

KODIAK CITY COUNCIL

WORK SESSION AGENDA

Tuesday, September 26, 2017

Kodiak Public Library Multi-Purpose Room

7:30 p.m.

Work sessions are informal meetings of the City Council where Councilmembers review the upcoming regular meeting agenda packet and seek or receive information from staff. Although additional items not listed on the work session agenda are sometimes discussed when introduced by the Mayor, Council, or staff, no formal action is taken at work sessions and items that require formal Council action are placed on a regular Council meeting agenda. Public comments at work sessions are NOT considered part of the official record. Public comments intended for the "official record" should be made at a regular City Council meeting.

Discussion Items

- 1. Public Comments (limited to 3 minutes)

- 2. Budget Discussion/Ordinance Review
 - a. Ordinance to Increase Sales Tax Cap to \$3000.....1
 - b. Ordinance to Maintain \$750 Cap for Residential and Commercial Rentals....3
 - c. Ordinance to Eliminate the 2% Sales Tax Filing Discount.....6

- 3. Discuss Amendment to Kodiak City Code Chapter 5
Allowing Sale of Fresh Seafood.....8

- 4. Discuss Plastic Bag Ban Draft Ordinance.....20

- 5. Elected Officials Training/Travel Requests

- 6. September 28, 2017, Agenda Packet Review

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**CITY OF KODIAK
ORDINANCE NUMBER 1367**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING
KODIAK CITY CODE 3.08.120, "MAXIMUM TAXABLE SALE," TO INCREASE THE
MAXIMUM AMOUNT OF A SALE SERVICE OR RENTAL THAT IS SUBJECT TO
CITY SALES TAX TO \$3,000**

WHEREAS, it in the City of Kodiak's best interest to exempt sales that exceed \$3,000 from sales tax during the 2018 fiscal year due, in part, to the fiscal challenges facing the City's taxpayers,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kodiak, Alaska, as follows:

Section 1: Kodiak City Code 3.08.120, entitled "Maximum taxable sale," is hereby amended to read as follows:

- (a) **Except as otherwise provided in this section, if** ~~if~~ the sales price of an item or items or the charge for rental of any property or performance of any service exceeds **\$3,000** ~~\$750.00~~ for a single transaction, that portion of the price or charge in excess of **\$3,000** ~~\$750.00~~ shall be exempt from the tax levied by this chapter.
- (b) In determining the maximum tax payable with regard to a single transaction for the rendering of services on a substantially regular basis, which services are generally repetitive in nature and are to be performed over a period of time under a contract, each period for payment or partial payment under the contract shall be deemed a separate service transaction. The maximum tax payable shall be applicable to each deemed service transaction with tax payments to accrue and become payable at the time of filing the next quarterly return to be submitted following receipt of payment for the service.
- (c) For purposes of computing the maximum tax, a rental of property for a period in excess of one month shall be deemed as a series of rentals with each rental transaction terminating as a rental payment is made. The maximum sales tax payable shall be applicable to each deemed rental with tax payments to accrue and become payable at the time of filing the next quarterly return to be submitted following receipt of the rental.
- (d) For purposes of computing the maximum tax, a transaction which takes the form of a lease shall be deemed a rental or series of rentals unless a party to the transaction demonstrates that it constitutes a capital lease as defined in this chapter. A capital lease shall be treated as an installment purchase. The finance director shall have the final authority to determine whether or not a par-

[Bold and underlined added. Deleted language stricken through.]

particular transaction constitutes a capital lease and may require the parties to such a transaction to submit such information or documentation as the finance director feels is reasonably necessary to make this determination. In making such a determination the finance director may rely upon the 1991 Comprehensive Governmental GAAP Guide by Larry P. Bailey (Miller Accounting Publications, Inc., a subsidiary of Harcourt Brace Jovanovich Publishers).

Section 2: This ordinance shall be effective on January 1, 2018 and no earlier than one month after its final passage and publication in accordance with Kodiak Charter Section 2-13.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

First Reading:
Second Reading:
Effective Date:

[Bold and underlined added.] ~~Deleted language stricken through.~~

**CITY OF KODIAK
ORDINANCE NUMBER 1368**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING KODIAK CITY CODE 3.08.040, “GENERAL EXEMPTIONS” AND KODIAK CITY CODE 3.08.120, “MAXIMUM TAXABLE SALE,” TO EXEMPT REAL PROPERTY RENTALS EXCEEDING ONE MONTH AND \$750.00 FROM CITY OF KODIAK SALES TAX

WHEREAS, it is in the City of Kodiak’s best interest to exempt rentals of real property that are for longer than one month and more than \$750 from sales tax; and

WHEREAS, this exemption also serves as a “tax cap” and thus it is best codified in both the “general exemptions” and “maximum taxable sale” sections of the Kodiak City Code to provide Kodiak’s taxpayers with clarity when applying the Kodiak City Code,

BE IT ORDAINED by the Council of the City of Kodiak, Alaska, that:

Section 1: Kodiak City Code 3.08.040 entitled “General Exemptions” is amended as follows:

The following classes of sales, rentals, and services are exempt from the tax imposed by this chapter:

- (a) Casual and isolated sales and rentals of personal property, and services not rendered in the regular course of business of the seller;
 - (b) Medical services performed by licensed medical doctors, dentists, osteopaths, optometrists, psychiatrists, psychologists, and chiropractors; sales of medicinal preparations and drugs prescribed by medical doctors; and hospital services;
 - (c) Sales, rentals, and services to religious and charitable organizations as defined in Sections 501(c)(1), (3), and (4) of the Internal Revenue Code, for the conduct of regular religious or charitable functions and activities, and not for the support or maintenance of the general membership or for communal living;
 - (d) Sales of food in school cafeterias and lunchrooms that are operated primarily for students;
 - (e) Sales and services by nonprofit schools and student organizations within schools for support of the school, organization, or extracurricular activities or events;
 - (f) Sales, rentals, and services to the United States, the state of Alaska, and any agencies or political subdivisions thereof;
 - (g) Dues or fees to clubs, labor unions, and fraternal organizations;
- [Bold and underlined added.]** Deleted language ~~stricken through.~~

- (h) Subscriptions to newspapers and periodicals;
- (i) Sales of insurance and bonds of guaranty and fidelity;
- (j) Funeral charges;
- (k) Transportation charges of commercial airlines, air charters, and passenger ship companies; provided, however, that this exemption shall not extend to boat charter operations not affecting interstate commerce;
- (l) Services rendered by banking or savings and loan institutions or credit unions;
- (m) Services rendered by an employee to an employer in the normal course of employment;
- (n) Sales, rentals, and services which the city is prohibited from taxing by the Constitution or laws of the United States or the state of Alaska;
- (o) Retail sales in dining rooms or cafeterias of food furnished by nonprofit organizations under programs wholly or partially supported by government funds;
- (p) Nursery and babysitting services;
- (q) Long-distance transmission of telephone and telegraph messages;
- (r) Sales of heating fuel exclusively for residential uses (not to include fuel used in or on watercraft);
- (s) Sales of electrical service to exclusively residential units;
- (t) Sales of propane gas exclusively for residential uses (e.g., cooking, water heating, heating, clothes drying);
- (u) Sale of fuel used in stationary power plants that generate electrical energy exclusively for private residential consumption;
- (v) Sales, rentals, and services to nonprofit associations or organizations operated primarily for the purpose of planning, promoting, and conducting organized group activities for participants who are 18 years of age or less;
- (w) Charges for garbage/refuse collection for garbage/refuse generated exclusively by residential use;
- (x) Sales of water and sewer utility services for residential use; and

[Bold and underlined added.] Deleted language ~~stricken through.~~

(y) Sales by religious or charitable organizations, as defined in Sections 501(c)(1), (3), and (4) of the Internal Revenue Code, of pull tabs, raffle and lottery tickets, bingo cards, and other tokens of participation in games of chance and contests of skill.

(z) Charges for rental of any residential or commercial real property for a period in excess of one month that exceeds \$750.00 for a single transaction.

Section 1: Subsection (a) of Kodiak City Code 3.08.120, entitled “Maximum taxable sale,” is hereby amended to read as follows:

(a) If the sales price of an item or items or the charge for rental of any property or performance of any service exceeds \$750.00 for a single transaction, that portion of the price or charge in excess of \$750.00 shall be exempt from the tax levied by this chapter. **If the the charge for rental of any residential or commercial real property for a period in excess of one month exceeds \$750.00 for a single transaction, that portion of the charge in excess of \$750.00 shall be exempt from the tax levied by this chapter.**

Section 2: This ordinance shall be effective on January 1, 2018 and no earlier than one month after its final passage and publication in accordance with Kodiak Charter Section 2–13.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

First Reading:
Second Reading:
Effective Date:

[Bold and underlined added.] Deleted language stricken through.

**CITY OF KODIAK
ORDINANCE NUMBER 1369**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK REPEALING KODIAK CITY CODE 3.08.160, “ADMINISTRATIVE COSTS AND REIMBURSEMENTS,” TO ELIMINATE THE 2% DEDUCTION FOR TIMELY FILING OF SALES TAX RETURNS AND REMITTANCE OF COLLECTED SALES TAX

BE IT ORDAINED by the Council of the City of Kodiak, Alaska, that:

- Section 1: Kodiak City Code 3.08.160, entitled “Administrative costs and reimbursements,” is hereby repealed.
- Section 2: This ordinance shall be effective on January 1, 2018, and no earlier than one month after its final passage and publication in accordance with Kodiak Charter Section 2–13.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK


First Reading:
Second Reading:
Effective Date:

[**Bold and underlined added.** Deleted language stricken through.]

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager 

Thru: Matthew Van Daele, Deputy City Manager 

Date: September 26, 2017

Work Session Discuss Amendment to Kodiak City Code Chapter 5

Agenda Item: Allowing Sale of Fresh Seafood

SUMMARY: The following was prepared to aid the Council’s discussion regarding consideration of draft code amending Chapter 5.04 (Business on Public Property), specifically creation of a new Section (Attachment A; currently drafted as 5.04.080) that would allow the sale of fresh seafood in the Kodiak Harbor.

BACKGROUND: Even though Kodiak is one of the top ports in the Nation for seafood harvest, we are one of the few locations in Alaska that does not allow “*retail sales of fresh seafood to the ultimate consumer by the actual harvester,*” in spite of the existence of well-established Alaska Department of Fish and Game commercial permits such as the “Catcher/Seller” program. There is broad public support for allowing these types of sales, and amending Chapter 5.04 could conceivably assist with not only Downtown Revitalization, but also Archipelago-wide economic development with the ability of vessels home ported in other Kodiak communities gaining the opportunity to come into Kodiak and directly sell their catch.

PREVIOUS COUNCIL ACTION: Chapter 5.04 was last amended in fall of 2004 by Ordinance 1177 to allow the placement of vending machines on City property. Last summer, the Council was presented with a “Public Sentiment Petition” containing 67 signatures of Kodiak residents (Attachment B) expressing their desire for “[a] *revision to City ordinances which prohibit commercial fishermen from selling directly off their vessels to dockside consumers.*”

LEGAL: The attached draft language has not yet been reviewed by our City Attorney, however it is a combination of existing language already included elsewhere in Chapter 5.04, as well as incorporating language from the Codes of other Alaskan municipalities (specifically Sitka, Ketchikan, and Petersburg) which allow the sale of fresh seafood with the requisite local, State, and Federal permits.

ATTACHMENTS:

- Attachment A: Draft New Chapter to Permit Sale of Fresh Seafood
- Attachment B: Public Sentiment Petition

DEPUTY CITY MANAGER COMMENTS: If the Council desires to further discuss this issue and/or advance such an amendment, it is requested to give staff direction as to how the Council wishes to proceed, be that seeking legal review of the draft Code amendment language, further outreach with the public, coordination with the Port and Harbor Advisory Board, and/or other avenues of additional research. However, if the Council wishes to proceed as-is after a legal review, it would be a straight-forward process for staff to draft an ordinance for formal consideration by the Council.

Chapter 5.04

BUSINESSES ON PUBLIC PROPERTY

Sections

5.04.010	Businesses on city property prohibited
5.04.015	Parking for vehicles for hire
5.04.020	Mobile food vendors
5.04.030	Outdoor dining
5.04.040	Vending machines
5.04.050	Permits for community festivities
5.04.060	Permits for community festivities—conditions of permit
5.04.070	Permits for community festivities—in lieu of transient merchant license
5.04.080	Permits for the sale of fresh seafood (NEW)

5.04.010 Businesses on city property prohibited

Except where permitted under the provisions of this chapter, in or upon a city street, alley, sidewalk, parking lot, park, or other public place, no person may:

- (a) Park, place, erect, or construct a building, structure, tent, trailer, bus, or other enclosure, or a stand or table, for the purpose of displaying for sale, selling, or soliciting the sale of goods or services;
- (b) Display for sale, sell, or solicit the sale of goods or services; or
- (c) Park a vehicle bearing a for-sale sign for a purpose of soliciting buyers or otherwise offering the vehicle for sale. It shall be conclusively presumed that any vehicle bearing a for-sale sign which is parked in the same location for more than 48 consecutive hours is parked with a purpose of soliciting buyers or otherwise offering the vehicle for sale. (See also amended 13 AAC 02.365(f)(3) in KCC 10.16.020.) [Ord. 1311 §1, 2013; Ord. 1291 §2, 2011; Ord. 1177 §1, 2004]

5.04.015 Parking for vehicles for hire

The chief of police, after consulting with the harbormaster, may designate spaces on city docks where vehicles for hire regulated under Chapter 5.40 KCC may park for the purpose of picking up or discharging passengers. No person may park a vehicle for hire on a city dock except in a space designated for that purpose under this section. [Ord. 1286(SUB) §2, 2011]

5.04.020 Mobile food vendors

Mobile food vendors may temporarily stop their vehicles in the public streets for the purpose of making sales, or park their vehicles on public property in the vicinity of a sporting event when not prohibited by this code, for the purpose of making sales of food during the event. [Ord. 1177 §1, 2004]

5.04.030 Outdoor dining

Outdoor dining in public rights-of-way may be authorized under Chapter 12.12 KCC. [Ord. 1177 §1, 2004]

5.04.040 Vending machines

The city manager may permit the placement of vending machines on city property at locations that the city manager determines will serve the convenience of city employees or the public. The city manager shall determine the duration of a permit to place a vending machine on city property, the compensation that the city will receive for its placement, and the other terms and conditions of the permit that will be in the best interest of the city. [Ord. 1177 §1, 2004]

5.04.050 Permits for community festivities

- (a) The city clerk may issue permits allowing the erection of temporary stands, structures, or tables or the temporary parking of a suitable vehicle on public property for the purpose of selling or dispensing goods or services in conjunction with the King Crab festival or other similar designated community events.

(b) An application for a permit under this section shall be submitted to the city clerk accompanied by any required fees established by resolution or motion of the city council; provided, however, that the council may reduce or waive payment of the fee for permits issued to nonprofit organizations and associations performing community services in Kodiak, so long as all such organizations are treated alike with respect to permits issued for any single festival or similar community event. The application shall contain the following information:

- (1) The name and address of the applicant;
- (2) The business name to be used and the nature of the business;
- (3) The name of the festivity or event for which the permit is requested;
- (4) A description of the structure, stand, or vehicle to be used;
- (5) The location where the applicant would prefer to conduct the business.

(c) If insufficient space or facilities are available to accommodate the applicants for permits at any particular event, locations shall be assigned giving preference to nonprofit organizations and associations performing community services in Kodiak and to those businesses that are most compatible with the community festival or event for which the applicants are seeking permits.

(d) If a community event or festival is being planned and managed by a local nonprofit community organization, the council may, by resolution, authorize the issuance of a single permit to that organization for the designated public property. As a condition to receiving the permit, the organization shall:

- (1) Agree to assign space in accordance with the priorities established in subsection (c) of this section;
- (2) Comply with the conditions set forth in KCC 5.04.060 and require compliance with those conditions by all persons occupying space under the auspices of a permit from that organization; and
- (3) Hold harmless and defend the city from any claims for death, injury, or damage arising or resulting from the event conducted, as well as from any suits or actions based upon the assignment or utilization of public property under the permit.
- (4) The council may waive payment of any fee by an organization receiving a permit under this subsection, and the organization may charge a reasonable fee for persons utilizing a booth, structure, or stand in conjunction with their participation in the festivity. [Ord. 1177 §1, 2004]

5.04.060 Permits for community festivities—conditions of permit

(a) A permit issued under KCC 5.04.050 shall be subject to the following terms and conditions:

- (1) The structure, stand, or vehicle may not be erected or parked prior to the date and time designated on the permit and shall be removed within 24 hours after the end of the designated event.
- (2) If the business is one that utilizes disposable wrappings or containers, the permittee shall place suitable refuse containers in the vicinity of the business and provide for the disposal of the contents of those containers on a daily or more frequent basis.
- (3) The permittee shall obtain and display all other licenses and permits necessary to the conduct of the business and shall display those licenses and permits at the place of business.
- (4) The permittee shall permit the inspection of the facilities from which the business is conducted at all reasonable hours.
- (5) The permittee shall maintain the property in the immediate vicinity of the business facilities in a neat and clean condition and shall remove all accumulated waste, litter, and debris upon removal of the business facilities.
- (6) The permittee shall comply with all applicable laws and regulations.

(7) The permittee shall comply with such other reasonable conditions as may be provided in the permit by the city manager.

(b) If the permittee fails to comply with any condition of the permit or a provision of this section, the city manager may, after not less than two hours' notice and an opportunity to be heard, revoke the permit.

(c) If the permittee fails to leave the immediate vicinity in a clean condition or fails to remove the business facilities as required by this section, the city may, after reasonable verbal notice, perform such work and the permittee shall be liable for all costs so incurred. Business facilities removed by the city may be discarded in the dump or otherwise disposed of as abandoned property having no value. [Ord. 1177 §1, 2004]

5.04.070 Permits for community festivities—in lieu of transient merchant license

Issuance of a permit under KCC 5.04.050 shall be in lieu of the transient merchant license required by Chapter 5.28 KCC so long as the activities of the applicant which otherwise would require the obtaining of a transient merchant license are restricted to the time and place of the festival or community event. [Ord. 1177 §1, 2004]

5.04.080 Permits for the sale of fresh seafood

Retail sales of fresh seafood to the ultimate consumer by the actual harvester from their vessel may occur at City port and harbor facilities, as permitted within this chapter.

(a) An application for a permit under this section shall be submitted to the city clerk accompanied by any required fees established by resolution or motion of the city council. The application shall contain the following information:

(1) The name, address, telephone number, and email address of the applicant;

(2) The business name to be used and the nature of the business;

(3) Description and license number (as applicable) of the vessel proposed to be used in the business;

(4) The location where the applicant would prefer to conduct the business;

(5) The specific type or types of fresh seafood proposed to be sold;

(6) Copies of requisite State and/or Federal permits and/or licenses required for such activity; and,

(7) An acknowledgement by the applicant agreeing to be bound by all of the terms, conditions, and provisions set forth in this section, and such additional terms and conditions as may be set forth in the permit.

(b) The terms of the permit shall be as follows:

(1) The permittee shall obtain and display all other licenses and permits necessary to the conduct of the business and shall prominently display these items and/or articles on their vessel;

(2) The time and place of a sale of raw fish is when and where the fish ticket for that fish is signed;

(3) The Harbormaster may designate specific locations and/or times, including individual slips, where the permittee may conduct their sales of fresh seafood, and the permittee shall be confined to this location and/or time;

(4) The permittee shall allow the inspection by the Harbormaster or their designee(s) of the vessel from which the business is conducted at all reasonable hours;

(5) The permittee shall maintain the property in the immediate vicinity of the business in a neat and clean condition and shall remove all accumulated waste, litter, and debris upon closing of sales;

(6) The permittee shall not allow any hazards or disruptions to pedestrian or vehicular traffic due to the operation of their business, and unless otherwise authorized by the Harbormaster, signs or advertising may only be displayed on the vessel;

(7) All product processing, handling, and packaging shall take place on the vessel, and fish waste shall not be discarded in the harbor or harbor trash receptacles;

(8) The permittee shall hold harmless and defend the City from any claims for death, injury, and/or damage arising, resulting, and/or allegedly arising or resulting from the business, as well as from any suits or actions based upon the assignment or utilization of public property under the permit;

(9) Business conducted under this permit is not considered casual and isolated sales, and the permittee must remain in compliance with sales and property tax laws in order to retain their permit; and,

(10) The permittee must remain in compliance with Chapter 18.28, Port and Harbor facilities.

(c) If the permittee fails to comply with any condition of the permit or a provision of this section, the city manager may, after not less than two hours' notice and an opportunity to be heard, revoke the permit.

(d) If the permittee fails to leave the immediate vicinity in a clean condition as required by this section, the City may, after reasonable verbal notice, perform such work and the permittee shall be liable for all costs so incurred. Items and/or materials removed by the City may be discarded in the dump or otherwise disposed of as abandoned property having no value. [Ord. 1177 §1, 2004]

DRAFT



PUBLIC SENTIMENT PETITION

We, the undersigned hereby request:

A revision to City ordinances which prohibit commercial fishermen from selling directly off their vessels to dockside consumers. We believe that properly licensed commercial fishermen following all regulations should have the ability to provide directly to the consumer. The ability for seafood consumers to directly purchase from harvesters will strengthen our island community by providing a healthy, local sustainable food source and will increase economic opportunity for commercial fishermen and increase tax revenue for the City of Kodiak.

	SIGNATURE	PRINTED NAME	RESIDENCE ADDRESS	DATE
1		KENIN (KIP) THOMAS		MAY 26, 2016
2		Karen m. ilstein		5/26/16
3		Bear GUSTAFSON		" "
4		Mavis Cornett		5/26/16
5		Amy Ewing		5/26/16
6		Daniel Woolley		5/26/16
7		SARAH B. TIBBETS		5-26-16
8		ELINOR POLZ RAMS		5-26-16
9		ELISABETH STAHL WIRTZ		5/26/16
10		KYLE D. CLEWMAN		5/26/16
11		Dan Hernandez		5/26/16
12		Katherine Gram		5/26/16
13		Diane Van Matre		5/26/16
14		Jill W. Hebrader		5/26/16
15		Patty DeLate		5/26/16



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	SIGNATURE	PRINTED NAME	RESIDENCE ADDRESS	DATE
31	<i>MW</i>	Maggie Neva		5/26/16
32	<i>Chris Dresden</i>	Chris Dresden		5/26/16
33	<i>David Z. Tucker</i>	DAVID Z. TUCKER		5/26/16
34	<i>Candace Branson</i>	Candace Branson		5/26/16
35	<i>Shoy Hanitons</i>	Shoy Hanitons		5/26/16
36	<i>Robert Scholze</i>	ROBERT SCHOLZE		5/26/16
37	<i>Pat Lods</i>	PAT LODS		5-26-16
38	<i>Jennifer Foster</i>	Jennifer Foster		5-26-16
39	<i>Mrs Williams</i>	Mrs Williams		5/26/16
40	<i>Dale L. Rice</i>	DALE L. RICE		5/26/16
41	<i>Marie Rice</i>	Marie Rice		"
42	<i>Patricia White</i>	Patricia White		5-26-16
43	<i>Blythe Brown</i>	Blythe Brown		5/26/16
44	<i>Tyler Hornells</i>	Tyler Hornells		5/26/16



PUBLIC SENTIMENT PETITION

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	SIGNATURE	PRINTED NAME	RESIDENCE ADDRESS	DATE
1		Ryan Horvath		5-25-2016
2		ROBERT CARTER		5-25-2016
3		Darius Kosprzak		5-25-2016
4		Katerina Eager		5/25/2016
5		Christina Johnson		5/25/16
6		Danielle Ringes		5/25/16
7		Stephen Tauten		5/25/16
8		Mark C Blakeslee		5/25/16
9		Peter Allan		5/25/16
10		Christina Trossig		5/25/16
11		Steven P Mathieu		"
12		Ryan Fletcher		5/25/16
13		Leonard Carpenter		5/25/16
14		Anita Carpenter		5-25-16
15		Holly Beardslee		5-25-16



PUBLIC SENTIMENT PETITION

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	SIGNATURE	PRINTED NAME	RESIDENCE ADDRESS	DATE
16	<i>[Signature]</i>	Christine		5/26/16
17	<i>[Signature]</i>	Patricia B. Moore		5/26/16
18	<i>[Signature]</i>	Jordan Squartsoff		05/26/2016
19	<i>[Signature]</i>	TOBY SULLIVAN		5/28/2016
20	<i>[Signature]</i>	Jean Alexander		5/28/2016
21	<i>[Signature]</i>	Julie Miller		5/28/2016
22	<i>[Signature]</i>	ANNE MENTZER PERAZES		5/28/2016
23	<i>[Signature]</i>	ANNIKA FINCHER		5/28/16
24	<i>[Signature]</i>	Ashley Rose		1/24/17
25	<i>[Signature]</i>	Nathaniel Rose		1/24/17
26	<i>[Signature]</i>	Chris Johnson		1/24/17
27				
28				
29				
30				



PUBLIC SENTIMENT PETITION

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	SIGNATURE	PRINTED NAME	RESIDENCE ADDRESS	DATE
31	<i>[Signature]</i>	Theresa Peterson		5/23/16
32	<i>[Signature]</i>	Natura Richardson		5/23/16
33	<i>[Signature]</i>	Michael Rasmussen		5/23/16
34	<i>[Signature]</i>	Dana Myers		5/23/2016
35	<i>[Signature]</i>	Wanda Scholz		5/23/16
36	<i>[Signature]</i>	Merissa Koller		5/23/16
37	<i>[Signature]</i>	Melissa Wittveen		5/23/16
38	<i>[Signature]</i>	Kimberly Lester		5/27/16
39	<i>[Signature]</i>	Luke Lester		5/27/16
40	<i>[Signature]</i>	Darren Platt		5/27/16
41	<i>[Signature]</i>	ALEXUS KWACHKA		5.27.16
42	<i>[Signature]</i>	Jeffrey R. Stephan		05/23/16
43				
44				

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager 

Thru: Matthew Van Daele, Deputy City Manager 

Date: September, 26 2017

**Work Session
Agenda Item:** **Discuss Plastic Bag Ban Draft Ordinance**

SUMMARY: The attached draft ordinance and example of amended code (Chapter 7.32, Littering, and a new Section 7.32.050, Disposable Plastic Shopping Bags) was prepared to aid the Council's continued discussion regarding considering whether or not to pursue actions that would reduce the use of single-use plastic shopping bags.

BACKGROUND: There is a growing interest across the nation to eliminate or reduce single-use plastic shopping bags, while encouraging and/or supplying reusable (non-plastic) bags to retailers and consumers to mitigate environmental impacts. A search of local news archives (KMXT and the Kodiak Daily Mirror) indicate that one of the first times this issue was discussed in Kodiak was September 2012, coinciding with Homer's first "bag ordinance."

The current interest in Kodiak adopting its own "bag ordinance" started in December 2016, when the annual "Kodiak Strong!" Community Planning Event identified reducing our local plastic waste, specifically single-use plastic shopping bags, as a top priority for consideration. Since that initial community event, proponents of the then-called "Ban the Bag" have reached out to multiple local community organizations and groups (including retailers), as well as to sister municipalities that have banned these types of bags. As a result of this effort, the Kodiak Island Borough's Solid Waste Advisory Board (known as "SWAB") began discussing this issue in March 2017, and saw it as combining three distinct, but interrelated facets, all pertaining to reducing waste and blow-out at the landfill, thus: 1) reducing costs to taxpayers; 2) becoming more environmentally-conscious in a community reliant on the health of our ecosystem and the ocean, and 3) capitalizing on our already-established status as a growing "green community" and using this to leverage additional economic development potential.

In May, SWAB formed a subcommittee to write a bag ordinance for consideration by the Kodiak Island Borough. This was drafted in June, and subsequently forwarded to the Borough for its consideration, with the caveat that the City of Kodiak need to be involved since the majority of single-use plastic shopping bags are distributed within City limits. This draft ordinance was discussed at the June Joint Work Session between the Borough and the City, and has not been discussed by the Borough since.

Key elements of the attached draft ordinance include exemptions for health and safety reasons (such as continuing to allow lightweight cellophane bags used for meat and produce); a “start date” of February 14 to allow retailers and consumers time to transition, and the importance of picking a “significant date” to aid in a public outreach campaign (as such, it could be portrayed as a “*Love Kodiak!*” initiative); and putting the new Section within Chapter 7.32, which theoretically will not substantially change existing Code and make it easier for public interpretation.

PREVIOUS COUNCIL ACTION: The Chair and some members of SWAB first presented the draft ordinance to the City Council on August 8th. Councilmembers requested additional discussion, and this topic was again discussed at the September 12th work session. Staff took the draft SWAB ordinance and proposed code language and amended it to fit City formatting and translated it to fit within relevant City Code, which is presented here for the Council’s consideration as (Attachment A).

LEGAL: The attached draft language has not yet been reviewed by our City Attorney, however it is a combination of language adapted from other municipalities that have adopted “bag ordinances,” including Cordova, Bethel, and Homer, as well as Lihue, HI, Boulder, CO, and San Francisco, CA.

ATTACHMENTS:

- Draft Plastic Bag Ban Ordinance

DEPUTY CITY MANAGER COMMENTS: If the Council desires to advance this draft ordinance, it is requested to give staff direction as to how the Council wishes to proceed (such as seeking legal review of the draft Code amendment language).

Lessons learned from other municipalities stress the importance that during a transition time from single-use plastic shopping bags to reusable non-plastic bags, a team effort of impacted retailers, community organizations, and enthusiastic individuals is essential to ensure people are not caught off-guard, as well as to determine who would benefit the most from receiving reusable bags so members of our community do not end up being negatively impacted by a grass-roots effort to make our community better. The new motto of “*It’s time for a new Kodiak Flag, so let’s Retire the Bag!*” indicates the elements of this team effort are starting in Kodiak, and could be fostered by Council encouragement to make a possible transition time as seamless as possible.

**CITY OF KODIAK
ORDINANCE NUMBER XXXX**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK REDUCING THE
USE OF DISPOSABLE PLASTIC SHOPPING BAGS**

WHEREAS, the use of disposable plastic shopping bags in Kodiak creates burdens on the local solid waste disposal system and degrades the environment; and

WHEREAS, to decrease the use of disposable plastic shopping bags in Kodiak, it is necessary to restrict and mitigate such use; and

WHEREAS, it is in the best interest of the City of Kodiak and its residents to reduce the use of disposable plastic shopping bags in Kodiak.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kodiak, Alaska, as follows:

Section 1: Section 7.32 Littering, of the Kodiak City Code, is hereby amended to add a new section, Section 7.32.050 Disposable Plastic Shopping Bags, to regulate their use and distribution, which is added to read as follows;

Title 7.32.050 Disposable Plastic Shopping Bags

- a) The purpose of this section is to reduce the generation of waste from disposable plastic shopping bags.
- b) On February 14, 2018, disposable plastic shopping bags will no longer be permitted for distribution within the City of Kodiak.
- c) Bags used by customers inside stores to package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items, such as washers and bolts; bags used to contain dampness or leaks from items such as frozen foods, meat or fish, flowers or potted plants; bags used to protect prepared foods or bakery goods; bags provided by pharmacists to contain prescription drugs; laundry or dry cleaning bags; bags sold for consumer use off the seller's premises for such purposes as the collection and disposal of garbage, pet waste, or yard waste; and newspaper bags are exempt from the requirements of this chapter.
- d) For the immediate preservation of the public peace, health, or safety, the provisions of this chapter may be suspended.

Section 2: Section 7.32.020 Definitions, of the Kodiak City Code, is hereby amended to add new definitions of "buyer," "seller," and "disposable plastic shopping bag", and are added to read as follows;

Title 7.32.020 Definitions

As used in this chapter;

"Litter" means all waste material of every kind and nature, including, but not limited to, disposable packages or containers: disposable plastic shopping bags; glass and metal containers; construction material; rubbish; garbage; junk; paper; paper products; rock, gravel, and/or dirt; machinery; vehicles and parts thereof; grass, shrub, and tree clippings;

dead animals; any nauseous or offensive matter of any kind; and any object likely to injure any person or create a traffic hazard.

“Buyer” means a person who is a purchaser of goods or services.

“Disposable plastic shopping bag” means a bag made from plastic and/or any material marketed or labeled as “biodegradable” or “compostable” that is not suitable for continuous reuse; if made of or containing plastic and is less than 4 mils thick; is unable to be cleaned and disinfected regularly; and is designed to carry customer purchases from the seller’s premises.

“Seller” means a person or persons who are vendors of property, persons furnishing services, and all persons making sales, including goods and services.

Section 3: Sections 2 and 3 of this ordinance are of a permanent and general nature and shall be included in the Kodiak City Code.

Section 4: This ordinance shall take effect on February 14, 2018, in accordance with Kodiak Charter Article II, Section 13.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

First Reading:
Second Reading:
Effective Date: