or draft and pay the same or any cash deposited into the treasury, and under no circumstances shall it be returned to the defaulting bidder. In lieu of the foregoing, any bid may be accompanied by a surety bond in such amount furnished by a surety authorized to do a surety business in the state, guaranteeing that the bidder will enter into the contract and file the required bonds within such period. The manager may require bid bonds in an amount appropriate for any bid not required by this subsection to be accompanied by a bid bond.
- C. Pre-bid conference. The manager may conduct a pre-bid conference for any competitively bid contract or purchase. Notice of the conference shall be provided to all bidders. Bidders shall be responsible for acquiring all information announced or distributed at a pre-bid conference.
- D. Opening of bids. All bids shall be sealed, identified as bids on the envelope and shall be submitted to the manager at the place and time specified in the public notice inviting bids. When assembly approval of award is required under Section

4.05.040 E.1, the date for opening of sealed bids shall not be less than 7 calendar days prior to a regularly scheduled or special assembly meeting. Bids shall be opened by the manager, in public, at the time and place designated in the notice inviting bids. Bids received after the specified time shall not be accepted and shall be returned to the bidder unopened. **The municipality shall not make exceptions to this section due to weather where the bidder chooses to send the bid to the municipality via an air taxi service.**

- E. Award. A contract or purchase for which competitive bids are required shall be awarded by the manager to the lowest qualified bidder taking into consideration conformity with the specifications, terms of delivery and other conditions imposed in the call for bids, except that:
1. When bids are in excess of \$50,000.00, the award may not be made until after assembly approval of the contract or purchase; and
 2. A bid shall be awarded to a Skagway bidder if its bid is not more than five percent higher than the lowest responsive nonresident bidder's. A bid shall be rejected if it contains a material alteration or an erasure. The manager may reject the bid of a bidder who failed to perform on a previous contract with the municipality. The manager may reject any and all bids and waive any informalities or minor irregularities in the bids. Where all bids are rejected, and new bids are called for on substantially the same purchase or contract, each of the bidders whose bids were rejected shall be timely notified of the new call for bids and of changes, if any, in the specifications and requirements.
- F. Disposition of bid bond or deposit. All deposits and bonds shall be returned to the unsuccessful bidders after execution of the contract and the deposit of the required bonds by the successful bidder.
- G. Approval of faithful performance and labor and materials bonds. Faithful performance or labor and material bonds required by municipal specifications or contract shall be approved as to form by the borough attorney. Bonding requirements are as follows:
1. There are no bonding requirements under this section for public construction or public works contracts where the cost is fifty thousand dollars (\$50,000.00) or less.
 2. Where the cost of a public construction contract exceeds fifty thousand dollars (\$50,000.00) but does not exceed one hundred and fifty thousand dollars (\$150,000.00), no bonds are required providing:
 - a. The contractor has been a licensed contractor in the state for at least two (2) years.
 - b. The contractor certifies that he has not defaulted on a contract during the last three (3) years.
 - c. The contractor submits a financial statement prepared within the last nine (9) months, certified by a public accountant, demonstrating that the contractor has a net worth of not less than twenty percent (20%) of the amount of the contract.
 - d. The total amount of all contracts which the contractor anticipates performing during the contract period does not exceed his net worth by more than seven (7) times.
 - e. Or, the contractor sets up an escrow account in the name of the municipality with deposits equal to the value of the contract.
 3. Performance and Payment Bonds are required for all projects over one hundred and fifty thousand dollars (\$150,000.00) except that for purposes of the bid documents, a signed letter from a surety company committing

to the bonding of the contractor in the amount of the project will suffice until the time of the actual signing of the contract when bonds must be on hand.

- H. Imposition of damages. The manager shall include in all contracts the imposition of damages in the event of failure to complete the contract by the specified date, or in such a manner as to fail to meet the contract specifications. The basis of damages can be a percentage of contract value, the potential for disruption of services as a result of the failure to perform, and the nature of the disruption. Liquidated damages shall be exclusive of additional costs for engineering or project management resulting from work performed beyond the contract completion date.

- I. **If the bidder to whom the contract is awarded refuses to sign the contract included in the bid packet, the manager may notify the next lowest responsive and responsible bidder and enter a contract with the second low bidder without with assembly approval and without initiating a new competitive bidding process, in the discretion of the manager.**

4.05.045 Bidding review board.

- A. There is established a bidding review board. The bidding review board shall consist of three persons appointed by the assembly. The members of the bidding review board shall serve one-year terms. The bidding review board shall adopt written rules of procedure for the purpose of ensuring the expeditious resolution of protests.
- B. The bidding review board shall hear protests as provided in this chapter and may perform such other related duties as the manager or assembly may, from time to time, request.

4.05.050 Protests.

- A. A party may protest award to any other party of a competitive sealed bid or competitive sealed proposal, but such protest shall be heard only if protests have also been filed against the award recommended by the manager and against any other bid or proposal having a higher ranking than that of the party filing the protest.
- B. A party shall provide written notice of intent to protest. Notice of intent to protest shall be delivered to the manager by the close of the business day following posting by the manager of a notice of apparent low bidder or successful proposer. Late notices of intent to protest shall not be considered. The notice of intent to protest shall include the name and address of the protestor and a brief description of the grounds for the protest.
- C. A written protest shall be filed with the manager within five working days after posting of notice of apparent low bidder or successful proposer.
- D. A written protest shall, at a minimum, contain the following:
 - 1. The name, address, and telephone number of the interested party filing the protest;
 - 2. The signature of the interested party or the interested party's representative;
 - 3. Identification of the proposed award at issue;
 - 4. A statement of the legal ~~or~~ **and** factual grounds for the protest;
 - 5. Copies of all relevant documents; and
 - 6. The fee required by Section 4.05.055.
- E. The manager shall reject an untimely or incomplete protest.

- F. ~~If a timely and complete protest is filed, the award of the contract shall be stayed until the protest is resolved, unless the manager determines in writing that award of the contract pending resolution of the protest is in the best interest of the municipality.~~ **If a protest is filed the award may be made unless the manager determines in writing that a:**
- 1. reasonable probability exists that the protest will be sustained; or**
 - 2. stay of the award is not contrary to the best interests of the municipality.**
- G. The manager shall issue a written response to the protestor within ten working days of the date the protest is filed. If multiple protests have been filed, they may be consolidated for purposes of the response. Copies of the response shall be provided to any other protestor requesting one. The response may include an amendment of all or any part of the recommended award.
- H. A protestor **claiming to be** aggrieved by the manager's response pursuant to subsection (G) of this section may request review by the bidding review board.
- I. The protestor may seek review of the manager's response by providing written notice of intent to request review. The protestor shall notify the manager of the intent to request review by the end of the working day following issuance of the manager's response. Late notices shall not be considered. A written request for review shall be filed within five working days after the response is issued by the manager. The notice of intent to request review and the written request for review shall be in the same form as provided in subsections (B), (C), and (D) of this section.
- J. Upon receipt of a timely and complete request for review of the manager's response, the matter shall be forwarded to the bidding review board and a hearing date shall be established. Once the hearing date has been established, all bidders or proposers shall be notified of the hearing in writing.
- K. The bidding review board shall conduct a hearing and issue a recommendation within ~~seven~~**fifteen** calendar days of the date the referral is made to the board. The bidding review board may, by written notice to all bidders or proposers, extend this ~~seven~~**fifteen**-day period to a ~~maximum of 30 days,~~ **or as otherwise agreed to or determined to be necessary.** Hearings shall be conducted informally, with due regard for the rights of the parties involved. Hearings shall be recorded. **The bidding review board may, but is not required to, appoint a hearing officer to assist the board with the hearing and make recommendations of findings and fact and conclusions of law if requested by the board.**
- L. ~~The bidding review board's recommendation shall be based on the provisions of this Code interpreted in light of applicable state case law and generally accepted principles of government purchasing as set forth in standard treatises, decisions of the United States Comptroller General, and similar authorities. The recommendation shall contain findings of fact and conclusions of law.~~
- M. The recommendation:
1. May include the following:
 - a. A recommendation that a designated bid in a competitive sealed bid or proposal process be accepted as the lowest qualified bid or proposal; or
 - b. A recommendation that one or more bids or proposals be considered or rejected or that the procurement process at issue be canceled;
 2. Shall not, except to the extent necessary to correct a failure to follow the procedures required by this chapter, include a recommendation for:

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- a. An amendment of the specifications for a bid or request for proposals;
 - b. A change in the criteria for selection of a proposal; or
 - c. An amendment, reordering, or reassessment of any qualitative judgment in the rating of a proposal;
3. Shall not include a recommendation for:
- a. Selection or rejection of any additive or deductive alternate; or
 - b. The payment of money, including attorney's fees **and costs related to the hearing**, by the municipality or any party, provided that the recommendation may recommend a refund of protest fees or payment of **reasonable** bid preparation costs by the **City municipality** to one or more bidders or proposers **upon complete and proper documentation of the requested bid preparation costs. Under no circumstances shall a successful protestor be awarded any other alleged damages, costs or fees.**
4. Shall be forwarded to the manager or assembly, ~~as appropriate in~~ **accordance with the applicable provisions of this Title**, for consideration in the award of the contract.
- N. The protest procedures established by this section, may be adapted for a procurement as necessary to maintain eligibility for state or federal funding for that procurement, provided that no such adaptation may authorize the board to grant a form of relief prohibited by subsection (M)(3) of this section.

4.05.055 Administration of protest.

There is established a fee of \$750.00, payable by each person filing a bid protest, pursuant to Section 4.05.050, which shall **may** be refunded in full if the protest is granted.

4.05.060 Exceptions to competitive sealed bidding and submission of quotations.

- A. The restrictions and provisions of this chapter shall not apply:
1. To contracts involving the obtaining of professional or specialized services such as those rendered by architects, attorneys, **and engineers, and other requiring advanced training and the exercise of independent judgment and discretion.** **“Professional services” does not include persons or entities offering services such as “program management,” or “construction management” or “design-build management.”** Except as authorized in writing by the manager, such services shall be obtained by competitive proposal;
 2. Where calling for bids on a competitive basis is unavailing or impossible, including situations where rates are set by statute or ordinance or where like items are traded in, or where used items are being purchased;
 3. Where the municipality's requirements can be met solely by an article or process obtainable from a known single source. No purchase shall be made pursuant to this subsection except upon written authorization of the assembly certifying that there is no reasonable substitute for the article or process, and that it is ~~clearly~~ obtainable only from a known single source. Notice of the authorization shall be prominently posted in a public place at the offices of the manager;
 4. To placement of insurance coverage;
 5. When public work is performed by the municipality with its own employees;
 6. When it is advantageous to the municipality to enter into a contract with a bidder for the same supplies or services such bidder is providing another

Alaskan local government, the State of Alaska, a cooperative purchasing association composed of government agencies, or the United States where such supplies or services are being provided to the other governmental unit or association on the basis of competitive bids submitted, and where the municipal contract is on substantially the same terms as those bid; or to contract with or through such other governmental unit or association so that the benefit of the responsible bid accrues to the municipality.

7. When either competitive procedure has been followed, but no bids or quotations are received. In such a case, the manager may proceed to have the services performed or the supplies purchased without further competitive bidding or quotation;
8. To clinic supplies, materials, equipment or contractual services in categories established by the Clinic Board Finance Committee, **except that the Clinic Board and Clinic Board Finance Committee do not have authority to contract with attorneys without authorization of the borough manager in consultation with the borough attorney;**
9. To patient room furnishing in the original furnishing and equipping of a new clinic or in instances where the supplies, materials or equipment to be purchased are in the following categories:
 - a. Patient monitoring equipment;
 - b. Contracts involving patient medications and matching administration sets;
 - c. X-ray equipment;
 - d. Physical therapy equipment;
 - e. Operating room, delivery room and emergency room equipment;
 - f. Specialized laboratory equipment used in processing patient samples for diagnostic or treatment purposes;
 - g. Contracts involving purchase of groups of specialized supply items which are specifically medical in nature and which relate to medical diagnostic or treatment procedures performed in operating, delivery or emergency rooms, or in patient care units; provided that the clinic board of directors by majority vote of its entire membership determines that the best interests of the clinic would not be served by competitive bid for such furnishings, supplies, materials or equipment.
10. To electronic data processing software and hardware and software systems;
11. To the selection and commission of artists and the purchase and execution of works of art for municipal facilities;
12. To purchases of supplies, services or construction items during, and for the purpose of alleviating, a class 2 emergency; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the selection of a particular emergency contractor shall be included in the contract file. A record of all emergency procurements shall be made and shall set forth each contractor's name, the amount and type of the contract, a listing of the items procured under the contract, the record of the manager's justification for the procurement, and the identification number of the contract file;

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13. To contracts involving lobbying services, **which must be approved by the assembly;**
14. To services provided by personnel of government agencies, schools, and nonprofit agencies. Any contract issued pursuant to this section, must be approved by the assembly.

4.05.065 Authority to debar or suspend.

- A. Debarment. After consultation with the borough attorney, notice pursuant to section 4.05.075, and an opportunity for a hearing conducted according to Section 4.05.085, the manager may for cause debar a person from consideration for award of contracts for goods, services, or both. The debarment may not be for a period of more than three years.
- B. Suspension. After consultation with the borough attorney and notice pursuant to section 4.05.075, the manager may suspend a person from consideration for award of contracts for goods, services, or both if there is probable cause for debarment and compelling reasons require suspension to protect municipal interests. Suspension shall not be imposed as a punitive measure. The suspension may not be for a period exceeding three months and may not be extended or renewed upon the same cause.

4.05.070 Causes for debarment or suspension.

- A. The causes for debarment or suspension include the following:
 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
 2. Conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a borough contractor;
 3. Conviction or civil judgment finding a violation under state or federal antitrust statutes;
 4. Violation of contract provisions of a character that is regarded by the manager to be so serious as to justify debarment action, such as:
 - a. Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment.
 5. A violation of this chapter punishable under Section 4.05.105; or
 6. A pending petition for protection in bankruptcy, or other evidence that the vendor is unable to meet contractual obligations.
 - 7. Any other cause determined to be so serious and compelling as to affect responsibility as a municipal contractor, including debarment by another governmental entity for a cause listed in the state or local regulations of that entity.**

4.05.075 Notice.

- A. The manager shall issue written notice of a suspension, proposed debarment or both. The notice must:

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1. State the reasons for the action taken; and
 2. Inform the person of rights to a hearing.
- B. A copy of the notice under subsection A of this section shall be mailed or otherwise furnished immediately to the person suspended or proposed for debarment.
- C. A suspension is effective upon issuance of the notice under this section.
- D. A debarment is effective upon issuance of a final decision under Section 4.05.095.
- 4.05.080 Hearing.
- A. A person issued notice under Section 4.05.065 is entitled to a hearing conducted according to Section 4.05.085 if the person files a written request for a hearing with the manager within seven days after issuance of the notice.
- B. If the person requests a hearing, the manager shall promptly schedule one unless the borough attorney determines that a hearing at the proposed time is likely to jeopardize a criminal investigation. ~~A hearing may not be delayed longer than six months after notice is provided under Section 4.05.075.~~
- 4.05.085 Hearing procedures.
- A. The manager shall act as a hearing officer or appoint a hearing officer for a hearing conducted under this chapter. The hearing officer shall notify the parties in writing of the time and place of the hearing. The hearing shall be conducted in an informal manner.
- B. The hearing officer may:
1. Hold pre-hearing conferences to settle, simplify, or identify the issues in a proceeding;
 2. Require parties to state their positions concerning the various issues in the proceeding;
 3. Require parties to produce for examination those relevant witnesses and documents under their control;
 4. Rule on motions and other procedural matters;
 5. Regulate the course of the hearing and conduct of the participants;
 6. Establish time limits for submission of motions or memoranda;
 7. Impose appropriate sanctions against a person who fails to obey an order of the manager, including:
 - a. Prohibiting the person from asserting or opposing designated claims or defenses or introducing designated matters into evidence;
 - b. Excluding all testimony of an unresponsive or evasive witness; and
 - c. Excluding a person from further participation in the hearing.
 8. Take official notice of a material fact not appearing in evidence, if the fact is among the traditional matters subject to judicial notice;
 9. Administer oaths or affirmations.
- C. A transcribed record of the hearing shall be made available at cost to a party that requests it.
- 4.05.090 Recommendation by a hearing officer.
- A. If the manager is not acting as hearing officer, the hearing officer shall recommend a decision to the manager based on the evidence presented. The recommendation must include findings of fact and conclusions of law.

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- B. The manager may remand the matter to the hearing officer with instructions, or take other appropriate action.

4.05.095 Final decision by the manager.

The manager shall issue a final decision after the hearing or upon failure of the person to timely request a hearing. The decision shall be issued within ~~20~~ **30** days of the hearing or exhaustion of the time within which a hearing may be requested. A decision takes effect immediately. Upon a decision imposing debarment, the contractor remains debarred until a court or the manager orders otherwise, or until the debarment period specified in the decision expires.

4.05.100 Judicial appeal.

A final decision of the manager under Section 4.05.095 may be appealed to the ~~s~~**Superior eCourt for the State of Alaska, First Judicial District at Juneau, Alaska, as the court with exclusive jurisdiction of any appeal, and** in accordance with the Alaska Rules of Appellate Procedure.

4.05.105 Civil and ~~criminal~~ penalties.

- A. The following penalties apply to violations of this chapter:

1. A person who contracts with the municipality in a manner the person knows to be contrary to the requirements of this chapter is liable for all costs and damages to the municipality arising out of the violation, **including the municipality's attorneys fees;**
2. A person who ~~intentionally or knowingly bids, proposes, or contracts for goods or services under a scheme or artifice to avoid the requirements of this chapter is guilty of a Class A misdemeanor.~~**(a) A person who makes or uses in support of a contract claim under this chapter, a misrepresentation, or who practices or attempts to practice a fraud, at any stage of proceedings relating to a procurement or contract claim under this chapter**
 - (a) forfeits all claims relating to that procurement or contract; and**
 - (b) is liable to the municipality for reimbursement of all sums paid on the claim, for all costs attributable to review of the claim, and for a civil penalty equal to the amount by which the claim is misrepresented.**
- (3) In this section, "misrepresentation" means a false or misleading statement of material fact, or conduct intended to deceive or mislead concerning material fact, whether it succeeds in deceiving or misleading.**

~~4.05.110 List of persons debarred or suspended.~~

~~The manager shall maintain a list of all persons debarred or suspended from consideration for award of contracts. The manager shall, for the period of debarment or suspension, remove such persons from the lists of vendors maintained under Section 4.05.035.~~

~~4.05.115 Limited participation.~~

~~The manager may permit a debarred person to participate in a contract on a limited basis during the debarment period if the manager determines in writing that the participation is advantageous to the municipality. The determination shall specify the factors on which it is based and the limits imposed on the debarred person.~~

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- 4.05.120 Reinstatement.
- A. The manager may, at any time after a final decision to debar a person from consideration for award of contracts, reinstate the person after determining that the cause for which the person was debarred no longer exists or has been substantially mitigated.
 - B. A debarred person may request reinstatement by submitting a petition to the manager supported by evidence showing that the cause for debarment no longer exists or has been substantially mitigated.
 - C. The manager may require a hearing on a reinstatement petition. A decision on reinstatement shall be made in writing within seven days after a reinstatement petition is submitted. The decision must specify the factors on which it is based.

Chapter 4.06
MUNICIPAL INDEBTEDNESS

Sections:

- 4.06.010 Borrowing to meet appropriations.
- 4.06.020 General obligation bonds.
- 4.06.030 Revenue bonds.
- 4.06.040 Interest rate.
- 4.06.050 Debt limit.
- 4.06.060 Use of unexpended and unencumbered balance.
- 4.06.070 Voiding authorization.
- 4.06.080 Assembly's power to regulate.

4.06.010 Borrowing to meet appropriations.

Acting in accordance with AS 29.47.010 through 29.47.020, the assembly may, without submitting the question to the voters, borrow money to meet appropriations for the fiscal year in anticipation of the collection of revenues for that year. The total of such indebtedness shall never exceed twenty-five percent (25%) of the anticipated revenues in the budget. All debts so contracted shall be paid before the end of the next fiscal year.

4.06.020 General obligation bonds.

- A. In accordance with AS 29.47.180 through 29.47.190, the municipality shall have power to borrow money and to issue its general-obligation bonds or other such evidences of indebtedness, but only when authorized by the assembly for capital improvements and ratified at an election by a majority of those qualified to vote and voting on the question. General obligation evidences of indebtedness may also be secured by revenues from a revenue-producing utility or enterprise when they are issued for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement and/or equipment of the said utility or enterprise, and/or by other designated funds or revenues specifically pledged for payment of principal and interest thereon. Capital improvements as used herein may also include a part or all of the municipality's share of the cost of a public improvement of which a part is to be paid by benefited property. Construction warrants may be issued following bond issue approval, and pending sale of the bonds.
- B. The restrictions of this section do not apply to borrowing money to meet appropriations for a particular fiscal year, nor to indebtedness to be paid from special assessments to be made on benefited property, nor to refunding indebtedness.

4.06.030 Revenue bonds.

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In accordance with AS 29.47.240 through 29.47.250, the municipality shall have power to borrow money and to issue revenue bonds or other such evidences of indebtedness ~~therefor~~, the principal and interest of which are payable solely out of, and the only security of which is, the revenues of a revenue-producing utility or enterprise; but only when authorized by the assembly for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement and/or equipment of the utility or enterprise, and ratified at an election by a majority of those qualified to vote and voting on the question. Construction warrants may be issued following the ratification of a bond issue under this section and pending sale of the bonds.

4.06.040 Interest rate.

No bond or other evidence of indebtedness of the municipality shall bear interest, either directly or indirectly, at a rate exceeding nine percent (9%) per year.

4.06.050 Debt limit.

- A. The outstanding general obligation indebtedness of the municipality incurred for all purposes, shall not at any time exceed twenty-five percent (25%) of all assessed value of the taxable real property in the municipality. In determining such debt limit of the municipality, any amounts credited to or on deposit for debt retirement, and any portion of reserve funds or accounts pledged to the indebtedness, shall be deducted from the amount of the outstanding indebtedness.
- B. The debt limit herein prescribed shall not apply to debt incurred through the issuance of revenue bonds or other such evidences of indebtedness when the only security is the revenues of the utility or enterprise for which issued, nor to indebtedness to be paid from special assessments on the benefited property, nor to refunding indebtedness of the municipality, nor to debt incurred to meet appropriations for the fiscal year in anticipation of the collection of revenue for that year.

4.06.060 Use of unexpended and unencumbered balance.

Every bond or other evidence of indebtedness shall contain a statement of the purpose for which it is issued, and the proceeds thereof shall not be used for any other purpose; except, that whenever any proceeds of an issue remain unexpended and unencumbered for the purpose for which issued, the assembly shall authorize the use of such unexpended and unencumbered funds only for the following purposes, which are listed in descending order of priority:

- 1. For the retirement of such issue;
- 2. If such issue has been fully retired, then for the retirement of other bonds or obligations of the municipality;
- 3. If there are no other bonds or obligations of the municipality outstanding, then for any other capital improvement of a like nature;
- 4. If such funds cannot be used for the above purposes, then for any purpose determined by the assembly.

4.06.070 Voiding authorization.

The assembly, by resolution or ordinance, may void the authorization of any unsold bonds or other evidence of indebtedness at any time. If any bonds or other evidences of indebtedness are not sold within ten (10) years after authorization, such authorization shall be void as to the bonds or evidences of indebtedness which remain unsold. Nothing in this section shall be deemed to require the sale, at the same time nor in the same series, of all bonds or other evidences of indebtedness authorized.

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4.06.080 Assembly's power to regulate.

The assembly shall have power to regulate the indebtedness of the municipality and the issuance of bonds and other evidences of indebtedness, regardless of type or purpose, including general obligation, revenue, special assessment, refunding and other, subject to the limitations imposed by the State Constitution and law.

Chapter 4.08
SALES TAXATION

Sections:

- 4.08.005 Definitions.
- 4.08.010 Levy of tax.
- 4.08.020 Rate of general sales tax.
- 4.08.030 Hotel room tax.
- 4.08.040 Consideration other than cash.
- 4.08.050 Sales not divisible to avoid tax.
- 4.08.060 Exemptions from tax.
- 4.08.070 Limitations of use of tax proceeds.
- 4.08.080 Separate funds.
- 4.08.090 Duty to collect and make return.
- 4.08.100 Returns.
- 4.08.110 Penalty and interest.
- 4.08.120 Collection enforcement.
- 4.08.130 Investigative procedure.
- 4.08.140 Failure to make return--Assessment.
- 4.08.150 Selling or quitting business.
- 4.08.160 Jeopardy assessment.
- 4.08.170 Bond for payment.
- 4.08.180 Taxpayer records.
- 4.08.190 Penalties for willful noncompliance or fraudulent action.
- 4.08.195 Lien for tax, interest and penalty.
- 4.08.200 Period of limitation for collections.
- 4.08.210 Refund of sales taxes.

4.08.005 Definitions.

A.

Definitions:

1. "Club" means professional organizations (examples are Alaska Travel Industry Assoc., Alaska Peace Officer's Assoc., Alaska Municipal League, Fraternal Order of the Eagles, Benevolent and Protective Order of the Elks).
2. "Federally recognized Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior has acknowledged to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, Public Law 103-454, 25 U.S.C. 497a.
3. "Over the counter sales" means any sale of a tour product as defined in this section, made directly to a customer within the municipal boundary of the Municipality of Skagway Borough for tour products originating in and returning to a point within the municipal boundary of the Municipality of Skagway Borough.
4. "Pre-sold sales" means any sale of a tour product as defined in this section, made by any agent outside of the municipal boundary of the

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- Municipality of Skagway Borough for tour products originating in and returning to a point within the municipal boundary of the Municipality of Skagway Borough.
5. "Retail sale" means any sale of real or tangible personal property, including barter, credit, installment and conditional sales, for any purpose other than resale in the regular course of business. The delivery of property in the municipality by a seller whose principal place of business is outside the municipality to a buyer or consumer, is a retail sale made within the municipality if such retailer maintains any office, distribution, or sales house, warehouse or any other place of business, or solicits business or receives orders through any agent, salesman or other type of representation within the municipality.
 6. "Sale price," "price," and "gross revenue," mean the consideration, whether money, credit, rights or other property, expressed in term of money, paid, given or delivered by a buyer to a seller all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses. Federal and state fuel taxes shall not be included in the calculation of local sales tax.
 7. "Sales for resale" means the sale of tangible personal property to a buyer whose principal business is the resale of the property whether in the same or an altered form. The definition of "sales for resale" includes resellers or wholesalers of services or property whether in the same or an altered form.
 8. "Seller" includes every person making sales to a buyer or consumer, renting property or performing services for consideration.
 9. "Services" includes all services of every manner and description that are performed or furnished for consideration whether in conjunction with the sale of goods or not, but does not include services rendered by an employee to an employer.
 10. "Tax holiday" means the exemption from paying sales tax on any retail sale made during an assembly declared "tax holiday" during the period from October 1 through March 31, of the fiscal year.
 11. "Tour operator" means any person or business who sells or supplies a tour product as defined in this section.
 12. "Tour products" means any activity, or collection of activities, consisting of a transportation component by land, or sea, for the purpose of sightseeing, entertainment or interpretation, or a combination thereof. This includes but shall not be limited to bus, van or automobile tours, kayak tours, bicycle tours, horseback tours and hiking tours, river rafting or fishing and rail tours.
 13. "Transportation," for purposes of this section only, means the business of conveying passengers or goods to or from locations outside of the municipal boundary of the Municipality of Skagway Borough to or from locations within the boundary of the Municipality of Skagway Borough, or from point to point within the Municipality of Skagway Borough.

4.08.010 Levy of tax.

A sales tax is hereby assessed and levied on the following sales, subject to the specific exemptions in Section 4.08.060:

- A. All retail sales made within the municipality;

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- B. All services performed within the municipality;
- C. All rents paid for the use of real and personal property located within the municipality;
- D. The retail price of all over the counter tour sales, or tour product sales;
- E. The net price received by the tour operator who provides pre-sold tour sales discounted to third party agents for sale outside of the municipal boundary of the Municipality of Skagway Borough. The tax is to be collected and remitted by the tour operator, or their agent.

4.08.020 Rate of general sales tax.

- A. Said tax is hereby levied in the amount of five percent (5%) of the gross revenues derived from all taxable transactions except those subject to the hotel room tax. The tax is levied in accordance with the following schedule for the months of April through September of the calendar year:

Sales Price	Amount of Tax
Under \$0.19	None
\$0.20 to 0.29	\$0.01
\$0.30 to 0.49	\$0.02
\$0.50 to 0.69	\$0.03
\$0.70 to 0.89	\$0.04
\$0.90 to 1.09	\$0.05
\$1.10 to 1.29	\$0.06
\$1.30 and over continues on same scale.	

- B. Said tax is hereby levied in the amount of three percent (3%) of the gross revenues derived from all taxable transactions except those subject to the hotel room tax. The tax is levied in accordance with the following schedule for the months of January through March and October through December of the Calendar year:

Sales Price	Amount of Tax
Under \$0.16	None
\$0.17 to 0.49	\$0.01
\$0.50 to 0.83	\$0.02
\$0.84 to 1.16	\$0.03
\$1.17 to 1.49	\$0.04
\$1.50 to 1.83	\$0.05
\$1.84 to 2.16	\$0.06
\$2.17 and over continues on same scale.	

- C. The taxability of a sale of goods is determined by the point of sale. The taxability of a service performed or rental made is determined by the place where the service is performed or the rental property is located.

4.08.030 Hotel room tax.

- A. A retail sales tax upon hotel room rentals is hereby assessed and levied in the amount of eight percent (8%) of the gross revenues on all hotel and motel rents, and on all services provided in connection therewith.

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- B. Hotel room rentals which continue for thirty (30) or more consecutive days shall be subject to sales tax, instead of hotel room tax, on or after the thirtieth consecutive day. Hotel room rentals which are less than thirty (30) consecutive days shall be subject to the hotel room tax even if the room or rooms were originally taken with the intent to use or occupy for thirty (30) or more consecutive days.

4.08.040 Consideration other than cash.

Barter or exchanges are not exempt from sales taxation. When sales, rentals or services are provided for other than cash, the price shall be computed in dollars and cents on the reasonable value of the sale, rental or service.

4.08.050 Sales not divisible to avoid tax.

The sales price of all items purchased or delivered at the same time shall be added together and the tax levied on the aggregate amount thereof.

4.08.060 Exemptions from tax.

A. The following transactions are exempt from the tax herein levied:

1. All sales to a bona fide retailer when the items are purchased by him for resale in the ordinary course of business. In this connection, a retailer is one who regularly stocks merchandise for resale, displays the same to the public and holds himself out as regularly engaged in the business of selling such products either during a regular season or throughout the year direct to the consumer;
2. Sales and the gross receipts derived there from when the aggregate amount from a single transaction amounts to less than twenty-five cents (\$.25);
3. Grocery store sales to borough residents who are sixty-five (65) years of age, or older, and who display at the time of purchase an identification card issued by the municipality and where such purchases are solely for the use of the resident and spouse;
4. Casual and isolated sales made and services performed which are not in the regular course of business;
5. Salaries and wages received by an employee;
6. Dues or fees to clubs, labor unions or fraternal organizations;
7. Remuneration for services and materials, including caskets, used or furnished for funerals;
8. Sales of goods, services and rentals to a buyer or made by a seller who is organized and administered solely by an organization that has obtained an exemption certificate from both the Internal Revenue Service pursuant to Internal Revenue Service Section 501(c)(3) and the Municipality of Skagway, except that no exemption shall be allowed where such organizations are also engaged in any business for profit or savings, or competing with other persons or businesses engaged in the same or similar business.
9. Proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles;
10. Proceeds derived from carrier sales made directly to consumers or users of, or advertisers in, newspapers or other periodicals;
11. Sales of insurance and surety bonds;

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12. Gross receipts or proceeds derived from medical or dental services rendered, including hospital services and from the sale of medicinal preparations when prescribed in writing by any licensed practitioner;
13. Gross receipts or proceeds derived from sales to the United States Government, the state of Alaska or any of its political subdivisions, and the Municipality of Skagway; or from sales by the United States Government and the state;
14. Proceeds derived from sales or services which the municipality is prohibited from taxing under state or federal law;
15. Sales of heating fuels for use in space heating;
16. Proceeds from providing transportation by air, water or land;
17. Proceeds of sales of rental property. This exemption does not apply to commissions of real estate agents and brokers, which remain subject to the tax on services;
18. All sales for consumption outside the municipality in response to mail order requests originating outside the Municipality of Skagway Borough limits;
19. Contracts and subcontracts for new construction and reconstruction services on projects and structures for industrial, commercial, residential, and nonprofit purposes;
20. Wharfage charges and charges for freight handling and cargo handling on docks. Warehouse, storage and other services or fees are taxable;
21. Purchases made with food stamp coupons; or food purchases under the Federal Special Supplemental Food Program for Women, Infants and Children (WIC);
22. Sales of building and construction materials exceeding two thousand five hundred dollars (\$2,500.00) for use on any one construction project approved by a municipal building permit and paid for by any one purchaser during any twelve (12) consecutive months period.
 - a. Purchaser may, at his discretion, pay at the time of building permit approval all sales taxes due on purchases of two thousand five hundred dollars (\$2,500.00) of building and construction materials for use on any one construction project. The purchaser will then be issued a numbered sales tax exemption permit which will exempt purchaser from paying sales tax on the purchase of materials on that project for the year. The permit number must be shown to vendor by purchaser on all purchases covered by this section and be recorded on all sales tickets at time of purchase of materials.
 - b. For the purposes of this section, "building and construction materials" are defined as any material which is incorporated into the structure of a building or other improvement and is also classified as real property for tax purposes by the borough assessor.
23. Sales on all products sold in Skagway during "tax holidays" periodically declared by the borough assembly by resolution during the period from October 1 through March 31 of the fiscal year.
24. Fees associated with sales and services by banks, savings and loan associations, credit unions and investment banks. This exemption does not include rental of bank owned real property.
25. Sales for purchase of foods qualified under the Federal Food Stamp program. The exemption does not apply to meals prepared in

restaurants, cafes, inns or other dining establishment. The exemption does not apply to non-food items purchased. Businesses eligible to exempt sales tax on foods must meet one of the criteria below:

- a. Be registered with the USDA Food Stamp Program; or
- b. More than one-half (50%) of the total dollar amount of all things (food, nonfood, gas and services) sold in the store must be from the sale of eligible staple foods.
 - (i) Staple foods are: meat, poultry or fish; bread or cereal; vegetables or fruits; and dairy products. Staple foods do not include accessory foods such as coffee; tea; cocoa; soda; non-carbonated drinks such as sports drinks, punches, and flavored waters; candy; condiments; spices; hot foods; or, prepared foods like sandwiches or salads.

26. Retail sales, services, and rentals of real or tangible personal property to or by a federally recognized Indian tribe. This exemption does not apply to the following:

- a. Sales of pull-tab games by federally recognized Indian tribes.

4.08.070 Limitations of use of tax proceeds.

A. The proceeds of the tax hereby levied, except the hotel room tax, shall be used for principal and interest on general obligation bond issues. At the beginning of each fiscal year, a sum sufficient to pay the known or anticipated installments on general obligation bonded indebtedness shall be set aside for this purpose. Any remaining funds available after the sum set aside for general obligation bond indebtedness shall be distributed as follows:

- 1. A percentage of any remaining funds may be appropriated by the assembly for the purpose of school funding.
- 2. A percentage of any remaining funds, after allocation for repayment of general obligation bonds and/or school funding, may be appropriated by the assembly for the purpose of medical service delivery funding.
- 3. A percentage of any remaining funds, after allocation for repayment of general obligation bonds, school funding and medical service delivery, may be appropriated by the assembly for equipment replacement reserves. This percentage is to be set annually and included in the budget ordinance.
- 4. A percentage of any remaining funds may be allocated for special and capital projects.
- 5. Thereafter any unused remainder may be allocated to the general fund or other funds for services responding to visitor impact including, but not limited to emergency services, clinic and museum. Such allocation shall not exceed the equivalent of 1.5 mills.

B. The established sales tax fund shall be treated as follows:

- 1. The interest income generated by investment of the established sales tax fund account during any fiscal year shall be transferred to the municipality's general fund account at the beginning of the following fiscal year. Interest income shall include dividends paid by stocks and mutual funds, but shall not include return of principal payments or capital gains payments, whether realized or unrealized.
- 2. The principal of the established sales tax fund may be appropriated by the assembly for the purpose of planning, design and construction of capital improvements.

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- C. Proceeds of the eight percent (8%) hotel room tax hereby levied shall be used, in such amounts as the voters by referendum determine from time to time, to fund the promotion of tourism and the provision of tourism-related facilities. The surplus, if any shall be allocated to the tourism fund, which shall be maintained as a separate fund.

4.08.080 Separate funds.

Proceeds of each category of tax levied hereunder (the general sales tax and the hotel room tax) shall be maintained as separate funds.

4.08.090 Duty to collect and make return.

- A. The tax is hereby assess and levied upon the purchaser or consumer but it is the duty of the retailer or person furnishing such rentals or services to collect the tax from the purchaser or consumer and make a return thereof to the borough clerk as herein stated. Every person with an obligation to collect and remit taxes to the municipality under this chapter, but who neglects, fails or refuses to do so, shall be liable for and pay the tax himself.
- B. The sellers or furnishers of the services shall add the tax imposed under this chapter to the sales price or charge, and when so added such tax shall constitute a debt from the purchaser or consumer to the seller or furnisher until paid, and shall be recoverable at law in the same manner as other debts.
- C. In specific instances where the tenant is occupying space in a government owned building or government owned land, it is the tenant's obligation to pay the sales tax directly to the municipality, unless the landlord is willing to voluntarily receive the tax payment and remit it to the municipality.
- D. All sellers and persons rendering sales tax returns to the municipality shall be allowed to compensate themselves for costs incurred in the collection, record keeping, remittance and accounting for the tax imposed by taking the greater of ten dollars (\$10.00) or half of one percent (1%) of the tax due as a tax collection discount, to reduce the tax to be remitted, for any quarterly return that is filed on a timely basis with a remittance of all sales tax due. The deduction may not exceed \$100 for any quarterly reporting period, and may not be taken if any sales tax, penalty or interest is due for any previous reporting period. All sellers and persons rendering sales tax returns on a monthly basis because of probation may not compensate themselves for costs incurred in the collection, record keeping, remittance and accounting for the tax imposed.

4.08.100 Returns.

- A. The borough clerk shall provide appropriate forms for use of taxpayers in making returns of the taxes payable under this chapter. Every person, firm or corporation making such sales or providing such rentals or services as are taxable hereunder shall furnish the borough clerk with a completed return containing such information as is necessary to fill in or complete the forms supplied by the borough clerk including the total sales price collected. Should the payment be returned due to non-sufficient funds, the taxpayer shall be required to provide certified funds to fulfill his/her obligation.
- B. Quarterly Returns. Returns shall be made once each quarter for the sales made and rentals or services furnished during the preceding quarter. When such sales, rentals or services are made on credit, for the purpose of making a return and paying the tax, such sales shall be considered made or rentals or services furnished during the quarter in which payment is received unless the taxpayer elects to make his/her returns on an accrual basis.

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- C. Monthly Returns. Every person, firm or corporation who has failed to file a quarter return when due shall be scheduled to file monthly returns. The following conditions shall apply to every person, firm or corporation who has not filed his/her sales tax return or remitted the amount due including penalty and interest:
1. If a person, firm or corporation is more than 30 days delinquent in filing a quarterly sales tax return, that person, firm or corporation shall be placed on a 24 month probation and shall be required to file monthly returns.
 2. A list of the name of every person, firm or corporation who has not filed his/her sales tax return and/or remitted the sales tax when due shall be published in the local newspaper.
 3. A monthly return shall be required and payment due shall be made no later than the 10th of the following month.
 4. Every person, firm or corporation who has been delinquent for 3 or more months during a calendar year shall be on probation for a 24 month period. Upon completion of the 24 month period if no delinquencies have reoccurred that person, firm or corporation may file quarterly returns.

4.08.110 Penalty and interest.

In the event a return is not made or the tax is not paid for any quarter within the following calendar month, a penalty of ten percent (10%) of such tax as is unpaid shall be added to such tax for the first month of delinquency or any fraction thereof, and an additional ten percent (10%) shall be added for each additional month of delinquency or fraction thereof, until a total penalty of thirty percent (30%) has accrued. Interest at the rate of fifteen percent (15%) per annum from the date of delinquency until paid shall also accrue. Such penalty and interest shall be collected in the same manner as the tax. If the last day of the calendar month falls on a weekend or holiday, the sales tax return shall be due no later than the next business day.

4.08.120 Collection enforcement.

- A. In the event that the delinquent tax has not been paid in full, including penalty and interest, by the end of the third month of delinquency, the borough clerk shall file an action ~~suit in the appropriate court of law~~ for collection of the tax in full, including penalty, interest and court costs. Nothing in this section shall bar the filing of any such action later than such time, nor shall anything in this section constitute a defense to any such suit filed after such time.
- B. Every person, firm or corporation who is delinquent in paying his/her sales tax obligation shall be considered in violation of the terms and conditions of his/her business license and corrective action may be initiated per SMC 5.01.050.

4.08.130 Investigative procedure.

- A. The borough assembly shall from time to time designate a person as borough sales tax inspector, to make investigations and inspections of those books and records of the persons, firms and corporations (hereinafter termed "taxpayers") who are liable for remittance of taxes under this chapter.
- B. The sales tax inspector is hereby authorized and empowered to make inspections from time to time of all the relevant books and records pertaining to purchases and sales, including services and rents, made or performed by persons who are liable for remittance of the tax levied under this chapter. The sales tax inspector is hereby granted the right to inspect all such books and records, including the records of purchases made by retailers from wholesalers or other retailers, the ledger accounts of customers of the taxpayers, and all other books and records of the taxpayers which would in any way tend to prove or reveal information concerning the tax liability of the taxpayers under this

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chapter. It shall be the duty of every person engaged in business in the municipality to allow the sales tax inspector to examine such books and records during regular business hours at such times as the sales tax inspector may require. If the keeper of such books and records denies the sales tax inspector access to them, then the sales tax inspector shall seek assistance of a court (e.g., inspection warrant, or deposition notice accompanied by a subpoena to produce the records) to enable inspection of the books and records.

- C. If the sales tax inspector finds discrepancies in favor of the municipality between the sales reported to the borough clerk and the sales which appear to have been made by any taxpayer, the borough clerk shall demand in writing that the taxpayer forthwith make an amended return showing the correct amount of sales or rentals made and services performed for each month for which any discrepancy appears, and to pay the taxes due the municipality within five (5) days from receipt of the demand by the borough clerk. Unless a taxpayer upon who such demand is made makes such returns and pays the taxes due the municipality with five (5) days from receipt of demand from the borough clerk, the clerk shall report the facts in full to the assembly. The clerk and sales tax inspector shall keep confidential all facts learned as a result of such investigations until such time as the same are reported to the assembly.
- D. In the event of a dispute between the taxpayer and the borough clerk as to the amount of tax due or as to the applicability of any exemption listed in Section 4.08.060, the taxpayer may, within five (5) days of the receipt of the demand made upon him/her for the filing of amended returns and the payment of such taxes, demand a hearing before the borough assembly of his/her tax liability. In such event, the borough assembly shall notify the taxpayer of the time and place at which such hearing will be held. The borough assembly shall, after receiving a report from the borough clerk of the delinquent taxes and after affording the taxpayer any opportunity for such hearing, take such action at law as is necessary to collect any taxes which the borough assembly finds to be delinquent, including penalty, interest and court costs. **The hearing shall be conducted informally and shall not be subject to the Alaska Rules of Evidence.**

4.08.140 Failure to make return--Assessment.

- A. Assessment by Municipality. If any person obligated to collect and remit taxes under this chapter fails to make a return as provided by this chapter, or makes a grossly incorrect return, or a return that is false or fraudulent, the borough manager shall make an estimate of the taxable transactions during the taxable period and assess the tax, plus penalties. The borough manager shall give the taxpayer ten (10) days' notice in writing concerning the proposed assessment and requiring the taxpayer to appear before him with such books, records and papers as he requires relating to the business for the taxable period. The borough manager may require the taxpayer or his employees or agents to give testimony or to answer interrogatories under oath concerning any information relevant to the assessment of the proper amount of taxes due the municipality for that period or the failure to make any return thereon as provided in this chapter. If any taxpayer fails to make any return or refuses to appear and answer questions within the scope of an investigation relating to his legal duties under this chapter, the borough manager may make the assessment based upon information available to him. The assessment shall be presumed to be correct unless set aside by a court of law.

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- B. Protest by Taxpayer. If the taxpayer protests his liability (or the amount thereof) on an assessment under subsection A which has become final, he shall pay the tax under written protest setting forth the basis for the protest. No action for a refund may be maintained nor may a defense to non payment be maintained in a civil action unless the amount in the dispute has been paid by the taxpayer under written protest filed at or before the time of payment.

4.08.150 Selling or quitting business.

If any person liable for any tax, penalty or interest levied under this chapter sells out his business or stock of goods or quits the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business. The return shall include any sales made at retail during liquidation. His successors or assigns, if any, shall withhold sufficient purchase money to cover the amount of taxes, penalties and interest due and unpaid until the former owner produces a receipt from the borough clerk showing that they have been paid or a certificate stating that no taxes, penalties or interest are due. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in this section, he shall be personally liable for the payment of the taxes, penalties and interest due and unpaid on account of the operation of the business by the former owner.

4.08.160 Jeopardy assessment.

If the borough manager deems that the collection of any tax required to be collected under this chapter may be jeopardized by delay, he shall make an assessment of the tax required to be collected and shall mail or issue a notice of the assessment to the taxpayer together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy, including penalties. In the case of a tax for the current period, the borough manager may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer together with a demand for immediate payment of the tax based on the period declared terminated, and the tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing a return and paying the tax has expired. Assessments provided for in this section shall become immediately due and payable, and if any tax, penalty or interest is not paid upon demand of the borough manager, he shall proceed to collect it by legal process or, in his discretion, he may require the taxpayer to file a bond sufficient to protect the interest of the municipality.

4.08.170 Bond for payment.

The borough manager, if he finds it necessary or advisable in order to secure the collection of the tax levied by this chapter, may require any person subject to the tax to file with him a bond of a surety company authorized to do business in the state as surety, in such reasonable amount as the borough manager fixes, to secure the payment of any tax, penalty or interest due or which may become due from the person. In lieu of a bond, securities approved by the borough manager may be deposited with the borough clerk, which securities shall be kept in the custody of the borough clerk, and shall be sold by the borough clerk at the request of the borough manager at public or private sale, without notice to the depositor thereof if necessary in order to recover any tax, penalty or interest due the municipality under this chapter. Upon the sale, the surplus, if any above the amounts due under this chapter, shall be returned to the person who deposited the securities.

4.08.180 Taxpayer records.

Every person with an obligation to collect and remit taxes to the municipality under this chapter shall keep and preserve suitable records of his business transactions as necessary to a determination of the amount of tax due hereunder. Such records shall be preserved for at least

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three (3) years following the end of the calendar year in which the taxable transactions occurred.

4.08.190 Penalties for willful noncompliance or fraudulent action.

A. Any person subject to the provisions of this chapter who willfully fails or refuses to furnish any return required in this chapter, or fails or refuses to furnish a supplemental return or other data required by the municipality, or who makes a false or fraudulent return with intent to evade the tax levied in this chapter, or who makes a false or fraudulent claim for refund is guilty of an misdemeanor infraction, and is subject to a fine of five hundred dollars (\$500.00), ~~imprisonment for thirty (30) days, or both.~~

B. In the case of a fraudulent return, where willful intent to defraud the municipality of any tax due under this chapter has been found by a court, the taxpayer shall be subject to a civil penalty of fifty percent (50%) of the proper tax, in addition to any other civil ~~or criminal~~ penalties imposed under this chapter or criminal penalties imposed by a court.

4.08.195 Lien for tax, interest and penalty.

A. The tax, interest and penalty imposed under this chapter in addition to the lien filing fee under subsection B of this section shall constitute a lien in favor of the municipality upon assets, including all real and personal property, of the seller who had the legal obligation to collect and remit the sales tax which is delinquent. The lien arises upon delinquency and continues until the liability for the amount is satisfied. When recorded, a lien authorized under this section has priority over other liens except those for property taxes and special assessments.

B. Fees for the filing and releasing of liens shall be set by the borough assembly by resolution from time to time to reflect the administrative costs of processing such liens.

4.08.200 Period of limitation for collections.

The taxes imposed by this chapter shall be assessed within three (3) years from December 31st of the year in which the taxes become due and payable; but in the case of a false or fraudulent return with intent to evade payment of the taxes imposed by this chapter, or a failure to file a return, the taxes may be assessed or proceedings filed in court for the collection of such taxes begun without assessment, at any time within six (6) years from December 31st of the year in which the taxes become due and payable.

4.08.210 Refund of sales taxes.

An action may be brought by a taxpayer for recovery of sales taxes originally paid under written protest; and the refund, if applicable, shall include the amount in excess of that determined to be owed, plus interest thereon at eight percent (8%) per year, plus refund of any penalty assessed. A claim for sales tax refund filed after one (1) year following the due date of the tax is forever barred.

Chapter 4.10

REAL PROPERTY TAXATION

Sections:

4.10.010 Levy of tax--Nature--Limitation.

4.10.020 Annual tax levy.

4.10.030 Exemption for certain improvements to real property.

4.10.040 Determination of true value.

4.10.050 Manner of listing property.

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- 4.10.060 Manner of describing property.
- 4.10.070 Preparation and contents of assessment roll.
- 4.10.080 Assessment notice.
- 4.10.090 Publication of notice of equalization hearings.
- 4.10.100 Corrections by assessor.
- 4.10.110 Appeal by person assessed.
- 4.10.120 Notice by board of errors or changes in assessment roll.
- 4.10.130 Filing of appeal by person assessed.
- 4.10.140 Appeal record.
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- 4.10.170 Entry of decision.
- 4.10.180 Judicial review.
- 4.10.190 Record of proceedings.
- 4.10.200 Entry of changes by assessor.
- 4.10.210 Completion of assessment roll.
- 4.10.220 Validity of assessment rolls.
- 4.10.230 Delivery of assessment roll to assembly.
- 4.10.240 Date for fixing rate of tax levy.
- 4.10.250 Time for mailing of tax statements.
- 4.10.260 Delinquent date for payment of taxes.
- 4.10.270 Penalties and interest.
- 4.10.280 Enforcement of tax obligations.
- 4.10.290 Refund of real property taxes.
- 4.10.300 Limitation on actions.

4.10.010 Levy of tax--Nature--Limitation.

There shall be assessed, levied, and collected a general tax for school and municipal purposes upon all real property which is not exempted from taxation by state or federal law, including AS 29.45.030 (required exemptions), or by Section 4.10.030 below. The aggregate levy shall not exceed three percent (3%) of the assessed value of the property taxed.

4.10.020 Annual tax levy.

- A. The assembly shall annually by ordinance levy an areawide property tax for areawide functions.
- B. The assembly shall annually by ordinance levy a property tax in a service area for functions limited to the service area. For the purpose of this tax, lands within the municipal boundaries are hereby designated service/tax rate areas as follows:

Area I -- All lands within the area beginning at a point at the intersection of the alley between 7th and 8th Avenues and the east side of State Street; then continuing south along State Street to the intersection of a line running east from the southern most corner of Tax Lot 3, A.T.S. 4, then easterly to the Pullen Creek culvert under Broadway, then along Pullen Creek to the center of the alley between 7th and 8th Avenues; and then westerly to the point of beginning, for which the tax rate shall be one hundred percent (100%) of the FY millage rate as adopted by the assembly.

Area II -- All lands lying to the east of the Skagway River south of Latitude 59°28'55" to include A.T.S. 4, A.T.S. 1502 and A.T.S. 1605 and lands north of Latitude 59°26'30" continuing in a westerly direction to the Skagway boundary on the Alaska/Canadian border, except that area lying

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within Service Area I, for which the tax rate shall be eighty-two and one-half percent (82.5%) of the FY millage rate as adopted by the assembly.

Area III -- All lands within the area beginning at the southern boundary of the Gold Rush Cemetery and continuing north for one (1) mile on the east side of the Skagway River and all lands lying within U.S. Surveys 994, 1805 and 176 on the west side of the Skagway River, and all lands within U.S. Surveys 3312 Tracts A through E, 1394, 1254, 2509, 5107A, 1499, 5110 Lots 3, 4 and 7, Rabbit Cove, and A.S.L.S. 81-43 Tracts A and B, for which the tax rate shall be sixty-six percent (66%) of the FY millage rate as adopted by the assembly.

Area IV -- All lands within U.S. Survey 5110 external to Service Areas I, II, III and V, all lands within U.S. Surveys 1249, 1405, 1516, 3307, 3308, 3309, 3341, 3342, 3414, 3669, 5106 A through C, 5107B, 5108, 5109, and all lands within A.S.L.S 74-157, 79-183, and 97-61 Tracts A and B, for which the tax rate shall be forty-three percent (43%) of the FY millage rate as adopted by the assembly.

Area V -- All lands external to Service Areas I, II, III and IV south of Latitude 59°26'30", for which the tax rate shall be eighteen percent (18%) of the FY millage rate as adopted by the assembly.

4.10.030 Exemption for certain improvements to real property.

The Municipality will furnish the necessary forms and information necessary to claim exemptions under this section. Applications for the exemptions listed shall be accepted through January 15 of the assessment year.

- A. Exemption for Senior Citizen Property Tax. The senior citizen property tax exemption limit for primary residences shall be \$250,000.00.
- B. Exemption for fire protection system. Two percent of the assessed value of a structure is exempt from taxation if the structure contains a fire protection system approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. The exemption granted by this subsection is limited to an amount equal to two percent of the value of the structure based on the assessment as of January 1 of the year immediately following the installation of the fire protection system.
 - 1. For purposes of this section "Operating Condition" shall mean a fully functioning system which provides complete coverage throughout the structure, designed, installed, and maintained for the full 12 months of the calendar year. The fire protection system and associated fire alarm and/or detection system must be tested and inspected annually by a certified technician per requirements of IFC 901.6.1 and IFC 907.20.5.
 - 2. The Fire Department shall perform two inspections per calendar year to determine that a property owner is maintaining the fire protection system in operating condition and eligible for this exemption. The inspections shall be completed in the spring and fall of each year; the spring inspection shall include a full life and fire safety inspection. A property owner representative must be present for each inspection.

4.10.040 Determination of true value.

Property shall be assessed at its full and true value as of January 1st of the assessment year, in accordance with AS 29.45.110(a).

4.10.050 Manner of listing property.

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The assessor shall complete the listing of all real property within the limits of the municipality before April 5th of each year. The listing of all taxable property may be made upon permanent separate ledger cards which will be a combined assessment roll and tax ledger. Real property shall be assessed to the owner of record as shown in the records of the Recorder for the Skagway Recording District; provided, however, that any other person having an interest in the property may be listed on the records with the owner. For tax purposes, the person listed as owner of any property shall be conclusively presumed to be the legal owner of record. If the owner of the land is unknown the land may be assessed to an "unknown owner" or "unknown owners." No assessment shall be invalidated by a mistake, omission or error in the name of the owner of the real property assessed, if the property is correctly described.

4.10.060 Manner of describing property.

The assessor may list real property located in the Townsite of Skagway and any addition thereto by lot and block number, and similarly for any subdivided property. Unsubdivided property may be listed according to survey description, or by giving the boundaries thereof, or by reference to the book and page of the records of the Skagway Recording District where recorded, or by designation of tax lot number referring to a public record kept by the assessor of descriptions of real property, or by such other manner as to cause the description to be made certain. Initial letters, abbreviations, fractions and exponents to designate any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

4.10.070 Preparation and contents of assessment roll.

- A. The assessor shall prepare an annual assessment roll, on which he shall enter the following particulars:
1. The names and last known addresses of all persons with property subject to assessment and taxation;
 2. A description of all taxable property;
 3. The assessed value of said property; and
 4. The arrears of taxes, if any, owing by any persons.

4.10.080 Assessment notice.

The assessor shall give to every owner, or his authorized agent named in the assessment roll, a notice of assessment showing the assessed value of his property. On the back of each assessment notice shall be printed a summary, for the information of the taxpayer, of the date when the taxes are payable, delinquent and subject to penalty and interest, dates when the assembly will sit as a board of equalization, and any other particular specified by the assembly. The assessment notice shall be directed to the person to whom it is to be given, and shall be sufficiently given if it is mailed by first class mail addressed to, or is delivered at, his address as last known to the assessor; or, if the address is not known to the assessor, the notice may be addressed to the person at the post office nearest to the place where the property is situated. The assessor or borough clerk shall, on or before April 11th of each year, mail or deliver the assessment notices; and the date when mailed or delivered shall be deemed to be the date on which the notice was given for the purposes of this chapter.

4.10.090 Publication of notice of equalization hearings.

When all assessment notices have been mailed, the assessor shall cause to be published in a newspaper of general circulation which is published in the municipality at least once each week for four (4) successive weeks, a notice that the assessment rolls have been completed, which notice shall state when and where the equalization hearings will be held by the assembly sitting as a board of equalization. If no newspaper of general circulation is published weekly in the municipality, the assessor shall have the notice posted at two (2) public

places for a period of four (4) weeks. The board of equalization shall meet during the last week in May on a date selected by the borough assembly.

4.10.100 Corrections by assessor.

The assessor may correct any error or supply any omission made or arising in the preparation of the assessment roll at any time before the sitting of the board of equalization. It shall be the duty of every person receiving an assessment notice to advise the assessor of any error or omission so that the assessor may correct the same.

4.10.110 Appeal by person assessed.

Any person who receives notice or whose name appears on the assessment roll may appeal, as hereinafter provided, to the board of equalization with respect to any alleged error in the valuation, overcharge or omission of the assessor, not adjusted to the taxpayer's satisfaction.

4.10.120 Notice by board of errors or changes in assessment roll.

Whenever it appears to the board of equalization that there are overcharges or errors in the assessment roll, or in any of the proceedings leading up to or subsequent to the preparation of the roll, and there is no appeal before the board by which the same may be dealt with, or where the name of any person is ordered by the board to be entered on the assessment roll by way of addition or substitution for the purpose of assessment, the board shall cause notice of assessment to be mailed by the assessor to that person or his agent giving him at least thirty (30) days from date of such mailing within which to appeal to the board against assessment.

4.10.130 Filing of appeal by person assessed.

Notice of appeal, in writing, specifying the grounds for appeal, shall be filed with the board within thirty (30) days after the date on which the assessor's notice of assessment was given to the person appealing. The notice must contain a certification that a true copy thereof was mailed or delivered to the assessor. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board that the taxpayer was unable to appeal within the time so limited. A copy of the notice of appeal must be sent to the assessor as herein indicated.

4.10.140 Appeal record.

Upon receipt of the notice of appeal, the assessor shall make a record ~~of the same in such form as the board may direct, which~~ the record shall contain all the information shown on the assessment roll pertaining to the subject matter of the appeal, ~~and t~~ The assessor shall place the same record before the board from time to time as may be required by the board.

4.10.150 Notice of hearing.

The board shall cause a notice of the hearing at which the appeal is to be heard to be mailed by the assessor to the person by whom the notice of appeal was given, and to every other person in respect of whom the appeal is taken, to their respective addresses as last known to the assessor.

4.10.160 Hearing of appeal.

At the time appointed for the hearing of the appeal or as soon thereafter as the appeal may be heard, the board shall hear the appellant, the assessor, other parties to the appeal and their witnesses, and consider the testimony and evidence adduced, and shall determine the matters in question on the merits based on the allowable grounds for adjustment listed in AS 29.45.210(b), and render its decision ~~accordingly~~. If any party to whom notice was mailed as herein set forth fails to appear, the board may proceed with the hearing in his absence. The

burden of proof in all cases shall be upon the party appealing. The hearing shall be conducted informally.

4.10.170 Entry of decision.

The board shall from time to time enter in the appeal record its decisions upon the appeals brought before it, and shall certify its actions to the assessor within seven (7) days as required by AS 29.45.210(c).

4.10.180 Judicial review.

Judicial review of the board's decisions by the superior court is available in accordance with AS 29.45.210(d); provided, however, that the administrative review process provided herein has been exhausted.

4.10.190 Record of proceedings.

The clerk shall be ex officio clerk of the board of equalization on appeals, and shall record all proceedings before the board, the names of all persons protesting assessments, and all changes, revisions, corrections and orders relating to claims or adjustments. Within three (3) days following the final hearings of the board, the clerk shall certify that the changes so reported are as approved by the board of equalization.

4.10.200 Entry of changes by assessor.

The assessor shall enter the changes, so certified, upon his records, and no assessed valuations shall thereafter be changed.

4.10.210 Completion of assessment roll.

After the hearings held by the board of equalization on appeals are concluded, the assessor shall complete the annual assessment roll, at a time to be determined by the board, which shall be based on values as of January 1st immediately preceding, and he shall certify the same. All taxes to be levied or collected, except as otherwise provided, shall be calculated, levied and collected upon the assessed values entered in the assessment roll and certified by the assessor as correct, subject to the taxpayer's rights to appeal and to the corrections made in the rolls pursuant to this chapter.

4.10.220 Validity of assessment rolls.

Every assessment roll as completed and certified by the assessor, and as corrected and amended by him from time to time in conformity with this chapter and the decisions of the board shall, except insofar as the same may be further amended as a result of a timely appeal to the superior court, be valid and binding on all persons, notwithstanding any defect, error, omission or invalidity existing in the assessment roll or any part thereof.

4.10.230 Delivery of assessment roll to assembly.

When the final assessment records have been completed by the assessor as herein provided, the assessor shall deliver to the assembly on or before May 29th of each year a statement of the total assessed valuation of all property within the municipality. On or about May 29th, the assembly shall adopt and certify the final assessment roll.

4.10.240 Date for fixing rate of tax levy.

On or about June 1st, the assembly shall fix a rate of tax levy and designate the number of mills upon each dollar of assessed value of taxable real property that shall be levied in accordance with the provisions of Section 4.10.010 of this chapter.

4.10.250 Time for mailing of tax statements.

On or before July 1st of each year, the borough clerk shall prepare and mail tax statements to the person or persons listed as the owner on the tax rolls.

4.10.260 Delinquent date for payment of taxes.

Property taxes shall become delinquent on September 1st of the year in which the assessment is made.

4.10.270 Penalties and interest.

When the taxes specified in the preceding schedule are not paid on or before the due date as specified therein, there shall be imposed a penalty at a flat rate of twenty percent (20%), and interest at the rate of fifteen percent (15%) on the whole of the unpaid taxes, not including penalty, from the due date until paid in full.

4.10.280 Enforcement of tax obligations.

The municipality's procedures for enforcement of real property tax obligations to the municipality shall conform to the statutory procedures set forth in Title 29, Chapter 45, Article 2 of the Alaska Statutes. Any notice required thereunder to be given to the owner(s) of the real property shall also be given (by mail) to each mortgage holder of record.

4.10.290 Refund of real property taxes.

If a taxpayer pays real property taxes under protest, action may be brought by said party for recovery of taxes and the refund, if applicable, shall include the amount in excess of that determined to be owed, plus interest thereon at eight percent (8%) per year, plus refund of any penalty assessed thereon.

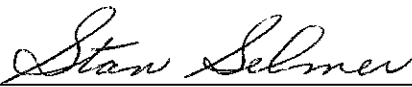
4.10.300 Limitation on actions.

A claim for real property tax refund filed after one (1) year following the due date of the tax is forever barred.

Section 4. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.


Section 5. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 20th day of October, 2011.



Stan Selmer, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

