



TITLE 3

REVENUE & FINANCE

Thorne Bay Municipal Code

CODIFIED MARCH 2022

TITLE 3 - REVENUE AND FINANCE:

TABLE OF CONTENTS:

CHAPTER 3.04 - FISCAL POLICIES5

3.04.010 BUDGET AND CONSTRUCTION PROGRAM.	5
3.04.020 CITY OBLIGATIONS.	5
3.04.030 FISCAL YEAR.	5
3.04.040 FUNDS DESIGNATED.	5
3.04.050 AUDIT OF CITY GOVERNMENT ACCOUNTS.	6
3.04.060 – GAMING ACCOUNT, DISPOSITION OF NET PROCEEDS UPON DISSOLUTION OF ORGANIZATION.	6

CHAPTER 3.08 - BUDGET SECTIONS:7

3.08.010 SCOPE OF BUDGET.	7
3.08.020 ANTICIPATED REVENUES-DESIGNATED.	7
3.08.030 ANTICIPATED REVENUES-COMPARISON TO PREVIOUS YEARS.	7
3.08.040 PROPOSED EXPENDITURES-DESIGNATED.	7
3.08.050 PROPOSED EXPENDITURES-COMPARISON TO PREVIOUS YEARS.	8
3.08.060 BUDGET SUMMARY.	8
3.08.070 BUDGET TO BE PUBLIC RECORD.	8
3.08.080 PUBLIC HEARING-NOTICE.	8
3.08.090 PUBLIC HEARING-REQUIRED.	8
3.08.100 AMENDMENT RESTRICTIONS.	8
3.08.110 ADOPTION-VOTE REQUIRED.	9
3.08.120 EFFECTIVE DATE-CERTIFICATION.	9

CHAPTER 3.12 - PURCHASING SECTIONS:10

3.12.010 PURPOSE.	10
3.12.020 DEFINITIONS	10
3.12.030 ETHICS.	13
3.12.040 MANNER OF MAKING PROCUREMENTS GENERALLY.	14
3.12.050 LIMITATIONS ON DURATION OF CITY CONTRACTS.	15
3.12.060 APPROVAL OF CITY COUNCIL REQUIRED – PROCUREMENTS.	15
3.12.070 EMERGENCY PROCUREMENTS.	16
3.12.080 APPROVAL OF CITY COUNCIL REQUIRED-MODIFICATIONS AND CHANGE ORDERS.	16
3.12.090 SPECIFICATIONS AND CONTRACTS.	17
3.12.100 COMPETITIVE PROCUREMENT PROCEDURE.	17
3.12.110 COMPETITIVE BIDDING.	18
3.12.120 COMPETITIVE PROPOSALS.	20

3.12.130 OPEN MARKET PURCHASES/PROCUREMENTS.	21
3.12.140 PROFESSIONAL SERVICES.	22
3.12.150 HYBRID PROCUREMENTS.	23
3.12.160 CONSTRUCTION MANAGER/GENERAL CONTRACTOR CONTRACTS.	23
3.12.170 CONTRACTOR BONDING REQUIREMENTS.	23
3.12.180 RECORDS.	24
3.12.190 REVIEW AND APPROVAL BY THE MAYOR AND/OR CITY ATTORNEY.	24
3.12.200 INSURANCE POLICIES.	25
3.12.210 SUBDIVISION PROHIBITED.	25
3.12.220 ENCUMBRANCE OF FUNDS.	25
3.12.230 BILLING-PAYMENT CERTIFICATION.	25

CHAPTER 3.15 - SHORT TERM INVESTMENT POLICY27

3.15.010- INVESTMENT OF OPERATING FUNDS;	27
3.15.020-TREASURY MANAGEMENT.	27
3.15.030-PERMISSIBLE INVESTMENTS.	27

CHAPTER 3.17 - CONSUMER'S SALES TAX29

3.17.010 DEFINITIONS.	29
3.17.011 DELIVERY CHARGES.	32
3.17.012 EMPLOYEES/SUBCONTRACTORS--SALE OF SERVICES.	32
3.17.015 MULTIJURISDICTIONAL SERVICES.	32
3.17.020 LEVY OF TAX.	33
3.17.025 RULES APPLICABLE TO PARTICULAR BUSINESS OCCUPATIONS	34
3.17.030 DUTY OF SELLER TO COLLECT.	34
3.17.35 TEMPORARY SUSPENSION OF SALES TAX COLLECTION.	34
3.17.040 TAX ADDED TO SALES PRICE.	35
3.17.050 UNLAWFUL FOR SELLER TO FAIL TO COLLECT.	35
3.17.051 COLLECTION OF SALES TAX AND NOT DUE.	35
3.17.060 TAX TO BE PAID QUARTERLY.	35
3.17.065 REGISTRATION.	36
3.17.070 DUTY TO KEEP BOOKS--INVESTIGATION.	36
3.17.080 PENALTY AND INTEREST ON DELINQUENT TAXES.	37
3.17.085 SALES TAX LIENS.	37
3.17.090 SALE OF BUSINESS--FINAL RETURN--LIABILITY OF PURCHASER.	38
3.17.100 EXEMPTIONS.	39
3.17.110 SALES TAX EXEMPTION FOR THE ELDERLY.	41
3.17.120 UNLAWFUL TO MISREPRESENT EXEMPTIONS.	42
3.17.130 USE OF PROCEEDS OF SALES TAX.	42
3.17.150 REGULATIONS AUTHORIZED.	43
3.17.180 PROTEST OF TAX.	43
3.17.190 FORGIVENESS OF UNCOLLECTED TAXES, PENALTIES AND INTEREST.	43
3.17.200 APPEALS.	44

3.17.210 CLERICAL ERRORS OR OMISSION, REFUND OF SALES TAX; PENALTY AND INTEREST. 45
3.17.220 Alaska uniform remote seller sales tax code adopted by reference. 46

CHAPTER 3.18 - TRANSIENT OCCUPANCY TAX:47

3.18.010 TITLE AND PURPOSE. 47
3.18.020 DEFINITIONS. 47
3.18.030 TAX IMPOSED. 48
3.18.040 EXEMPTIONS. 49
3.18.050 OPERATOR’S DUTIES. 49
3.18.060 REGISTRATION. 49
3.18.070 TAX TO BE PAID QUARTERLY. 50
3.18.080 PENALTY AND INTEREST ON DELINQUENT TAXES. 51
3.18.085 OCCUPANCY TAX LIENS. 51
3.18.090 DUTY TO KEEP BOOKS-INVESTIGATION. 52
3.18.100 ACTIONS TO COLLECT. 53
3.18.110 VIOLATIONS. 53
3.18.120 SEVERABILITY. 54
3.18.130 UTILIZATION OF REVENUES. 54
3.18.140 REVENUE COLLECTOR’S REGULATIONS. 54
3.18.150 SALE OF BUSINESS-FINAL RETURN-LIABILITY OF PURCHASER. 54
3.18.160 APPEAL. 55

CHAPTER 3.20 CITY CHECKS SECTIONS:.....56

3.20.010 SIGNATURE-ISSUANCE APPROVAL. 56
3.20.020 INSUFFICIENT FUNDS. 56
3.20.030 MINIMUM CHECKING ACCOUNT BALANCE. 56

CHAPTER 3.04 - FISCAL POLICIES**3.04.010 BUDGET AND CONSTRUCTION PROGRAM.**

- A. The mayor shall arrange for the preparation of a budget and construction program. The budget and construction spending proposals shall be submitted as an ordinance.
- B. After public hearing, the council may approve budgets with or without amendments and shall appropriate the funds required. (Prior code Ch. 28 § 1)

3.04.020 CITY OBLIGATIONS.

- A. A bond, contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made by ordinance and approved by the voters.
- B. The council may make supplemental and emergency appropriations. No payment may be authorized or made, and no obligation incurred unless an appropriation has been made by ordinance.
- C. The council may authorize contracts for construction improvements to be financed wholly or partly by the issuance of bonds. (Prior code Ch. 28 § 2)

3.04.030 FISCAL YEAR.

The fiscal year of the municipality shall begin on the first day of July and end on the last day of June in the calendar year. (Ord. 87-11, 1987: prior code Ch. 28 § 3)

3.04.040 FUNDS DESIGNATED.

Funds designated for the city:

- A. General fund;
- B. Federal revenue sharing fund;
- C. State revenue sharing fund;
- D. Construction project fund;
- E. Debt retirement fund;
- F. Enterprise fund;

Other funds which may be created as needed by resolution of the city council. (Ord. 89-03 §4,1989: prior code Ch. 28 § 4)

3.04.050 AUDIT OF CITY GOVERNMENT ACCOUNTS.

Prior to the end of each fiscal year the council shall designate a qualified individual who, as of the end of the fiscal year, shall make an independent audit or financial statement. Such person shall have no personal interest, direct or indirect, in the financial affairs of the city or of any of its officers. (Prior code Ch. 28 § 5)

3.04.060 – GAMING ACCOUNT, DISPOSITION OF NET PROCEEDS UPON DISSOLUTION OF ORGANIZATION.

Upon dissolution, any remaining net proceeds from gaming activity under AS 05.15 will be distributed to one or more existing permittees, other than a multiple-beneficiary permittee, in accordance with 15 AAC 160.020(a)(5). (Ord. 17-07-18-03)

CHAPTER 3.08 - BUDGET SECTIONS:**3.08.010 SCOPE OF BUDGET.**

- A. The budget shall be a complete financial plan for all the operations of the municipality, showing dollar reserves, anticipated revenues, and proposed expenditures.
- B. The budget shall include a comparative statement of projected actual expenditures and projected actual revenues for the preceding year and the budgeted current fiscal year.
- C. Proposed operating expenditures shall not exceed total anticipated revenues. Capital expenditures shall not exceed anticipated revenues and cash reserves. (Ord. 88-42 § 1, 1988; prior code Ch. 30 § 1)

3.08.020 ANTICIPATED REVENUES-DESIGNATED.

- A. Anticipated revenues shall be composed of taxes, licenses and permits, intergovernmental revenue, charges for services, fines and forfeits and, miscellaneous revenue.
- B. Cash reserves shall be composed of prior revenue carryover and reserves.

3.08.030 ANTICIPATED REVENUES-COMPARISON TO PREVIOUS YEARS.

In the anticipated column opposite the items of anticipated revenues there shall be placed the projected amount of each such item actually received in the preceding year. (Ord. 88-42 § 3, 1988; prior code Ch. 30 § 3)

3.08.040 PROPOSED EXPENDITURES-DESIGNATED.

Proposed expenditures shall be itemized. Separate provisions shall be included in the budget for at least:

- A. Interest, amortization of principal and redemption charges on the public debt for which the faith and credit of the municipality is pledged;
- B. Administration, operation and maintenance of each office, department or agency of the municipality;
- C. Council's budgetary reserve;
- D. Expenditures proposed for construction projects including provisions for down payments on capital projects. (Prior code Ch. 30 § 4)

3.08.050 PROPOSED EXPENDITURES-COMPARISON TO PREVIOUS YEARS.

In a parallel column opposite the several items of proposed expenditures there shall be placed the projected amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year. (Ord. 88-42 § 5, 1988; prior code Ch. 30 § 5)

3.08.060 BUDGET SUMMARY.

At the head of the budget there shall appear a summary of the budget, which need not be itemized. Principal sources of anticipated revenues, and kinds of expenditures by department, shall be stated in such a manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget. (Prior code Ch. 30 § 6)

3.08.070 BUDGET TO BE PUBLIC RECORD.

The budget, the budget message, the construction improvement program, and all supporting schedules shall be a public record in the office of the clerk, open to public inspection by anyone. The mayor, or the mayor' designee shall cause to be prepared for distribution to interested persons, copies of the budget and budget message. (Prior code Ch. 31 § 1)

3.08.080 PUBLIC HEARING-NOTICE.

The council shall determine the place and time of the public hearing on the budget and shall post such notice in three places in the city. The council shall include in the notice a summary of the budget and capital improvement program and a statement setting out the time and place for a public hearing. (Prior code Ch. 31 § 2)

3.08.090 PUBLIC HEARING-REQUIRED.

At the time and place so advertised, the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof. (Prior code Ch. 31 § 3)

3.08.100 AMENDMENT RESTRICTIONS.

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures

fixed by law. The council may not vary the titles, descriptions or conditions of administration specified in the budget. (Prior code Ch. 31 § 4)

3.08.110 ADOPTION-VOTE REQUIRED.

The budget shall be adopted by favorable votes of at least a majority of all the members of the council, no later than the last meeting in June. (Ord. 87-13, 1987: prior code Ch. 31 § 5)(Ord. 13-04-16-01)

3.08.120 EFFECTIVE DATE-CERTIFICATION.

Upon adoption of the budget, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be certified by the mayor and the clerk and filed in the office of the clerk. The budget so certified shall be printed, mimeographed or otherwise reproduced, and sufficient copies shall be made available for the use of all officers, departments and agencies and for interested persons and civic organizations through the clerk's office. (Prior code Ch. 31 § 6)

CHAPTER 3.12 - PURCHASING SECTIONS:**3.12.010 PURPOSE.**

The purpose of this chapter is to:

- A. Establish consistent procurement principles for all departments of the city;
- B. Maximize to the fullest extent practicable the purchasing value of city funds;
- C. Clearly define authority for the purchasing function within the city organization; and
- D. Encourage local procurement, strengthen and stabilize the local economy, decrease local unemployment, strengthen the tax and revenue base of the city, and assist small and disadvantaged businesses in learning how to do business with the city.

(Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 1, 1985)

3.12.020 DEFINITIONS

As used in this chapter:

“Bid” means any response to a public solicitation for the purpose of acquiring goods or services that provides an opportunity for qualified vendors to compete, either monetarily or based on other predetermined criteria.

“Construction” means the on-site erection, alteration, extension, repair, improvement or demolition of any public structure, building, facility, road or highway, or other improvements of any kind to any public real property. This includes painting and redecorating of structures, buildings or real property, but does not include routine operation, minor repair or maintenance. Construction is a contractual service.

“Contract” means all types of city agreements, regardless of what they may be called, for the procurement or disposal of supplies, or contractual services.

“Contract Amendment” means any change or modification in the terms of a contract accomplished by agreement of the parties, including change orders.

“Contractor” means the person or firm who has entered into a binding contract or agreement with the city to provide supplies, services, professional services, construction or disposal of surplus supplies.

“Contractual Services” means services performed for the city by persons not in the employment of the city and may include the use of equipment or the furnishing of commodities in connection with such services under express or implied contract. Contractual services shall include travel; freight; express; parcel post; postage;

telephone; telegraph; utilities; rents; printing and binding; repairs; alterations and maintenance of buildings, equipment, streets, bridges and other physical facilities of the city; and other services performed for the city by persons not in the employment of the city. Contractual services include professional services and construction.

“Crisis,” “Emergency,” or “Disaster” means an unanticipated event or set of circumstances that requires immediate action to avoid threats to life or property or to avoid an immediate, significant liability to the city, or to otherwise respond to such threats or damage resulting therefrom as declared in accordance with the city charter and code.

“Financial Interest” means a direct or indirect pecuniary or material benefit accruing to a city official or employee as a result of a contract or transaction by or with the city except for such contracts or transactions which by their terms and by substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. A financial interest does not include city paid remuneration for official duties or city employment. A person has a financial interest in a decision if a substantial possibility exists that a financial interest of that person might vary with the outcome of the decision.

A financial interest of an employee or official includes:

1. Any financial interest of a member of that person’s immediate family, which is defined as a person’s parents, spouses, siblings, and children;
2. Any financial interest in an entity in which that person or a member of his immediate family has an ownership interest, or is a director, officer or employee;
3. Any financial interest of a person or entity with whom the employee or official or a member of his immediate family or an entity described in subsection (2) of this definition has or is likely to acquire a contractual relationship relating to the transaction in question.

“Immediate Family” means a person’s parents, spouse, siblings, and children.

“Invitation to Bid” means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

“Local Bidder” means a bidder that is not delinquent in the payment of any taxes, fees, assessments, or other charges owing the city and satisfies one of the requirements set forth in subsections (1) through (3) of this definition for a period of eighteen consecutive months immediately prior to the opening of a competitive city bid for which the bidder wishes to utilize the local bidder preference:

1. If the bidder is a corporation or limited liability company, the bidder's primary business address has a city of Thorne Bay postal zip code, as reflected on the bidder's state of Alaska business license or the records of the state of Alaska department of commerce, community and economic development, division of corporations;
2. If the bidder is an individual, the bidder's primary business or residential address has a city of Thorne Bay postal zip code, as reflected on the bidder's state of Alaska business license;
3. If the bidder is a general partnership, a limited partnership, or a joint venture, at least one of the general partners has a postal zip code compliant with subsection (1) or (2) of this definition.

"Person" means an individual, group of individuals, business, entity, nonbusiness association, other governmental entity, or advisory board created by the city.

"Procurement" means buying, purchasing, renting, leasing or otherwise acquiring supplies, services, professional services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

"Procurement Agent" means the mayor, city administrator, city clerk, finance officer or designee with procurement authority.

"Professional Services" means all advisory, consulting, technical, research or other services, such as architectural, engineering, land surveying, legal and financial, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise or training gained by formal studies or experience.

"Purchase Order" means a document authorizing a seller to deliver supplies, materials, or equipment with payment to be made at a later date. A purchase order sets forth the descriptions, quantities, prices, discounts, payment terms, date of performance or shipment, other associated terms and conditions, and identifies a specific seller.

"Request for Proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

"Request for Qualifications" means all documents, whether attached or incorporated by reference, utilized for soliciting qualifications.

“Responsible bidder” or “responsible offeror” means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability, which will assure good faith performance.

“Responsive Bidder” means a person who has submitted a bid that conforms in all material respects to the invitation for bids.

“Standard Specification” means a description of generally applicable requirements for a specific type of procurement including but not limited to requirements for performance, licensing, inspecting, testing and delivery.

“Supplies” means any tangible personal property or consumables. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 2, 1985)

3.12.030 ETHICS.

- A. It shall be a conflict of interest for any employee to participate directly or indirectly in a procurement when the employee knows that:
 - 1. The employee or any member of the employee’s immediate family has a financial interest pertaining to the procurement;
 - 2. A business or organization in which the employee, or any member of the employee’s immediate family, has a financial interest pertaining to the procurement; or
 - 3. Any other person, business, or organization with whom the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- B. All employees shall file and maintain a statement of potential conflicts of interest with the city clerk. The statement of potential conflicts of interests shall identify all persons that would present a conflict of interest if the employee were to procure supplies or contractual services from them and describe the nature of the conflict. The city administrator may preclude or otherwise limit an employee’s authority to procure from persons that present a potential conflict of interest.
- C. Upon discovery of an actual conflict of interest, an employee shall promptly file a written statement describing the conflict of interest with the city administrator. The city administrator may require the employee to withdraw from further participation or otherwise limit the employee’s participation in the procurement involved.
- D. Every officer and employee of the city is expressly prohibited from accepting directly or indirectly from any person to which any such contract is or might be awarded any rebate, gift, money or anything of pecuniary value, except where given

for the use and benefit of the city or where accepted with the express consent of the city council.

- E. No person shall offer, give or agree to give any employee or former employee, nor shall any employee or former employee solicit, demand, accept or agree to accept from another person a gratuity, kickback or offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a procurement.
- F. No employee shall be retained nor retain another person to solicit or secure a city contract upon an agreement of understanding for a commission, percentage, brokerage or other contingent fee.
- G. No payment, gratuity or offer of employment shall be made by or on behalf of a subcontractor under a contract to a prime contractor or higher tier subcontractor or any person associated with a contract as an inducement for award of a subcontract or order. (Ord. 22-02-01-01; Prior Ord. 85-01- 17-02 § 4, 1985)

3.12.040 MANNER OF MAKING PROCUREMENTS GENERALLY.

- A. The procurement of all supplies, materials, equipment and contractual services for the offices, departments and agencies of the city government shall be made by the purchasing agent as defined in section 3.12.020, and in accordance with purchase authorizations provided under this chapter.
- B. All procurements for contractual services estimated by the procurement agent to be over ten thousand dollars in value shall be memorialized in a formal written contract to be executed by the parties bound to its terms and setting out the specific terms of performance. Procurements for contractual services estimated by the procurement agent to be under ten thousand dollars in value may be completed by purchase order. All procurements for supplies, materials, and equipment may be completed by purchase order. All contracts shall include standard terms and conditions approved by the mayor.
- C. Subject to the limitations of this section, any type of contract which will promote the best interests of the city may be used. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the city than any other type or that it is impracticable to obtain the supplies or contractual services required except under such a contract.
- D. All provisions of this chapter are subject to, and subordinate to, procurement requirements of the state or federal government where required by law including but not limited to contracts where state or federal grant revenues are used.
- E. Where applicable, all city contracts must comply with the public contract requirements provided by state statute and regulation including but not limited to:
 - 1. Wage and hour requirements under as 36.05;
 - 2. Local hire and employee preference requirements under as 36.10;

3. Contractor bonding requirements under as 36.25;
 4. Public construction contract payment requirements under as 36.90; and
 5. Mandatory contractual provision requirements under as 36.90.
- F. The city clerk shall establish and maintain lists of persons who desire to provide supplies, services, professional services or construction services to the city.
1. A person who desires to be on a bidder's list shall submit to the city clerk evidence of a valid state business license and a description of the supplies or services the person desires to provide. A construction contractor shall also submit a valid certificate of registration issued under as 08.18. The city clerk may require submission of additional information.
 2. The list may be used by the city procurement agent responsible for the procurement when issuing invitations to bid or requests for proposals.
- G. The city shall make reasonable efforts to solicit bids and proposals from local suppliers and contractors.

3.12.050 LIMITATIONS ON DURATION OF CITY CONTRACTS.

- A. All contracts must, by the terms thereof, be fully executed within a period of five years unless a majority of the city council who vote thereon have approved the contract prior to execution.
- B. This requirement does not apply to contracts concerning interests in real property, franchises, contracts for services with a public utility or with other governmental units, or to contracts for debt secured by the bonds or notes of the city. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 5, 1985)

3.12.060 APPROVAL OF CITY COUNCIL REQUIRED – PROCUREMENTS.

Every procurement of budgeted supplies, materials, equipment or contractual services for more than twenty-five thousand dollars shall require the approval of the city council. Procurements over five thousand dollars for supplies, materials, equipment, or contractual services that (a) are not specifically in budget for the year of procurement or (b) exceed the budgeted amount require council approval. For each budgeted procurement between five thousand dollars and twenty-five thousand dollars that does not require council approval, the city council shall be notified by written report detailing such procurement at the next regular city council meeting following such procurement. Such notification shall include:

- A. The dollar amount of the procurement;
- B. The name of the supplier or contractor;

- C. A statement regarding why the chosen supplier or contractor was most advantageous to the city. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 6, 1985)

3.12.070 EMERGENCY PROCUREMENTS.

The provisions of this chapter may be waived during times of crisis, emergency or disaster for no longer than seven days when operating under a declaration of emergency issued by the mayor. All provisions of this chapter waived while operating under a declaration of emergency issued by the mayor shall be reported to the city council via electronic mail within twenty-four hours following any such waiver. The city council may waive the provisions of this chapter for a definite period longer than seven days by resolution. The city administrator or authorized successor shall have the responsibility to protect the interest of the city consistent with prudent and appropriate emergency responses. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 8, 1985)

3.12.080 APPROVAL OF CITY COUNCIL REQUIRED-MODIFICATIONS AND CHANGE ORDERS.

- A. A proposed modification or change order to an existing city contract shall require the approval of the city council when the proposed modification or change order increases the contract amount by ten thousand dollars or more. No work may proceed under a modification or change order requiring city council approval prior to approval by the city council.
- B. The council shall be notified by written report at its next regular meeting of any modification or change order in excess of five thousand dollars. Such notification shall include:
1. The dollar amount of the original contract;
 2. The number of previous modifications or change orders;
 3. The dollar amount of each previous modification or change order and the total aggregated dollar amount of the previous modifications and change orders;
 4. The total dollar amount of the contract as modified or changed; and
 5. A statement explaining the justification or need for the modification or change order.
- C. Modifications and change orders shall not be arbitrarily divided into smaller amounts to avoid council approval thereof.
- D. Notwithstanding any of the foregoing provisions of this section, the city may make modifications or change orders in any city contract without council approval where in the judgment of the city administrator a crisis, emergency or disaster as defined in

section 3.12.020 exists which requires immediate action to remedy and where there is insufficient time or it is impractical to obtain council approval. Notice of such crisis, emergency or disaster modifications or change orders containing the information set forth in subsection b of this section shall be presented to the council no later than its next regular meeting. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 9, 1985)

3.12.090 SPECIFICATIONS AND CONTRACTS.

- A. The city administrator shall adopt policies and procedures governing the preparation, revision and content of standard specifications, standard plans and contracts for supplies, services, professional services and construction required by a department. The city administrator shall monitor the use of these standard contracting documents and procedures.
- B. The city administrator may obtain expert advice and assistance from department personnel in the development of standard specifications and contracts. All contract specifications, forms and procedures must promote overall economy for the purposes intended and encourage competition in satisfying the city's needs and may not be unduly restrictive. (Ord. 22-02-01-01)

3.12.100 COMPETITIVE PROCUREMENT PROCEDURE.

- A. Before the procurement of, or contract for, supplies, materials, equipment or contractual services in an amount of twenty-five thousand dollars or less is made, except as otherwise provided in this chapter, the city shall submit to at least three persons dealing in and able to supply the same an invitation to bid or request for proposal and specifications to give them opportunity to submit a proposal or bid. In the event that three persons cannot reasonably be found, fewer may be used when it is deemed to be in the best interest of the city.
- B. For procurement of, or contract for, supplies, materials, equipment or contractual services in an amount greater than twenty-five thousand dollars, an invitation to bid or request for proposal will be posted on the city website, and the city shall employ such other forms of notice of such invitation to bid or request for proposal as may be determined in the city's discretion to adequately reach prospective bidders or offerors. The city shall provide adequate notice of the invitation to bid or request for proposal for at least fourteen days unless otherwise required by state or federal law. Among the forms of notice employed by the city, the city may in its discretion:
 - 1. Publish such invitation, request, or notice thereof in such newspapers or other publications circulated to reach prospective bidders;
 - 2. Post notices in public places thought likely to reach prospective bidders.

Invitations to bid and/or requests for proposals shall be made both inside and outside of the city when necessary to create competitive conditions, or when a savings can be made for the city. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 10, 1985)

3.12.110 COMPETITIVE BIDDING.

- A. Procurements shall be made by competitive sealed bidding except as otherwise provided in this chapter. When competitive sealed bidding is used, the procurement agent shall issue an invitation to bid. The invitation to bid must include a time, place and date by which the bid must be received, a description of all essential contractual terms and conditions, and a description of all requirements and selection criteria.
- B. When responding to the invitation to bid, the bidder shall supply evidence of the bidder's valid state business license. A bidder for a construction contract shall also submit evidence of the bidder's registration under as 08.18.
- C. Late bids—withdrawals—cancellation.
 - 1. Bids received after the bid date and time indicated on the invitation to bid may not be considered unless the delay was due to an error of the city, except where delays in mail service cause a late bid in which case bids postmarked at least 72 hours prior to the bid opening date will still be considered timely.
 - 2. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on bid mistakes, may be permitted in accordance with policies adopted by the city. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition may not be permitted. A decision to permit the correction or withdrawal of a bid, or to cancel an award or contract based on a bid mistake, shall be supported by a written determination made by the city administrator. If a bidder is permitted to withdraw a bid before award, an action may not be maintained against the bidder or the bid security.
- D. Competitive bid opening.
 - 1. The procurement agent responsible for the procurement shall open bids at the time and place designated in the invitation to bid. All bid openings are open to the public. The amount of each bid and other essential information required by this chapter, together with the name of each bidder, shall be recorded.
 - 2. The information recorded under subsection (d)(1) of this section is open to public inspection as soon as practicable following bid opening. To the extent the bidder designates and the city administrator concurs, trade secrets and other proprietary data contained in a bid document may be deemed confidential.
- E. The city may repeatedly reject all bids, and again may submit to the same or other persons invitation to bid or again publish notice of the proposed purchase.

- F. Evaluation and award. Bids shall be evaluated based on the requirements set forth in the invitation to bid, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the criteria set forth in the invitation to bid. In determining whether a bidder is responsible the city may consider:
1. The qualifications, ability, capacity and skill of the bidder to perform the contract;
 2. The availability of the bidder to perform the contract within the time specified, without delay or interference;
 3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 4. The quality of performance by the bidder of previous contracts;
 5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;
 6. The sufficiency of the financial resources and ability of the bidder to perform the contract.
- When the award is made to other than the lowest bidder, a full and complete written statement of the reasons therefor shall be mailed or delivered to the unsuccessful low bidder and filed with the other documents relating to the procurement.
- G. Multi-step bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
- H. Except where prohibited by state or federal grant requirements, a local bidder, as defined in section 3.12.020, may be given consideration as low bidder where the offer is the lesser of ten percent or fifty thousand dollars in excess of the lowest offer received from a bidder not qualified as a local bidder. The city may split the award between two or more suppliers in any manner the city deems to be in its best interest.
- I. Procurement of, or contract for, supplies, materials, equipment, contractual services, or capital projects that could be subject to potential future grant reimbursements may be restricted to the procurement requirements of such grants as understood at the time of procurement. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 11, 1985)

3.12.120 COMPETITIVE PROPOSALS.

- A. A contract not awarded by competitive sealed bidding shall be awarded by competitive sealed proposals, unless otherwise provided for in this chapter.
- B. The city may determine in writing that it is either impracticable or disadvantageous for the city to procure specified types of supplies or contractual services by competitive sealed bidding that would otherwise be procured by that method. When the city determines in writing that the use of competitive sealed bidding is either impracticable or disadvantageous to the city, a contract may be entered into by competitive sealed proposals in accordance with this section. The city shall specify with particularity the basis for the determination.
- C. A request for proposals must contain the essential information necessary for an offeror to submit a proposal including a time, place and date by which the proposal must be received or contain references to any information that cannot reasonably be included with the request. The request must provide a description of the factors that will be considered when evaluating the proposals received, including the relative importance of price and other evaluation factors.
- D. Notice of request for proposals shall be given in accordance with procedures set out under section 3.12.100(b). The city may use additional means considered appropriate to notify prospective offerors of the intent to enter into a contract through competitive sealed proposals.
- E. The procurement agent shall open proposals so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals containing the name and address of each offeror shall be prepared in accordance with policies adopted by the procurement agent. The register and the proposals, except as otherwise noted in this section, are open for public inspection after the award is issued. To the extent that the offeror designates and the city administrator concurs, trade secrets and other proprietary data contained in the proposal documents shall be confidential.
- F. Discussion with responsible offerors and revisions to proposals. As provided in the request for proposals, and under policies adopted by the city, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements. Offerors reasonably susceptible of being selected for award shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before the award of the contract for the purpose of obtaining best and final offers. In conducting discussions, the city shall not disclose information derived from proposals submitted by competing offerors.

- H. A contract may be awarded under competitive sealed proposals to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city taking into consideration price and the evaluation factors set out in the request for proposals. The contract file must contain the basis upon which the award is made. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 12, 1985)

3.12.130 OPEN MARKET PURCHASES/PROCUREMENTS.

The following may be purchased without competitive bidding:

- A. Supplies, materials, equipment or contractual services when combined cost does not exceed ten thousand dollars in a single transaction;
- B. Supplies, materials, equipment or contractual services which can only be furnished by a single dealer or which has a uniform price wherever bought;
- C. Supplies, materials, equipment or contractual services procured from another unit of government at a price deemed below that obtainable from private dealers, including war surplus;
- D. Contractual services procured from a public utility corporation at a price or rate determined by state or other government authority;
- E. Contractual services of a professional nature, such as medical services, or insurance policies whose nature demands immediate action;
- F. Supplies, materials or equipment which cannot be procured locally and which can be procured from a source selected by another unit of government pursuant to competitive bidding procedures to provide the same or similar supplies, materials or equipment if:
 - 1) The award was made by the governmental unit; and
 - 2) The item(s) can be procured at the same price plus additional freight or delivery charges if applicable;
- G. The city encourages local procurement whenever practicable. Procurements made under this section shall only be made after a reasonable attempt to evaluate procurement options from a local source;
- H. Professional services such as, but not limited to, services rendered by architects, attorneys, engineers, appraisers, surveyors, accountants and other specialized consultants provided, that the procedures set out in section 3.12.140 are followed.
- I. When public work is performed by the city with its own employees.
- J. To contracts primarily involving the purchasing of supplies, materials, equipment, or contractual services using state or federal grants when the grant funds are being spent by a state or federal agency pursuant to that state or federal agency's procurement rules and regulations.
- K. When either competitive procedure has been followed, but no bids or quotations are received. In such a case, the purchasing agent may proceed to have the services

performed or the supplies purchased without further competitive bidding or quotation.

- L. When the city council determines that the public interest would be best served by the purchase of used equipment and, by resolution, authorizes the purchasing agent to locate and purchase a particular type and quantity of used equipment.
- M. Where calling for bids on a competitive basis is unavailing and impossible, including but not limited to situations where rates are set by statute or ordinance or where like items are traded in, or where used items are being purchased. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 13, 1985)

3.12.140 PROFESSIONAL SERVICES.

- A. Due to the nature of professional services, it is in the best interest of the city to use a qualitative selection process, with or without consideration for price, in the city's discretion, when in need of these services.
 - 1. For professional services estimated by the city to be one hundred thousand dollars or less, direct solicitation of contractors or consultants may be made from a roster maintained by the city, or to such other vendors who may be known to the city as possessing the required expertise. These solicitations will seek to evaluate the qualifications, experience, and availability of particular vendors. When more than one vendor is considered, the procurement agent will appoint a selection panel to evaluate the potential vendors and offer a recommendation for selection.
 - 2. For professional services estimated by the city to be more than one hundred thousand dollars, a formal request for qualifications will be solicited. Public notice of requests for qualifications will be given in accordance with the same procedures set forth in section 3.12.100(b). The procurement agent will develop and publish qualitative selection criteria for evaluating all responses to requests for qualifications received. In multi-phase projects the city may contract with a professional services provider that has provided professional services in an earlier phase of the same project, without the solicitation of formal request for qualifications, in order to maintain project continuity or to otherwise promote the best interest of the city.
- B. The provisions of sections 3.12.060 and 3.12.080 apply to all professional services contracts.
- C. The duration of professional services contracts may not exceed two years, except for completion of work in progress under architectural or engineering contracts. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 14, 1985)

3.12.150 HYBRID PROCUREMENTS.

When contracting for procurement of supplies, materials, equipment or contractual services, as contemplated under section 3.12.110, and professional services, as contemplated under section 3.12.140, within the same contract, the city shall utilize the procedures set forth in section 3.12.120. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 15, 1985)

3.12.160 CONSTRUCTION MANAGER/GENERAL CONTRACTOR CONTRACTS.

The city may award a two-phase construction manager/general contractor contract for preconstruction services and construction services on a single project.

- A. In the preconstruction services phase of a contract under this section, the contractor shall provide the city with advice for scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.
- B. Prior to the start of the construction services phase, the city and the contractor may agree to a price and other factors for the construction of the project or a portion of the project.
- C. If an agreement is reached under subsection b of this section, the contractor shall be responsible for the construction of the project or portion of the project at the negotiated price and in compliance with the other factors specified in the agreement.
- D. A contract shall be awarded under this section using the competitive selection process set out in section 3.12.120 and based on qualifications, experience, best value, or any other combination of factors deemed relevant to the procurement. (Ord. 22-02-01-01; Prior Ord. 02-03-21-01 § 3, 2002; Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 89-05 § 4(part), 1989; Ord. 85-01-17-02 § 16, 1985)

3.12.170 CONTRACTOR BONDING REQUIREMENTS.

- A. Before a contract exceeding one hundred thousand dollars for the construction, alteration, or repair of a public building or public work is awarded to a general or specialty contractor, the contractor shall furnish to the city the following bonds, which become binding upon the award of the contract to that contractor:
 1. A performance bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond; the amount of the performance bond shall be equivalent to the amount of the payment bond.
 2. A labor and materials payment bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond, for the protection of all persons who supply

labor and material in the prosecution of the work provided for in the contract. When the total amount payable by the terms of the contract is not more than one million dollars, the labor and materials payment bond shall be in a sum of one-half the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than one million dollars and not more than five million dollars, the payment bond shall be in a sum of forty percent of the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than five million dollars, the payment bond shall be in the sum of two million five hundred thousand dollars.

- B. The city hereby exercises its option under as 36.25.025 to exempt contractors from compliance with the provisions of subsection a of this section and as 36.25.010(a) if the estimated cost of the project does not exceed four hundred thousand dollars and:
1. The contractor is, and for two years immediately preceding the award of the contract has been, a licensed contractor having its principal office in the state;
 2. The contractor certifies that it has not defaulted on a contract awarded to the contractor during the period of three years preceding the award of a contract for which a bid is submitted;
 3. The contractor submits a financial statement, prepared within a period of nine months preceding the submission of a bid for the contract and certified by a public accountant or a certified public accountant licensed under as 08.04, demonstrating that the contractor has a net worth of not less than twenty percent of the amount of the contract for which the bid is submitted;
 4. The total amount of all contracts that the contractor anticipates performing during the term of performance of the contract for which a bid is submitted does not exceed the net worth of the contractor reported in the certified financial statement prepared and submitted under subsection (b)(3) of this section by more than seven times. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 17, 1985)

3.12.180 RECORDS.

All procurement records shall be retained and disposed of in accordance with city records retention guidelines and schedules approved by the city council and city clerk. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 18, 1985)

3.12.190 REVIEW AND APPROVAL BY THE MAYOR AND/OR CITY ATTORNEY.

Contracts and standard specifications, terms, and conditions may be reviewed and approved as to form by the mayor or city attorney at the discretion of the mayor. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 19, 1985)

3.12.200 INSURANCE POLICIES.

- A. The city will purchase policies of insurance following the open market procedures provided in this chapter.
- B. Open market procedures will not be required for a policy that:
 - 1. Has an annual premium or charge less than three hundred dollars;
 - 2. Provides liability coverage for a single event;
 - 3. Is for property title insurance;
 - 4. Has its premium or charge fixed by state statute;
 - 5. Is health, life, or disability insurance procured by the city for the benefit of city employees, their spouses or dependents made available to the city as a political subdivision of the state; or;
 - 6. Is provided through a joint insurance arrangement as set forth in AS 21.76.
- C. Open market procedures are not required for a change in policies in effect, or to acquire policies supplemental to an existing policy if the policies in effect cannot be changed; provided the change or supplemental policies are approved by the council. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 20, 1985)

3.12.210 SUBDIVISION PROHIBITED.

No project or contract specifications will be subdivided to avoid the requirements of this chapter. This provision will not apply in the event that a funding source is located by the city which will pay a portion of an overall project; in that event, the portion that is being paid from a separate source may be deducted from an overall project or contract. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 21, 1985)

3.12.220 ENCUMBRANCE OF FUNDS.

Except in cases of emergency declared by the mayor or the council, as provided in this chapter, no contract or any change order to an existing contract will be authorized unless there is a sufficient unencumbered balance in the budget appropriation of the using agency or sufficient bond funds available, in excess of actual expenditures or commitments, to cover such contract or change order. (Ord. 22-02-01-01; Prior Ord. 85-01-17-02 § 23, 1985)

3.12.230 BILLING-PAYMENT CERTIFICATION.

- A. The city administrator, or his/her designee, shall certify all bills for payment.

- B. The city administrator, or his/her designee, will ensure that such payments are fiscally regular, legal, and within budgetary constraints. (Ord. 22-02-01-01; Prior Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 24, 1985)

CHAPTER 3.15 - SHORT TERM INVESTMENT POLICY**3.15.010- INVESTMENT OF OPERATING FUNDS;**

Objective. There are opportunities from time to time for the city to invest surplus operating funds. Such funds are generally short-term in nature and are often restricted as to their use. Safety of principal is the foremost investment objective of the City of Thorne Bay. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they are from securities defaults or erosion of market value. The City of Thorne Bay 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 City of Thorne Bay.

3.15.020-TREASURY MANAGEMENT.

The responsibility for conducting investment transactions resides with the mayor and city administrator. The mayor and the city administrator shall not deposit funds in any depository that is not a member of the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA) 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.

3.15.030-PERMISSIBLE INVESTMENTS.

- A. Operating funds of the City of Thorne Bay may be invested in:
1. Federally insured or fully collateralized certificates of deposit of banks and credit unions maturing within two years;
 2. U.S. Government Treasury, agency and instrumentality securities;
 3. Notes or bonds issued by the state of Alaska or its political subdivisions or other states of the United States, maturing within two years, with a credit rating of A-/A3 or better from two national ratings agencies, maturing within two years;

4. Repurchase agreements collateralized by U.S. Treasury securities and marked to market. If repurchase agreements are overnight investments or if securities are collateralized in excess of 102 percent, marked to market is not necessary;
 5. A state investment pool formed within the state of Alaska and comprised of agencies of the state and/or its political subdivisions;
 6. Money market mutual funds whose portfolios consist entirely of U.S. Government securities.
- B. Sales tax proceeds allocated for community development may be invested in:
1. Helping Businesses expand or conduct emergency repairs associated with essential services;
 2. Investment rate determined by certificate of deposit interest rates offered by the city's investment broker on terms consistent with certificate of deposits'
 3. Essential services include the supply of; boat or vehicle fuel, air service, mail service, heating fuel, propane, electricity, food or other essential services approved by the City Council. (Ord. 17-04-18-01)

CHAPTER 3.17 - CONSUMER'S SALES TAX**3.17.010 DEFINITIONS.**

For the purposes of this chapter, the following words and phrases have the meanings respectively ascribed to them:

- A. **"Buyer" or "consumer"** means and includes, without limitation on the generality of the terms, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.
- B. **"Delivery"** means that goods have been placed within the buyer's control.
- C. **"Lease"** means a contract permitting the use or occupancy of real or personal property for consideration.
- D. **"Other Lease Types"** means any lease that is not a capital lease.
- E. **"Remuneration for services"** means and includes the gross remuneration received for furnishing labor and materials for accomplishing a specified result, including travel and adventure services, and rentals of all types, including but not limited to rentals of equipment, buildings, lands and materials. It shall not be construed to include salaries or wages received by an employee from an employer.
- F. **"Rental"** means any transfer of the right to use or occupy property for consideration.
- G. **"Residential Rentals"** means rental of a dwelling designed for living or sleeping purposes.
- H. **"Retail sale" or "sale at retail"** means any nonexempt sale of services, rentals, or tangible personal property made to a buyer who intends to use, consume, or receive the item or services purchased for his own personal use as the ultimate consumer with no intention to sell the item again, whether to be sold in the same form as received, or in the same modified condition or after fabrication or use with some other substance or item. Notwithstanding any other provision of this chapter, arrangements made with another person or agent, including, but not limited to, a travel agent, broker, representative, tour operator, tour marketer, or cruise ship line, by a provider of services, rentals or goods to market such services, rentals, or goods, (including travel and adventure services) or to provide such services, rentals or goods to another person, or the transfer to the buyer of the right or privilege to receive or assign such services, rentals or goods, is a taxable sale by such provider, and such provider is a seller for purposes of this chapter. The point of delivery of services, rentals, or tangible property is the point at which the sale is deemed to have occurred except purchase of city harbor privileges as provided in (c) of this section.
 - 1. The sale is subject to the city's sales tax when the point of delivery of tangible personal property is within the city.
 - 2. Where a real estate rental is located or where other rental property is delivered in the city, the sale of the same is subject to the city's sales tax.

3. Where a buyer receives a service within the limits of the city, and the service begins and ends therein, or, where the buyer receives an entire service therein, the sale of the same is subject to the city's sales tax; provided, however, purchase from the city of the privilege to use any harbor facilities owned or operated by the city shall be deemed to be a transaction and sale that shall be taxable unless otherwise made exempt by this code.
 4. A person who furnishes proof, in the form required by the revenue collector, that he has paid a sales tax in some jurisdiction other than the city, on the sale of services, rentals, or tangible personal property, is required to pay the City's sales tax only to the extent between the amount of the sales tax so paid elsewhere and the amount of the sales tax levied by the City. This paragraph applies to a sales tax levied in any taxing jurisdiction whether in or outside the state. (Ord. 17-03-21-02)
- I. **"Sale 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 and who holds a valid resale certificate issued by the City of Thorne Bay. Sale for resale also means the provision of services to a broker whose principal business is the resale of those services to an ultimate consumer and who holds a valid resale certificate issued by the City of Thorne Bay. Resale certificates do not apply to: travel and adventure services if the sale is to a person who would be entitled to claim the exemption provided by section or supplies purchased by travel and adventure service providers, hotels/motels, lodges, apartment/house rentals, or bed and breakfasts which are not separately charged to the consumer when resold.
 - J. **"Sales tax"** means and includes the tax herein levied on gross revenues derived from all taxable commercial retail sales, rentals and services, including sales of travel and adventure services, said revenues being computed in dollars and cents and the tax payable by the seller, the person performing the services, or the person receiving gross revenues from rentals, to the city.
 - K. **"Sales price"** means and includes the consideration, whether money, credit, rights, or other property expressed in terms of money paid 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, discount, delivery costs, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses.
 - L. **"Seller"** means and includes every person making sales at retail, including travel and adventure services, to a buyer or consumer whether as agent, broker or principal, and the term also means and includes persons performing services for remuneration as well as persons receiving gross revenues derived from rents.
 - M. **"Service"** means any application of labor, skill or knowledge to produce value in exchange for consideration and may include the provision of property or the right to use or occupy property but does not include services rendered to an employer by an

employee. “service” may include, but is not limited to:

1. Professional, advertising, maintenance, recreation, amusement, and craftsman services.
 2. Services in which a product or sale of property may be involved, including personal property made to order.
 3. Utility services including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable television, and internet services.
 4. The sale of transportation services originating inside the city.
 5. Services rendered for compensation by any person who furnishes any such services in the course of the person’s trade, business, or occupation including services rendered for commission when the commission is paid on a service or product that has not been charged the city sales tax.
- N. **“Shipping and Freight Hauling Services”** means the service of transporting goods by means other than the united states postal service.
- O. **“Single-unit sale”** means the sale of a separate, single item or service which is customarily sold, advertised, contracted for sale or sold in the normal course of business as a separate and single item or unit or by a single unit of measurement (i.e., per gallon, ton, hour, day, week, month, foot, sack, yard, pound, piece, group, each, box, set, package, or other common unit of measurement). A single-unit sale shall include a sale by contract, quote, bid or other lump-sum amount only if the sale is based on and computed as a single bid, quote, sum, or package price rather than as an accumulation, sum, or aggregation of prices of separate identifiable or separable unit prices as defined above. For purposes of package tours, every individual in the tour will count as a single unit. For purposes of harbor fees and port dockage, each foot or other measurement of length will count as a single unit.
- P. **“Transaction”** means any transfer of property, or the right to use or occupy property, or the rendering of a service, for consideration.
- Q. **“Travel and Adventure Services”** include, but are not limited to, tours and charters on land and water, guide services, admissions, lectures, transportation services (excluding air transportation), and the rental of lodging, aircraft, vehicles, watercraft, and equipment, including fishing, boating, camping and other tour or adventure related goods. Travel and adventure services also include sales of goods incidental or related to such services. Regardless of the location of any marketing, brokering, packaging, re- sale, assignment, or other arrangement and regardless of the beginning or ending of any other related services the point of delivery of a travel and adventure service is within the city if the ultimate consumer of the travel and adventure service receives any such service which begins, ends, or occurs, as described in (c) of subsection (3) above. (Ordinance 20-07-21-01; Adding § B, C, D, F, G, M & N)

3.17.011 DELIVERY CHARGES.

- A. Delivery Charges. Delivery charges for services rendered for delivery of any personal property, goods or materials which delivery services both commence and terminate within the city are subject to sales taxes.
- B. Definition. "Delivery charges" means and includes any costs or charges imposed on the sale of freight services, shipping services, courier services, wharfage services, postal services, excepting postal delivery services rendered by the United States postal service, and any other services related to the delivery or transportation of any personal property, goods or materials of any nature whatsoever. (Ord. 984 §3, 1982)

3.17.012 EMPLOYEES/SUBCONTRACTORS--SALE OF SERVICES.

- A. The remuneration paid by an employer in the form of wages or salary to an employee for the sale of services by such employee to the employer are not taxable under the provisions of this chapter. Sales of services by contractors, or subcontractors, and any other type of sale of a service by a person other than an employee are taxable unless specifically exempted.
- B. A person shall be deemed to be an employee under the provisions of this chapter if the person claiming to be at employer is withholding a portion of such person's wages or salary in accordance with federal income tax laws and regulations. In the event no amounts are being withheld, it shall be presumed such person is not an employee unless the person claiming to be his employer submits clear and convincing evidence establishing the person's status as an employee.

3.17.015 MULTIJURISDICTIONAL SERVICES.

- A. All services which either commence or terminate within the city, or which are in any part rendered, supplied or provided within the city, shall be-subject to sales tax, except as otherwise provided in this chapter.
- B. Sightseeing charter services and shore excursions by land or water, which are provided by a person in the business of providing such services and are either sold within the city or begin or end within the city are subject to sales tax under this chapter to the maximum extent permitted consistent with state and federal law.

3.17.020 LEVY OF TAX.

To the fullest extent permitted by law, a sales tax of six percent is hereby assessed and levied on the following sales, except as otherwise specifically exempted under this chapter:

- A. All retail sales; including yard sales, and sales of similar type items occurring at the same location on a regular basis, whether for profit or non-profit (weekly, bi-weekly, monthly constitute a regular basis) catalog and internet sales sold locally or out of the area.
- B. All services; including the gross receipts earned as commissions by real estate agents for sales occurring within the city limits;
- C. All rents and fees paid for the use of real and personal property. (Ord. 17-03-21-02)
- D. Sellers with a physical presence and point of delivery. A seller that establishes a physical presence and point of delivery within the city in any calendar year will be deemed to have a physical presence within the city for the following calendar year. A seller has a physical presence under this chapter who establishes one or more of the following:
 - 1) Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the city;
 - 2) Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the city or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state;
 - 3) Provides services or holds inventory within the boundaries of the city;
 - 4) Rents, sells, or leases property located within the boundaries of the city; or
 - 5) Constructs, repairs, renovates, or improves real property if the real property is located in the city.
- E. Remote sales. A remote seller or marketplace facilitator without physical presence in the city that make sales of products, rentals or provides services transferred electronically, or delivered to a point of delivery located inside the city, shall be subject to the Alaska remote seller sales tax code as provided in section 3.17.220.

(Ordinance 20-07-21-01; Adding § D & E)

3.17.025 RULES APPLICABLE TO PARTICULAR BUSINESS OCCUPATIONS

A. Real Estate Sales Commissions.

1. Commissions and/or realtor fees for the sale, rental or management of real property located in the city are subject to sales tax, regardless of the location of the person to whom the commission and/or fee is payable.
2. Commissions and/or fees for the sale, rental or management of real property payable to a person who maintains an office in the city are subject to sales tax, regardless of the location of the real property.

(Ordinance 20-07-21-01; adding Section 3.17.025 in its entirety)

3.17.030 DUTY OF SELLER TO COLLECT.

- A. The tax levied under the provisions of this chapter is primarily upon the buyers of the personal property, rentals, or services, but the tax is payable to the city by the seller regardless of whether the seller has collected the same from the buyers. It is the duty of each seller to collect from the buyer or consumer the full amount of the sales tax payable on each taxable sale, service or rental, at the time the property sold is delivered, or when the rentals are collected. Every sale, which is made within the city, unless explicitly exempted by this chapter, or a subsequent ordinance, shall be presumed to be subject to the tax imposed under this chapter in any action to enforce the provisions of this chapter.
- B. In the specific instances where the tenant is occupying space in a USDA Forest Service, owned building or land, it is the tenant's obligation to pay the sales tax directly to the City, unless the landlord is willing to voluntarily receive the tax payment and remit to the city. The Landlord shall be responsible for all delinquent or unpaid sales taxes incurred by their tenants. (Ord. 17-03-21-02) (17-12-05-02)

3.17.35 TEMPORARY SUSPENSION OF SALES TAX COLLECTION.

The Council may for periods of up to one month, suspend the duty of a seller to collect the tax levied under this chapter. The Council may establish regulations, conditions, and limitations on the suspension of the duty to collect the tax. Such regulations, conditions, and limitations may apply the suspension to the sale of certain goods, or services while requiring the collection of the tax on other goods or services.

3.17.040 TAX ADDED TO SALES PRICE.

Sellers shall add the sales tax to the sales price, rental, or charge for services. Such sales tax is a debt from the buyer or consumer to the seller until paid, and the same is recoverable at law in the same manner as other debts.

3.17.050 UNLAWFUL FOR SELLER TO FAIL TO COLLECT.

- A. Any seller who willfully or intentionally fails, neglects, or refuses to comply with the provision of this chapter is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars, or imprisonment, not to exceed thirty days, or both; each act of violation and every day upon which any such violation occurs shall constitute a separate offense.
- B. In addition to the penalties provided elsewhere for violation of this section, a seller who intentionally or recklessly violates this section shall be liable to the city for civil penalties in an amount of three times the amount of sales tax the seller failed to collect.

3.17.051 COLLECTION OF SALES TAX AND NOT DUE.

It shall be unlawful and a violation of this title for a person to charge and collect sales tax which is not due under this title. (Ord. 1562 §7, 2006)

3.17.060 TAX TO BE PAID QUARTERLY.

The tax levied under this chapter is due and payable at the expiration of each quarter of each calendar year. It is the duty and responsibility of every seller liable for the collection of any tax imposed in this chapter, unless otherwise provided herein, to file with the revenue collector upon forms prescribed and furnished by the revenue collector, a return, prepared under oath, setting forth the amount of all sales, taxable and nontaxable, the amount of tax thereon and such other information as the revenue collector may require on such form or forms. The completed and executed return, together with remittance in full for the amount of the tax due, shall be transmitted to and received by the revenue collector's department of administrative services on or before 5:00 p.m., local time on the last day of the month succeeding the end of each quarter. If the last day of the month succeeding the end of a quarter is a Saturday, Sunday or a holiday observed by the revenue collector; the completed and executed return and amount of the tax due shall be transmitted and received by 5:00 p.m., local time on the next business day. Returns may be accepted based upon a timely postmark only if the return is sent certified or registered mail and receives a United States postal service cancellation on or before the due date. (ord. 1369, §1,1997) (Ord. 17-03-21-02)

3.17.065 REGISTRATION.

- A. A person, firm, partnership, corporation or other business entity shall file an application for registration with the revenue collector's department of administrative services on a form provided by that department, prior to making any retail sales, rendering any services, making rentals within the city or the opening of an additional place of business in the city. The completed application shall be returned to that department of administrative services along with the required licensing fee and a copy of the business entity's Alaska State business license.
- B. Each business entity shall be registered under the advertised name, and each separate business shall be registered under its own account.
- C. A person, corporation or other association that is about to make sales, perform services or make rentals shall first register with the revenue collector's department of administrative services and shall pay the licensing fee as required by TBMC Chapter 5.02-Business Licensing and Registration.

3.17.070 DUTY TO KEEP BOOKS--INVESTIGATION.

- A. Every seller shall keep and preserve suitable records of all sales made by him, and such other books or accounts as may be necessary for the revenue collector to determine the amount of tax for the collection of which he is liable hereunder. Every such person shall keep and preserve for a period of two years all invoices of goods and merchandise purchased for resale, and all such books, invoices and other records as may be necessary, all of which are open for examination at any reasonable time by the revenue collector, the City Administrator, city administrator, or his or their designee.
- B. For the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or which should have been collected by any person, the City Administrator or his designee may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records, or memoranda of any such person, and may require the attendance of such person, or any officer or employee of such person. The City Administrator or his designee has the power to administer oaths and affirmations to such persons, and if any such person, being first duly sworn, refuses to answer any questions put to him by the manager or his designee, the manager may apply to the superior court for an order requiring the person to answer the questions. The City Administrator may issue subpoenas to compel attendance or to require production of

relevant books, papers, records or memoranda. If any person refuses to obey any such subpoena, the City Administrator may apply to the superior court for an order requiring the person to comply therewith. The City Administrator is authorized to make arrangements with the City of Thorne Bay, authorizing the city to conduct the investigations and hearings provided herein, including the exercise of all the powers created in this chapter.

- C. In the event the revenue collector is unable to ascertain the tax due to be remitted by a seller by reason of the failure of the seller to keep accurate books, allow inspection, failure to file a return, or falsification of records, the revenue collector may make an estimate of the tax due based upon all of the information available. Notice of the estimate of taxes due shall be furnished by certified mail to the seller and shall become final for the purposes of determining liability of the seller to the city in thirty days unless the seller earlier files an accurate return, supported by satisfactory records, indicating a lesser liability.

3.17.080 PENALTY AND INTEREST ON DELINQUENT TAXES.

- A. In the event a seller fails or neglects to file a return when due, or fails to remit taxes collected, or which should have been collected, in a timely manner as required by this chapter, then such return and tax is delinquent, and the revenue collector shall add thereto penalties as follows:
1. Within five calendar days after delinquency date 6%
 2. More than five calendar days up to and including thirty days after delinquency date 15%
 3. More than thirty days up to and including sixty days after delinquency date 20%
 4. More than sixty days after delinquency date 25%
- B. Interest shall accrue on the unpaid tax, not including penalty, from the date of delinquency to the date of payment at the rate of one percent per month. All remedies available to the revenue collector to collect taxes, penalties and interest, plus collection costs, shall commence on the date of delinquency. Payments received after the date of delinquency shall be applied first to payment of any collection costs, next an interest, next on penalty, and next on the tax. In the event of partial payment, penalties shall continue to accrue on the unpaid portion of the tax as provided for in (a) of this section. Interest at the rate of one percent per month shall also accrue on any unpaid amount of tax until paid in full. (Ordinance 21-11-16-01)

3.17.085 SALES TAX LIENS.

- A. The sales tax, interest, and penalties imposed by this chapter, and the administrative costs under subsection (f) of this section, shall constitute a lien in favor of the city upon all of the real and personal property of every person making taxable sales subject to this chapter.
- B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent under Section 3.17.080 and continues until the entire amount is satisfied.
- C. If delinquent sales taxes, including interest and penalties, are not paid within ten days from the mailing of notice and demand for payment thereof, a notice of lien may be recorded in the office of the district recorder. Upon recordation, the sales tax lien has priority over all other liens except
 - 1. liens for property taxes and special assessments;
 - 2. liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien;
 - 3. mechanics, and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien.
- D. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens in AS 09.45.170-09.45.220.
- E. The remedy provided in this section is not exclusive and shall be in addition to all other remedies available to the revenue collector to collect the sales taxes, penalties and interest due under this chapter.
- F. Fees for the administrative costs of filing on notices of liens, and releasing of liens shall be:
 - 1. Filing of notices of lien: twenty-five dollars plus recorder's office filing fee.
 - 2. Release of liens: twenty-five dollars plus recorder's office filing fee.
- G. If administrative costs for the filing of notices of liens and releasing of liens are imposed and have been collected by the City of Thorne Bay on delinquent sales taxes, including penalties and interest, no additional administrative costs shall be collected under subsection (f) of this section.

3.17.090 SALE OF BUSINESS--FINAL RETURN--LIABILITY OF PURCHASER.

If any seller sells his business to another person, he shall make a final sales tax return within five days after the date of selling the business; and his purchaser, successor, successors, or assigns, shall withhold a sufficient portion of the purchase money to pay the amount of sales taxes, penalties and interest due and unpaid to the city; and provided, further, the purchaser, successor, successors, or assigns are personally liable

for the payment of the taxes, penalties and interest, accrued and unpaid to the city or city or both on account of the operation of the business by any former owner, owners, or assigns as shown by the final return or an audit conducted by the city within thirty days of the filing of the final return. Before any such sale is completed, the buyer and seller shall send to the revenue collector, by registered first-class United States mail, postage prepaid, a copy of the notice referred to in AS 45.06.105, which statute is made a part of this chapter, and the notice shall be so sent regardless of whether such notice would have otherwise been required to have been made and sent under the other provisions of AS 45-06.101, et seq., Uniform Commercial Code--Bulk Transfers.

3.17.100 EXEMPTIONS.

The following sales and services are exempt from the sales tax :

- A. Retail sales and remuneration for services amounting to less than one hundred twenty-five dollars in any calendar quarter; however, any sales taxes collected shall be remitted;
- B. Casual and isolated sales not made in the regular course of business;
- C. Sales of insurance and bonds of guaranty and fidelity;
- D. The agreed value of new or used articles taken in trade as credit or part payment on the sale of new articles shall be deducted from the value of the article being purchased in determining the tax;
- E. Gross receipts derived from sales, services, rentals and transactions which the municipalities are prohibited from taxing under the Constitution and laws of the United States or the state;
- F. Gross receipts derived from sales initiated by orders received from outside the city where delivery is made outside the city by mail or commercial common carrier;
- G. Gross receipts derived from funeral charges and services, medical, dental, optometric, hospital services, or from sales of prescription medicines oxygen used for medical purposes, blood or blood plasma, artificial devices designed or altered for the use of a particular crippled person, artificial limbs, eyes and organs, hearing aids, prescription eyeglasses, artificial teeth sold by a dentist and materials used by a dentist in treatment, crutches, and wheelchairs; provided, however, services rendered by barbers, cosmeticians and masseurs are not exempt;
 - (1) Gross receipts from sales, services and rentals to any nonprofit organization or nonprofit institution if such organization or institution is organized exclusively for religious, educational, or charitable purposes, and if such organization or institution has obtained a certificate of exemption as provided for in subsection

- (2) and displays that certificate of exemption as provided for in subsection (3) below.
- (2) Any organization or institution described in subsection (1) may apply to the City of Thorne Bay revenue collector for a certificate of exemption. Such application shall be made on forms to be furnished by said revenue collector, and each applicant shall be required to furnish such information as said revenue collector may reasonably require. If the revenue collector determines that the applicant is entitled to an exemption provided for in this section, the revenue collector shall issue or cause to be issued a certificate of exemption which shall be effective as of its date of issue. The revenue collector shall endeavor to issue or deny the exemption within thirty days after the date an application is filed;
- (3) A buyer seeking to make a purchase entitled to a sales tax exemption under subsection (1) shall display a valid certificate of exemption to the seller at the time of purchase. If the buyer does not so display the required valid certificate of exemption the sale is taxable, and the seller shall collect the sales tax due on the sale.
- D. Gross receipts derived from sales, services and rentals to the United States Government, the state and its political subdivision, and municipalities, or agencies funded by these governments;
- E. Retail sales of food in school and college cafeterias and lunchrooms which are operated primarily for teachers or students and which are not operated for profit;
- F. LEFT BLANK INTENTIONALLY
- G. Gross receipts or proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles;
- H. Gross receipts derived from sales of real property, excepting the gross receipts earned as commissions by real estate agents shall be taxable;
- I. Dues or fees to nonprofit clubs, labor unions, or fraternal organizations;
- J. Gross receipts derived from veterinary services;
- K. Gross receipts or proceeds derived from sales made directly to consumers or users of newspapers;
- L. LEFT BLANK INTENTIONALLY
- M. Gross receipts derived from sales of educational services by a nonprofit institution in providing a program of learning on a formal study basis in an institution of learning which has an organized curriculum consisting of specific subjects and skills as outlined in the State of Alaska course of study as officially adopted by the State Department of Education for elementary, junior high or senior high schools, for children ages five through eighteen.
- N. Gross receipts derived from sales of day care services for children;
- O. (1) Gross receipts derived from sales where the purchase is made with food coupons, food stamps or other type of certificate issued under 7 U.S.C. Sections 2011-2025

(Food Stamp Act); and (2) Food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children).

- P. That part of the sales price paid by the buyer for travel and adventure services purchased outside the city, which is not remitted, directly or indirectly, to the person providing or performing the service and which is a selling cost or commission or similar charge.
- Q. Remuneration received for services and materials, including caskets, used or furnished for funerals;
- R. The part of the selling price of a single item of tangible personal property that exceeds seven thousand five hundred dollars (\$7,500.00). A single item is an item sold in a single sale consisting of integrated and interdependent component parts affixed or fitted to one another in such a manner as to produce a functional whole. It includes optional accessories for such items as boats and automobiles if the accessories are useful or essential for the operation or use of the item, and include in the original transaction/sale;
- S. Airfare or the air charter sales price paid for transportation of persons or on a federal airway but excluding the portions of a sale of flightseeing or round-trip air/water/shore excursion travel or adventure services which are not charges for transportation of persons on a federal airway.
- T. Gross receipts in excess of ten thousand dollars derived from sales of material and labor for the clearing of land, excavation, or fill or placement of material on real property for construction of a facility, and sales of building construction materials and labor used in constructing a permanent building within the city, provided that the improvements are constructed pursuant to a valid sales tax exemption permit issued or renewed no more than one year prior to the sale of transaction being exempted from the tax. Construction materials shall include: all structural and finish materials for a permanent building used on the lot wherein the building is being constructed, and installation of infrastructure to said building such as water, sewer, power and phone and all parts to said infrastructure. Sales, to qualify for this exemption, shall be recorded by the seller, together with the date, the purchaser's name, and the sales tax exemption permit number. Any purchaser who attempts to avoid paying sales tax by using a sales tax exemption permit number for materials or labor not actually used in the structure for which the permit was issued shall be subject to a civil penalty up to twenty-five percent of the price of the materials or labor involved in the evasive purchase. The cost of the permit will be six hundred dollars; 3.16.050. (Ordinance 05-09-06-01; Prior Ord. 10-03-02-01)

3.17.110 SALES TAX EXEMPTION FOR THE ELDERLY.

Anyone sixty-five years of age or older may apply for and be issued by the City Administrator or designee a senior citizens sales tax exemption card, for fifteen dollars, to be renewed bi-annually. This card entitles the person to be exempted from the operation of the city's consumer's sales taxes on purchases of all types of property, rentals and services, except alcoholic beverages of all types and all types of tobacco products, not for use in any trade or business. No seller within the city shall charge or collect the sales tax on exempted purchases from any person who displays such a valid sales tax-exempt card. All sellers within the city shall keep records of such exempt sales and submit quarterly totals of such sales to the revenue collector, together with any other information required by law. To qualify for a tax exempt card a person must provide a copy of their Alaska ID or driver's license, and proof they have resided in Alaska, as a permanent resident for the past 12 months, received an Alaska Permanent Fund Dividend, documentation required as part of a permanent fund application or other documentation that verifies a person has established permanent residency in Alaska must be submitted to show proof of residency. (Ordinance 17-05-16-04)

- A. A spouse under 65 years of age is not eligible for the exemption and cannot purchase anything without the presence of the exempt spouse except as listed in subsection (B) of this section.
- B. No person who has not duly applied for and received such an exemption card may use it to obtain such tax exemption. However, in the case where a person is an invalid or otherwise physically unable to leave their home or dwelling to use the card, the city may issue a special card authorizing another person to use the special card for the benefit of the invalid or otherwise physically unable person to use the card. (Ord. 12-08-07-01)

3.17.120 UNLAWFUL TO MISREPRESENT EXEMPTIONS.

Any buyer or consumer who falsely states or in any way misrepresents the use to which merchandise or material is to be put for the purpose of securing tax exemption under the terms of this chapter is guilty of an unlawful act and upon conviction thereof is subject to the penalties provided in section 3.17.060 of this chapter. (Ord. 870 §2(part), 1977)

3.17.130 USE OF PROCEEDS OF SALES TAX.

As of January 1, 2010, Thorne Bay Municipal Sales Tax is 6%. Five sixths (5/6) or eighty-three percent (83%) of the total sales tax collected shall be used for general municipal purposes. One sixth (1/6) or seventeen percent (17%) shall be placed in a savings account at the end of each calendar quarter to be divided 40/60 for community development projects and the maintenance and improvement of streets and roads. (Ord. 10-01-05-01)

3.17.150 REGULATIONS AUTHORIZED.

The City Council or City Treasurer is authorized to prescribe by departmental regulations the forms to be used and the methods and procedures to be followed by the revenue collector in collecting the taxes. This authorization does not authorize regulations of substance which impose any requirements upon buyers or sellers.

3.17.180 PROTEST OF TAX.

- A. A buyer who protests the payment of the tax levied under this chapter shall pay the tax and shall provide the seller and the revenue collector's director of administrative services with a written statement of protest within five working days of the sale. The written statement shall identify the sale, rental or service that is the subject of the tax protested, the amount of tax paid, the buyer's and seller's name, mailing address, and telephone number and the basis for the protest.
- B. If the seller protests his liability for a final assessment under Subsection 3.17.070(c) or if the seller has any other cause of action, grievance or protest concerning the legality, collection or payment of the sales tax, 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 nonpayment be maintained in a civil action unless the amount in dispute has been paid by the seller under written protest filed at or before the time of payment.

3.17.190 FORGIVENESS OF UNCOLLECTED TAXES, PENALTIES AND INTEREST.

- A. The City Administrator, with the consent of the Mayor and council, may forgive the payment of uncollected sales taxes, interest and penalty thereon and penalties for failure to file owing by a seller to the city upon a determination by the City Administrator that such uncollected sales taxes have never been collected by a substantial portion of a clearly definable class of sellers or which have never been collected on a substantial portion of a clearly defined class or type of transaction or service.
- B. The City Administrator may, upon recommendation of the Mayor and City Council, authorize forgiveness of uncollected sales taxes, interest and penalty thereon and penalties for failure to file, as part of the compromise and settlement of a disputed claim in an action for collection of such funds.
- C. The City Administrator, with the consent of the Mayor and City Council, may onetime forgive the payment of uncollected sales taxes, interest, and penalty thereon and

penalties for failure to file owing by a seller to the city upon a determination by the city administrator that such uncollected sales taxes are the result of a family medical hardship. (Ord. 17-03-21-02)

3.17.200 APPEALS.

- A. A seller aggrieved by the action of the revenue collector in fixing the amount of the tax or in imposing a penalty or interest shall appeal to the revenue collector's manager within forty-one calendar days from the date taxes are due and payable under this chapter. A seller who has a cause of action, grievance or protest concerning the legality, collection or payment of the sales tax shall appeal in this manner and within the same forty-one days. All right to an appeal shall be deemed waived if not timely requested as set forth in this subsection.
- B. Contested taxes, penalties and interest that remain unpaid shall continue to accrue penalty and interest as provided by this title until paid. Contested taxes, penalties and interest that are paid and are found to be overpaid shall be refunded with interest at the rate of eight percent from the date of payment.
- C. All appeals shall be filed in writing with the revenue collector's manager and shall contain all of the following information:
 - 1. Name, address, and telephone number of the aggrieved seller;
 - 2. A specific and detailed statement of the amount of tax, interest or penalty contests, the basis and grounds upon which the appeal is made, and all pertinent records, documents, or other evidence substantiating the grounds as stated;
 - 3. A statement of the relief sought; and
 - 4. A statement as to whether a hearing is requested.
- D. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting any appeal are limited to:
 - 1. The identity of the seller is in error;
 - 2. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for a hearing);
 - 3. The seller disputes the denial of exemption(s) for certain sales; or
 - 4. Taxes have been levied and forgiven in accordance with Section 3.17.190.
- E. A request for appeal is filed on the date it is personally delivered, or if delivered to the revenue collector's manager by United States mail, the date of the United States Postal Service postmark stamped on the properly addressed cover in which the request is mailed. If the due date falls on a Saturday, Sunday, or a holiday, the due date is the next business day. A current mailing address must be provided to the revenue collector's manager with the request for appeal, and any change in mailing

address after the request for appeal is filed must be reported to the revenue collector's manager.

- F. Upon such filing of a written appeal, the revenue collector's manager shall immediately send a copy thereof to the City Administrator or administrator. The city may provide written information that may be considered in deciding the appeal.
- G. Unless the appellant waives a hearing, the revenue collector's manager or person designated by the revenue collector's manager shall hold a hearing to determine whether a correction is warranted. The revenue collector's manager or designee shall decide the appeal based upon the pertinent records provided by the parties involved or discovered by any investigation ordered by the revenue collector's manager and, if a hearing is requested, any evidence presented at the hearing. If a hearing is requested, the appellant need not appear at the hearing. If the appellant fails to appear, the revenue collector's manager or designee may make a determination based upon the evidence received and any written materials submitted by the appellant. The determination need not make formal findings of fact or conclusions of law, but the written determination shall state the reasons for the decision and indicate the evidence relied upon. Such determination shall be issued no later than ten business days after the date of hearing if a hearing is held or ten days after the appeal is filed if the hearing is waived. Such determination shall be final.
- H. Taxes, penalties, and interest declared to be due in the final determination shall be subject to normal collection action of the city. The amount due must be paid or if the decision of the revenue collector's manager is appealed, a bond to secure payment must be filed with the court in accordance with Alaska Rules of Court, Rules of Appellate Procedure.
- I. Within thirty days after receipt of the final determination, a seller aggrieved by the decision may appeal to the Superior Court in the First Judicial District. The seller shall be given access to the revenue collector's file in the matter for preparation of the appeal. If after the appeal is heard it appears the tax was correct, the court shall confirm the tax. If incorrect, the court shall determine the amount of the tax and if the seller aggrieved is entitled to recover the tax or part of it, the court shall order the repayment. The city shall then pay the amount due within fourteen days after receipt of a certified copy of the judgment, unless the city requests a stay pending its own appeal.

3.17.210 CLERICAL ERRORS OR OMISSION, REFUND OF SALES TAX; PENALTY AND INTEREST.

- A. The revenue collector's director of administrative services may correct manifest clerical errors or omissions at any time they are found and verified.

- B. If, in payment of taxes legally imposed, a remittance by a seller through error exceeds the amount due, and the revenue collector, on audit of the account in question, is satisfied that this is the case, the city shall refund the excess to the seller with interest at eight percent from the date of payment. A claim for refund filed one year or more after the due date of the tax is forever barred. A copy of the refund audit and entitlement shall be given to the City Administrator.

3.17.220 Alaska uniform remote seller sales tax code adopted by reference.

The city adopts by reference the Alaska uniform remote seller sales tax code (uniform code) of the Alaska remote sellers sales tax commission, as the code currently exists, and as may hereafter be amended. In the event that there is any conflict between this chapter and the uniform code, the provisions of the uniform code will apply; in the event that there is an applicable provision in the uniform code that is not in this chapter, the city may provide that the uniform code provision shall apply to local sales, rentals, or services; further, provided, however, that in the event there is a conflict related to exemptions, this chapter will apply in lieu of the specific uniform code provision or definition. (Ordinance 20-07-21-01; adding § 13.17.220 in its entirety)

CHAPTER 3.18 - TRANSIENT OCCUPANCY TAX:**3.18.010 TITLE AND PURPOSE.**

- A. Title. This chapter shall be known as the “Transient occupancy Tax ordinance of the City of Thorne Bay, Alaska.”
- B. Purpose and Intent. It is the purpose and intent of the council that there be imposed on transient occupants of hotel rooms in the city a tax, the proceeds of which are to be paid as provided in Section 3.18.130. This ordinance shall be implemented on the 1st day of January following its passage.

3.18.020 DEFINITIONS.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

- A. **“Collected”** means the time at which the rent is earned if the operator uses the accrual basis of accounting, or the time at which the rent is received if the operator uses the cash basis of accounting. The same basis of accounting normally used for keeping the books and records shall be used for reporting and remitting the tax levied by this chapter.
- B. **“Hotel”** means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and is held out as being used or available for such purpose to the public regardless of whether it is specifically referred to as a hotel, and shall include a bed and breakfast, lodge, cabin, guest room or similar facility. “Hotel” does not mean any hospital, convalescent home, sanitarium or home for aged people licensed as such by the state.
- C. **“Occupancy”** means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.
- D. **“Operator”** means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal or the managing agent shall, however, be considered to be compliance by both.

- E. **“Person”** means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any-other group or combination acting as a unit.
- F. **“Rent”** means the consideration charged for the occupancy of space in a hotel as well as for such equipment as rollaway beds, cribs, television sets, etc., valued in money, whether to be received in money, credits, credit card charges, goods, labor, property and services of any kind or nature without any deduction therefrom whatsoever.
- G. **“Rent package plan”** means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable and apportioned to rent for determination of the transient occupancy tax under Section 3.18.030 shall be the same charge made for rent when not a part of a package plan.
- H. **“Transient”** means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of not more than sixty consecutive calendar days, counting portions of days as full days; provided, however, the day a transient check out shall not be included in determining the thirty-day period if the transient is not charged rent for that day. Any person who in fact exercises occupancy or in fact is entitled to occupancy for a period of more than sixty consecutive days shall be deemed not to have been a transient from the date of commencement of such consecutive period for days of occupancy or entitlement to occupancy if the transient possesses a legally written lease or rental agreement for a period of sixty or more consecutive days.

3.18.030 TAX IMPOSED.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of four percent, in addition to city sales tax, of rent charged by the operator for the privilege of said occupancy. If the bed rent is considered to be part of a package price then it is up to the hotel to determine the value of their bed, which is not to be less than 1) the current rate of United States Government per diem, or 2) bed rent as advertised or collected separately in non-package transactions; whichever is greater. Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time such transient ceases to occupy space in the hotel; provided, however, if the rent is paid in installments, a proportionate share of the tax shall be paid with each installment, and the remaining unpaid tax shall be due upon the transient’s ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the revenue collector may require that such tax shall be paid by the transient directly to the revenue collector or may collect such tax directly from the operator.

3.18.040 EXEMPTIONS.

No tax shall be imposed where:

- A. The rent is at the rate of three dollars a day or less. The exemption in this subsection applies only where the total rent charged for a room is three dollars a day or less, or where the accommodations rented are in a dormitory and the rent for each transient is three dollars a day or less;
- B. Any person pays for lodging on a monthly basis with a legal signed lease or rental agreement, irrespective of the number of days in the month;
- C. Any person who rents a private single-family dwelling unit, vacation cabin or like facility from any owner who rents the structure or facility incidental to his own use thereof and on a casual and isolated basis not done in the regular course of business;
- D. The gross receipts are derived from rentals of hotel rooms, bed and breakfast or other transient occupancy to the United States government, the State of Alaska, or a municipality, when payment is made by such governmental organization directly to the provider by purchase order or by other means of direct payment. The revenue collector may require such verification of direct payment to the provider by the governmental organization as deemed necessary.

3.18.050 OPERATOR'S DUTIES.

Each operator shall collect the tax imposed by this chapter to the same extent and at the time as the rent and sales tax is collected from every transient. If the operator fails to collect the tax imposed by this chapter for any reason, the operator shall be liable for the tax jointly and severally with the transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. A duplicate of this receipt shall be kept by the operator in accordance with section 3.18.090. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax rent, or that, if added, any part will be refunded. Each operator shall account separately and maintain separate monthly summary totals, for both taxable and nontaxable rents and for taxes collected. Taxable rents are those defined in section 3.18.020.

3.18.060 REGISTRATION.

Within thirty days after the effective date of this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register said hotel with the revenue collector.

3.18.070 TAX TO BE PAID QUARTERLY.

The tax levied under this chapter shall be due and payable quarterly in conjunction with city sales tax. Each operator shall make and file with the revenue collector on forms prescribed and furnished by the revenue collector, a return, prepared under oath, setting forth the amount of all rents charged, whether exempt or not, and the amount of tax collected for transient occupancy and such other information as the revenue collector may require on such forms. The completed and executed return, together with remittance in full for the total amount of the tax due, shall be transmitted to the revenue collector on or before the last day of the calendar month following the close of each calendar quarter.

- A. Each operator shall file a return even though no tax may be due. This return shall show why no tax is allegedly due, or, if the business has been sold or otherwise transferred, the person to whom it was transferred, the date it was transferred, and the address and telephone number of the person to whom it was transferred.
- B. Each operator, upon cessation of business, shall, on or before the same day of the next month following cessation of business, or on the last day of the month if no corresponding day exists, make a return to the revenue collector on forms provided by him of the total rents charged and the amount of tax collected or due for transient occupancies, and shall, upon request, make his books and records available for audit. At the time the return is filed, the full amount of the tax collected or due shall be remitted to the revenue collector. Returns filed and taxes remitted and actually received by the revenue collector on or before the same day of the next month following the cessation of business, or on the last day of the month if no corresponding day exists, shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed by Section 3.18.080.
- C. Returns filed and taxes remitted by mail shall be deemed timely filed only if the envelope or similar container enclosing the returns and taxes is addressed to the revenue collector, has sufficient postage and bears a United States postmark prior to midnight on the last day for reporting and remitting without penalty; otherwise, the taxes are delinquent and subject to the penalties imposed by Section 3.18.080.
- D. The revenue collector may establish shorter reporting periods for any operator if deemed necessary in order to ensure collection of the tax and may also require further and additional information in the return. All taxes collected by the operator pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the revenue collector.

- E. Returns shall be accompanied by proof, satisfactory to the revenue collector, as to claimed exemptions, or exceptions from the tax herein imposed. The burden of establishing any tax exemption is upon the claimant. In the absence of such proof, the rentals or occupancies shall be deemed to have been taxable.

3.18.080 PENALTY AND INTEREST ON DELINQUENT TAXES.

- A. Original Delinquency. In the event an operator fails or neglects to file a return when due, or fails to remit taxes collected by him, or which should have been collected by him, in a timely manner as required by this chapter, then such return and tax is delinquent, and the revenue collector shall add thereto penalties as follows:

IF PAYMENT MADE: ADDITIONAL PENALTY

1. Within 30 days after delinquency date 15% of tax
 2. Within 60 days after delinquency date 20% of tax
 3. More than 60 days after delinquency date 25% of tax
- B. Interest. Interest on delinquent taxes shall accrue from the date of delinquency to the date of payment at the rate of one-half of one percent per month. All remedies available to the revenue collector to collect taxes, penalties, and interest plus collection costs, shall commence thirty days after the date of delinquency.
- C. Audit Deficiency. If, upon audit, an operator is found to be deficient in his return or his remittance or both, the amount deficient shall be deemed a delinquency under subsection (a) of this section and the revenue collector shall immediately invoice the operator for the amount of the net deficiency, plus a penalty as provided in subsection (a) of this section computed from the date the amount should have been paid, plus accrued interest. Interest shall be deemed to have commenced to accrue at the rate provided in subsection (a) from the date such tax should have been paid.

3.18.085 OCCUPANCY TAX LIENS.

- A. The occupancy tax, interest, and penalties imposed by this chapter, and the administrative costs under subsection (f) of this section, shall constitute a lien in favor of the city upon all of the real and personal property of every person making taxable occupancies subject to this chapter.
- B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent under Section 3.18.080 and continues until the entire amount is satisfied.
- C. If delinquent occupancy taxes, including interest and penalties, are not paid within ten days from the mailing of notice and demand for payment thereof, a notice of lien

may be recorded in the office of the district recorder. Upon recordation, the occupancy tax lien has priority over all other liens except;

1. Liens for property taxes and special assessments;
 2. Liens that were perfected before the recording of the occupancy tax lien for amounts actually advanced before the recording of the occupancy tax lien;
 3. Mechanics, and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the occupancy tax lien.
- D. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens in AS 09.45.170-09.45.220.
- E. The remedy provided in this section is not exclusive and shall be in addition to all other remedies available to the revenue collector to collect the occupancy taxes, penalties and interest due under this chapter.
- F. Fees for the administrative costs of filing on notices of liens, and releasing of liens shall be:
1. Filing of notices of lien: twenty-five dollars plus recorder's office filing fee.
 2. Release of liens: twenty-five dollars plus recorder's office filing fee.
- G. If administrative costs for the filing of notices of liens and releasing of liens are imposed and have been collected by the City of Thorne Bay on delinquent sales taxes, including penalties and interest, no additional administrative costs shall be collected under subsection (f) of this section.

3.18.090 DUTY TO KEEP BOOKS-INVESTIGATION.

- A. Every operator shall keep and preserve full and complete records of all rentals or occupancies made by him, and such other books or accounts as may be necessary for the revenue collector to determine the amount of tax hereunder and the operator shall keep and preserve said records for a period of not less than two years in the city. All of said records shall be made available for inspection by the revenue collector, city administrator, and his or their designee upon request at any reasonable time.
- B. For the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or which should have been collected by any person, the city administrator, or his designee may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records, or memoranda of any such person, and may require the attendance of such person, or any officer or employee of such person. The city administrator or his designee shall have the power to administer the oaths and affirmations to such persons, and if any such person, being first duly sworn, refuses to answer any questions put to him by the administrator or his designee, the

administrator may apply to the superior court for an order requiring the person to answer the questions. The city administrator may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any person refuses to obey any such subpoena, the city administrator may apply to the superior court for an order requiring the person to comply therewith. The city administrator is authorized to make arrangements with the Ketchikan Gateway Borough, authorizing the borough to collect the taxes and conduct the investigations and hearings provided herein, and to exercise all the powers created in this chapter.

- C. In the event the revenue collector is unable to ascertain the tax due to be remitted by an operator by reason of the failure of the operator to keep accurate books, allow inspection, failure to file a return, falsification of records, or for any other reason, the revenue collector may make an estimate of the tax due based upon all of the information available. Notice of the estimate of taxes due and penalties and interest shall be furnished by certified mail to the operator and said amount of tax shall become final for the purposes of determining liability of the operator to the city upon the expiration of thirty days unless the operator supported by satisfactory earlier files and accurate return, supported by satisfactory records, indicating a lesser liability.

3.18.100 ACTIONS TO COLLECT.

Any tax required to be paid under the provisions of this chapter shall be deemed a debt owed jointly and severally by the transient and the operator and recoverable by the city in an action brought against the transient, or the operator, or against the transient and operator jointly. Any taxes collected by an operator pursuant to this chapter which have not been paid to the city, shall be deemed to be funds held in trust for the account of the city.

3.18.110 VIOLATIONS.

Any operator who fails to collect or remit all or any portion of the tax provided for in this chapter, or fails or refuses to comply with the provisions of this chapter, or remits or rebates to a transient or other person whether directly or indirectly and by whatsoever means, all or any part of the tax levied under this chapter, or makes in any form of advertising, verbally or otherwise, any statement which implies that the operator is absorbing the tax, or paying the tax for the transient by an adjustment of prices of in any manner whatever, and any person who under the terms of this chapter, and any person who otherwise violates any provision of this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or

imprisonment for not more than thirty days, or both such fine and imprisonment. Each act of violation and every day upon which any such violation occurs shall constitute a separate offense.

3.18.120 SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, invalid or unenforceable such shall not affect the validity of the remaining provisions of this chapter or any part thereof. The city council hereby declares it would have passed each section, subsection, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or unenforceable.

3.18.130 UTILIZATION OF REVENUES.

- A. The tax revenue collected pursuant to this chapter shall be deposited into the transient occupancy tax fund which is created.
- B. Moneys expended from the transient occupancy tax fund shall be allocated accordingly:
 - 1) 20% for the promotion of tourism in Thorne Bay
 - 2) 30% for the maintenance and improvement of Thorne Bay harbors
 - 3) 30% for EMS and fire related expenses
 - 4) 10% for the City of Thorne Bay general funding.
 - 5) 10% for community cleanup and park enhancement.

3.18.140 REVENUE COLLECTOR'S REGULATIONS.

The revenue collector may adopt reasonable rules, regulations, and forms to implement the provisions of this chapter.

3.18.150 SALE OF BUSINESS-FINAL RETURN-LIABILITY OF PURCHASER.

- A. If any operator sells or otherwise transfers his business to another person, such seller or transferor shall make a final transient occupancy tax return within five days after the date of sale or other transfer of the business and the purchaser, transferee, successor, successors, or assigns, shall withhold a sufficient portion of the purchase

money or other consideration to pay the amount of transient occupancy taxes, penalties and interest due and unpaid to the city until such time as the selling or transferring operator produces a receipt from the revenue collector showing that all taxes, penalties and interest have been paid or produces a tax clearance certificate from the revenue collector stating that no tax, penalty, or interest is due.

- B. If the seller or transferor does not present a receipt or tax clearance certificate within thirty days after such successor commences to conduct business, the transferee shall deposit the withheld amount with the revenue collector pending settlement of the account of the seller or transferor.
- C. Not later than fifteen days after receipt of a written request from the transferee for a tax clearance, the revenue collector shall either issue the certificate of mail notice to the transferee at the address stated in the request of the estimated amount of the tax and penalty that must be paid as a condition of issuing the certificate.
- D. If the transferee of the business fails to withhold a portion of the purchase price as herein required, such transferee shall be liable for the payment of the amount required to be withheld.
- E. Not later than ten days prior to close or completion of any sale or transfer, the buyer or transferee and the seller or transferor shall send to the revenue collector, by registered first-class United States mail, postage prepaid, a copy of the notice referred to in AS 45.06.105 which statute is made a part of this chapter, and such notice shall be so sent regardless of whether such notice would have otherwise been required to have been made and sent under the provisions of AS 45.06.101, et seq., Uniform Commercial Code-Bulk Transfers.

3.18.160 APPEAL.

An operator or other person aggrieved by a decision of the revenue collector or the city administrator may appeal the said decision of the city council by filing with the city clerk a written notice of appeal setting forth in detail the facts upon which such appeal is based not later than fifteen days after the date of such decision. In the event no appeal is filed within the time and in the manner as provided herein, said decision shall become final and conclusive.

CHAPTER 3.20 CITY CHECKS SECTIONS:**3.20.010 SIGNATURE-ISSUANCE APPROVAL.**

All checks drawn on the checking account of the city shall be signed by two signatories. The approved signatories on the checking account of the city shall be the chief executive officer, the vice mayor, the city administrator and the city treasurer. All checks prior to issuance shall be approved to be within budget allowances. (Ord. 93-27 § 3, 1993: prior code Ch. 29 § 3)

3.20.020 INSUFFICIENT FUNDS.

No city check may be written at any time when funds are insufficient. Willful violation of this provision and conviction shall result in a fine of not more than five hundred dollars. (Prior code Ch. 29 § 4)

3.20.030 MINIMUM CHECKING ACCOUNT BALANCE.

A minimum balance of two thousand dollars shall be maintained in the checking account of the city. (Ord. 93-27 § 4, 1993)