

# KODIAK CITY COUNCIL

## WORK SESSION AGENDA

**Tuesday, March 6, 2018**

**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. Continued Budget Discussion
  - a. Review Senior Exemption Ordinance .....1
  - b. Review Business License Ordinance .....6
  - c. Review Nonprofit Grant Funding Criteria Resolution.....13
  - d. Discuss Amending Enhancement Fund Deposits .....16
3. Discussion About City Airports
  - a. Municipal Airport
  - b. Trident Basin
4. Elected Officials Training/Travel Requests
5. March 8, 2018, Agenda Packet Review

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**CITY OF KODIAK  
ORDINANCE NUMBER XXXX**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING  
THE SENIOR CITIZEN SALES EXEMPTION AND ORDINANCES RELATING TO  
THE PROCEDURE FOR VERIFYING EXEMPT BUYERS**

WHEREAS, the City of Kodiak grants exemption from City sales tax to certain buyers;  
and

WHEREAS, under the existing ordinances these exemptions are subject to abuse by  
ineligible persons; and

WHEREAS, the Council continues to support the policy of exempting certain buyers City  
sales tax;

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

**Section 1:** Sections 2, 3 and 4 of this ordinance are of a permanent and general nature and  
shall be included in the Kodiak City Code.

**Section 2:** Section 3.08.055 Senior citizen exemption, of the Kodiak City Code, is hereby  
amended to read as follows: [deleted text is ~~struck through~~; added text is  
underlined]

**3.08.055 Senior citizen exemption**

(a) A person 65 years of age or older who has resided in the Kodiak Island Borough for a  
continuous period of ~~30~~ 365 days or more may obtain a senior citizen sales tax exemption  
certificate by submitting a completed application to the finance director on a form  
provided by the city. The application must be signed by the applicant under oath and shall  
contain information relating to the applicant's residence, marital status, rental or  
ownership of occupied dwelling, persons occupying the dwelling, and other information  
reasonably necessary to determine the applicant's eligibility and monitor the use of the  
exemption certificate. The applicant shall also submit for inspection and copying a birth  
certificate, or other evidence determined by the finance director to be adequate, to  
establish the applicant's age. The exemption certificate shall be issued without charge in  
the name of the applicant and shall be valid for a period of three years.

~~(b) An exemption certificate issued to a person who is prevented or impaired from  
personally making purchases or payments by a physical or mental infirmity may  
designate not more than two other persons who shall be authorized to utilize the  
certificate when making purchases and payments on behalf of and for the sole use and  
benefit of the certificate holder or the certificate holder's spouse.~~

(b) When applying for an exemption certificate, a senior may request one other person to be authorized to present the certificate when making purchases and payments on behalf of and for the sole use and benefit of the senior and the senior's spouse by providing a duly authorized power of attorney granting the designated person lawful authority to enter into transactions involving tangible personal property on the senior's behalf as the senior's agent.

(c) (1) No person may utilize a senior citizen tax exemption certificate to purchase or acquire property or rentals that are to be consumed or utilized by a person or persons other than the certificate holder, the certificate holder's spouse, a dependent of the certificate holder, or another person or persons who would be qualified to have a senior citizen exemption certificate issued to them under this section. As used in this section, "dependent" means a child of the certificate holder or the certificate holder's spouse who resides with the certificate holder when not attending school and who receives more than one-half of his or her support from the certificate holder.

(2) Notwithstanding any other provisions of this chapter, no person may utilize a senior citizen tax exemption certificate to purchase or rent an item or service which will be used or consumed in a commercial business or enterprise or for the production of income.

~~(d) Persons making sales or rentals to or for the benefit of a senior citizen which are exempt from tax under the provisions of this section shall confirm the identity of the person or persons presenting an exemption certificate, if not personally known to them, by requesting identification and shall maintain records of each such exempt sale with an appropriate reference to the senior citizen exemption certificate number. If the person making the sale or rental has reason to believe that it is not for use or consumption by a senior citizen or other qualified user, because of the volume, type of purchase, or other facts, that person shall promptly report the possible fraudulent use of the exemption certificate to the city finance director. The finance director shall investigate the sale or sales, and if the finance director determines that the exemption certificate is being abused, the matter shall be referred to the city manager, who shall conduct such further investigation as is determined necessary and present the facts to the council for authorization to initiate prosecution or revocation action, or both.~~

(e ~~d~~) Senior citizen exemption certificates shall be subject to revocation as provided in KCC 3.08.070.

**Section 3:** Section 3.08.090 Addition of tax, of the Kodiak City Code, is hereby amended by the addition of a new subsection (g) to read as follows:

**3.08.090 Addition of tax**

(g) The seller shall add the tax in accordance with this section unless the buyer is exempt under KCC 3.08.040(f) or presents a certificate of exemption for an exemption under KCC 3.08.040(c) or (v), 3.08.050, or 3.08.055 and the seller confirms the eligibility of the person or persons presenting an exemption certificate by comparing the person's

government issued identification to the names of the eligible shoppers appearing on the exemption certificate.

**Section 4:** Section 3.08.190 Failure to collect taxes, of the Kodiak City Code, is hereby amended to read as follows: [deleted text is ~~struck through~~; added text is underlined]

### **3.08.190 Failure to collect taxes**

(a) Except as provided in subsection (c), a person required by this chapter to collect sales taxes levied, who fails to collect such taxes on taxable transactions, shall be assessed with a civil penalty of double the tax that should have been collected, as determined by an audit.

(b) If any of the following defenses are established, the civil penalty imposed by this section shall be waived:

(1) The securing, in good faith, of a certificate of exemption ~~or a statement of eligibility for exemption~~ from the person against whom the tax would have been levied and confirmation of the eligibility of the person or persons presenting an exemption certificate by comparing the person's government issued identification to the names of the eligible shoppers appearing on the certificate;

(2) Proof of a belief, based upon advice of legal counsel or the city finance director, that the sale, rental, or rendering of service was not subject to the tax levied by this chapter, accompanied by proof of notification in writing to the city manager based on such belief prior to or immediately following the transaction; ~~or~~

(3) A reasonable attempt, in good faith, to collect the tax from the buyer.

(c) If a seller is found to have failed to confirm the eligibility of a person or persons presenting an exemption certificate by comparing the person's government issued identification to the names of the eligible shoppers appearing on the certificate, the seller, as penalty, may not claim as exempt any sales under KCC 3.08.040(c) or (v), 3.08.050, or 3.08.055 for that reporting quarter and shall remit all sales taxes as though they were collected from all exempt buyers.

(1) The finance director shall give written notice to the seller that the seller was found to have failed to confirm the eligibility of the person or persons presenting an exemption certificate by comparing the person's government issued identification to the names of the eligible shoppers appearing on the certificate.

(2) The finance director's determination that a seller failed to confirm the eligibility of the person or persons presenting an exemption certificate by comparing the person's government issued identification to the names of the eligible shoppers appearing on the certificate may be appealed by the seller in accordance with 3.08.180(d) and 3.08.070 (c).

(e d) A purchaser, renter, or other person obtaining property or services who fails to pay the tax levied by this chapter on a taxable transaction shall be assessed with a civil penalty of double the taxes that should have been paid.

(d e) The civil penalties imposed by this section shall be in addition to any other civil or criminal penalties imposed by this chapter.

**Section 5:** Section 6 of this ordinance is of this ordinance is not of permanent and general nature and shall not be included in the Kodiak City Code.

**Section 6:** All exemption certificates issued prior to the adoption of this ordinance shall remain valid through December 31, 2018.

**Section 7:** This ordinance shall be effective one month after final passage and publication.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

First Reading:  
Second Reading:  
Effective Date:

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**CITY OF KODIAK  
ORDINANCE NUMBER XXXX**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING  
TITLE 5 OF THE KODIAK CITY CODE TO ADD A NEW CHAPTER 5.02 REQUIRING  
AN ANNUAL BUSINESS LICENSE**

WHEREAS, the City of Kodiak has the legal authority to require those doing business within city boundaries to obtain a local business license; and

WHEREAS, requiring those doing business within the city to obtain a business licenses will assist the City in administration and collection of the City of Kodiak sales tax; and

WHEREAS, it is in the public interest to assist and improve administration and collection of the City of Kodiak sales tax.

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

Section 1: Kodiak City Code Title 5 is hereby amended by adoption of new Chapter 5.02 to read as follows:

**5.02.010 Business License Required**

- A. Each and every person, wherever located, who engages in any business within the City, which received gross revenues in excess of two hundred dollars the preceding calendar year or is expected to receive gross revenues in excess of two hundred dollars in the current calendar year shall obtain or renew a business license on or before July 1 of each calendar year.
- B. There hereby is levied and assessed an annual business license fee of fifty dollars (\$50) for the privilege of doing any lawful kind of business, trade, profession or other activity in the City.
- C. An application under this section shall be submitted to the Finance Director on a form prepared by the city 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) The location where the applicant will conduct the business;and,
  - (4) 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.
- D. All participants in regularly scheduled nonprofit events and nonprofit organizations sponsoring such events where home craft items are sold are not required to obtain a business license solely for that event.

#### **5.02.020 Definitions**

Unless the context clearly requires otherwise, the following terms shall have the meaning set forth below:

- A. "Business" means:
- i. Practicing, engaging in, carrying on or conducting any exhibition, trade, vocation, occupation, or profession other than as an employee;
  - ii. Offering merchandise for sale, soliciting orders, or making deliveries of any merchandise;
  - iii. Rendering, giving, or selling services of any kind including storage of personal property,
  - iv. Taking orders for merchandise to be subsequently delivered by any agency or means, or accepting payments on orders for merchandise to be delivered subsequently by any agency or means, any or all of which acts or transactions are done within the City.
  - v. Entering the City to do business, to make sales, to make deliveries, or to provide services.
- B. "Business license" means an annual license duly issued by the Finance Director of the City.
- C. "Licensee" means the person issued the business license under this Code.
- D. "Profession" means any occupation requiring advanced education and training, including, but not limited to, accountants, attorneys, architects, chiropractors, dentists, engineers, optometrists, physicians, and surgeons.
- E. "Finance Director" means the finance director of the City and any duly authorized auditor, agent, or other person designated by the Finance Director to perform any of the duties conferred by this Chapter, or to enable the Finance Director to enforce the provisions of this Chapter.

#### **5.02.030 License terms, minimums**

- A. Full year: Every person who commences business before the first day of July of any calendar year shall be subject to and shall pay the annual license fee.
- B. Half Year: Every person who commences business on or after July 1 of any calendar year, shall be subject to and shall pay one-half (1/2) of the annual license fee.
- C. The license fee is nonrefundable.
- D. Annual renewal: The business license shall be due on July 1 of each year and

shall be renewed annually on or before the thirty-first day of July of each year.

1. If the due date for payment of any business license falls on a weekend or a holiday recognized by the City from time to time, the due date shall automatically be extended to the next business day.

2. On or before May 31 of each year, a renewal reminder shall be emailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the City.

3. Licensees shall furnish the City any address changes for their business prior to May 1. Any delays in receipt of a renewal notice due to licensees' failure to furnish address changes shall not extend the due date for license renewal or payment of the annual fee.

4. The failure of the City to mail the renewal reminder shall not prevent the City from enforcing its business license laws against a taxpayer but shall preclude the City from assessing fines and penalties for late payment until thirty (30) days after a renewal reminder is mailed to the taxpayer.

E. Business license renewal payments received by the City shall be applied to the current renewal only after all other undisputed debts the licensee owes to the City are first paid in full. No business license shall be issued if the current renewal payment does not meet said prior obligations plus the current renewal fee. Failure to pay such sums shall subject the licensee to penalties for doing business without a license.

#### **5.02.040 Licenses for Each Line of Business**

Every person engaged in more than one (1) line of business falling within the schedule of licenses shall be required take out and pay for a license for each line of business.

#### **5.02.050 Restrictions on Transfer of License**

A. No license shall be transferred except with the consent of the Finance Director or designee.

B. A mere change in name or ownership of a taxpayer that is a corporation, partnership, limited liability company, or other form of legal entity now or hereafter recognized by the laws of the state shall not constitute a transfer for purposes of this chapter, unless the change requires the taxpayer to obtain a new federal employer identification number.

#### **5.02.060 License Register**

A. All of the license fees due the City shall be collected by the Finance Director; it shall also be his or her duty to keep a correct register of all such licenses.

B. The Finance Director shall notify all persons who have either failed to

pay the annual fee or failed to obtain a business license of their delinquency, and upon failure of those so notified to procure their license, the Finance Director may commence any remedy permitted by law, provided, however, that failure to notify a person of said delinquency does not excuse any violation of this chapter.

**5.02.070 Unlawful To Do Business Without a License**

It shall be unlawful for any person, taxpayer, or agent of a person to taxpayer to engage in businesses or vocations in the City for which a license is required without first having procured a license. Violations are punishable as a minor offense with the fine amount set by Section 1.12.040(c) of this Code.

**5.02.080 License Must Be Posted**

Every license shall be posted in a conspicuous place, where said business, trade, or occupation is carried on.

**5.02.090 Procedure for Denial of New Applications**

- A. The Finance Director shall have the authority to deny the issuance of any license. The license shall be issued or denied within thirty days after the application has been made and the fee paid. If the license is denied, the reasons for the denial will be stated in writing to the applicant.
- B. If said applicant desires to appeal the denial to the City Manager, he/she shall file a written notice with the City Clerk, said notice to be filed within two (2) weeks from the date of mailing of the notice of denial of such license.
- C. Upon receipt of said notice, the City Clerk shall promptly schedule a hearing to be held within fifteen (15) days from the date of receipt of such notice, before the City Manager and City Clerk or designee and shall give notice of the date, time, and place of said hearing to the applicant.
- D. The applicant shall be given the opportunity to appear personally, or through his counsel, or both, and the council shall proceed to hear any evidence which may be presented both for and against the issuance of said license.
- E. If the city manager determines from the evidence presented that said license should not be granted, the manager shall enter an order to that effect stating the reasons for denial; otherwise, said license shall be ordered issued upon payment of any required license fee.

**5.02.100. Revocation, Suspension, or Nonrenewal of a License, and Procedure for Same**

- A. Any lawful license issued to any person to conduct any business shall be subject to revocation or suspension by the Finance Director for the violation by the licensee, his agent, servant, or employee, of an provision of this Code or of any ordinance of the City, or any statute of the State relating to the business for which such license is used; and shall also be subject to revocation or suspension by the Finance Director if the licenses, his agent, servant, or employee, under color of such license violates or aids or abets in violating or knowingly permits or suffer to be

violated any penal ordinance of the City or any criminal law; and shall also be subject to revocation or suspension by the Finance Director if, in connection with the issuance or renewal of any license, the licensee or his agent filed or caused to be filed any application, affidavit, statement, certificate, book, or any other data containing any false, deceptive, or other misleading information or omission of material fact.

B. The condition hereinabove set forth as grounds for the revocation or suspension of a license shall also constitute grounds for refusing to renew a license.

C. The City Clerk shall set a time for hearing on the matter of revoking, suspending, or refusing to renew a license; and notice of such hearing shall be given to the licensee or the applicant for renewal, as the case may be, at least ten (10) days before the day set for said hearing.

D. If, following the hearing contemplated by paragraph C of this section, the City revokes the license, then no new license shall be issued to the licensee, or to any other firm in which the licensee or any of its stockholders or owners is interested, for a period of twelve (12) months.

E. No new license shall be issued for a period of twelve (12) months for the operation or conduct of any business that is the same, or of similar nature, as that engaged in by the licensee at the premises or location at which the licensee conducted such business if the revocation or non-renewal of the license is based, in whole or in part, on:

(1) A finding that the operation of such business at such premises or location has led to or resulted in the creation of a nuisance; or

(2) A finding that the operation of such business at such premises or location has created, caused or led to circumstances that are detrimental to adjacent residential neighborhoods; or

(3) A finding that the operation of such business at such premises or location has created, caused or led to circumstances that are detrimental to the public health, safety, or welfare; or

(4) A finding that the operation of such business at such premises or location has resulted in a violation of applicable zoning restrictions or regulations; or

(5) A finding that a licensee, his agent, servant, or employee has permitted or suffered to allow habitual conduct which violates applicable state laws or regulations or City ordinances relating to the business for which such license was issued.

Section 2: Kodiak City Code Section 1.12.040(c) is hereby amended by adding a new scheduled fine to read as follows:

KCC [5.02.010](#)

Business License Required

\$50

Section 3: Effective Date. This ordinance shall be effective the later of May 1, 2018 or the date that is one month after final passage and publication in accordance with Kodiak Charter Section 2–13.

CITY OF KODIAK

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MAYOR

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ATTEST:

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CITY CLERK

First Reading:  
Second Reading:  
Effective Date:

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**CITY OF KODIAK  
RESOLUTION NUMBER 2018-06**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK RESCINDING RESOLUTION NO. 2017-13 AND ESTABLISHING FUNDING CRITERIA FOR NONPROFIT GRANTS**

WHEREAS, the City Council recognizes and supports local nonprofit organizations and has historically made funding and in-kind contributions available to these organizations on an annual basis; and

WHEREAS, it has been determined that the appropriate total amount of City funds to grant to nonprofit organizations is a maximum of one percent of budgeted general fund revenues, not to exceed \$175,000 until such time as the fund balance of the General fund reaches an accumulation of six months of operating expenditures, exclusive of any fund balance appropriation and transfers to capital project funds; and

WHEREAS, City funds and in-kind contributions have been provided to nonprofit organizations that supplement and compliment the services provided to residents by the City; and

WHEREAS, it is the intent of the City Council to update this policy statement.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Kodiak, Alaska hereby establishes the following additional funding criteria for nonprofit grants provided by the City:

1. Organizations receiving funds must be legally recognized by the Internal Revenue Service.
2. Organizations are limited to one funding criteria or program per year, not including in-kind contributions authorized by the Council.
3. Funding will be granted only for the following kinds of programs/activities and up to the maximum identified funding amount per organization and program type as defined:
  - a. Youth Recreation Programs \$5,000

Indoor and outdoor recreational activities typically include games and pursuit of hobbies and activities that one engages in, for entertainment. Typically included in this category are activities like baseball, football, hockey, swimming, basketball, wrestling, cheerleading singing, reading, listening to music, watching movies, dancing, and aerobics.

- b. Adult Recreation Programs \$5,000

Indoor and outdoor recreational activities typically include games and pursuit of hobbies and activities that one engages in, for entertainment. Typically included in this category are activities like baseball, football, hockey, swimming, basketball, wrestling, cheerleading singing, reading, listening to music, watching movies, dancing, and aerobics.

- c. Public Safety Support Programs \$15,000

Programs serving the entire Kodiak area through its emergency shelters and food service programs. Typically included in this category are food banks, soup kitchens, sleeping shelters, crisis centers, senior services and animal shelters.

- d. Emergency Response Support Programs \$15,000

Programs that provide humanitarian relief, disaster relief and education designed to mitigate local disasters. Typically included in this category are emergency temporary shelters, counseling, public awareness and basic humanitarian needs.

- 4. Subject to available funding, the Council may authorize a special one-time funding increase for a special project.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

Adopted:



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**CITY OF KODIAK  
ORDINANCE NUMBER XXXX**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING  
THE CITY CODE CHAPTER 3.28 CITY ENHANCEMENT FUND**

WHEREAS, the City of Kodiak Enhancement fund was established from appropriations to be maintained separate and apart from all other funds and accounts of the City; and

WHEREAS, the Enhancement fund receives deposits through general fund surplus, gross proceeds from the sale and/or lease of municipal property, or other Council approved appropriations; and

WHEREAS, the unassigned fund balance of the General Fund has been reduced slowly over time; and

WHEREAS, it is a goal of the Council to strive for an accumulation of unassigned fund balance of the General fund to equal or exceed six months of General fund operating expenditures.

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

Section 1: Section 3.28.020 Deposits, of the Kodiak City Code, is hereby amended to add the following requirements to subsection (a) and are added to read as follows:

**3.28.020 Deposits**

- (a) If the unassigned fund balance of the general fund equals or exceeds six months of general fund operating expenditures, fifty percent of the prior fiscal year's general fund surplus shall be deposited in the city enhancement fund by January 1 of the succeeding year. For purposes of this subsection, a "general fund surplus" is defined as the excess of revenues and other financing sources over expenditures and other financing uses, plus any residual equity transfers in less any residual equity transfers out, as identified in the audited general fund statement of revenues, expenditures, and changes in fund balance.
  
- (b) Fifty percent of the gross proceeds from the sale or lease of municipal real property will be deposited in the city enhancement fund; provided, however, that proceeds allocated to enterprise funds and proceeds from the lease of property with an annual income of less than \$10,000 shall be exempt from these deposit requirements.

- (c) Any actual earnings from the fund shall be deposited in the city enhancement fund until the reconciliation of the inflation proofing at the end of each fiscal year.
- (d) The council may, by ordinance, make additional appropriations to the fund at any time.

Section 2: Chapter 3.28.040 Inflation Proofing, of the Kodiak City Code, is hereby amended to add a new subsection to read as follows;

**3.28.040 Inflation Proofing**

- (a) Each fiscal year, the funds shall be inflation proofed from the earnings of the city enhancement fund as calculated by multiplying the city enhancement fund balance at the beginning of each fiscal year by an inflation factor. The inflation factor will be determined by calculating the average percentage increase in the U.S. Department of Commerce Consumer Price Index for U.S. city average, all items' indices, January index, for the five-year period ending with the current fiscal year.
- (b) Earnings in excess of the inflation-proofing amount shall be deposited in the general fund by the close of each fiscal year.
- (c) If the unassigned fund balance of the general fund equals or exceeds six months of general fund operating expenditures, and earnings are not in excess of the inflation-proofing amount, the general fund shall transfer to the enhancement fund the amount by which earnings do not equal the inflation-proofing amount by the close of each fiscal year.

Section 3: Sections 1 and 2 of this ordinance are of a permanent and general nature and shall be included in the Kodiak City Code.

Section 4: This ordinance shall be effective one month after final passage and publication.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

First Reading:  
Second Reading:  
Effective Date:

Ordinance No. xxxx  
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