

## **Title 5**

### **REVENUE AND FINANCE**

#### **Chapters:**

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**Chapter 5.02****INVESTMENT OF BOROUGH FUNDS**

## Sections:

- 5.02.010 General investment policy.
- 5.02.020 Authority.
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- 5.02.085 Sale of borough-held notes.
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**5.02.010 General investment policy.**

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of public funds, not for speculation, but for investment, considering the probable safety of capital, and the yield to be derived. Of primary importance is safety of capital, with yield being a secondary consideration. Each investment transaction shall seek to avoid capital losses from securities defaults or erosion of market value. [Ord. 550 § 5, 1989.]

**5.02.020 Authority.**

The finance director, or his designee in his absence, is the borough official responsible for investments. The assembly may, by resolution, establish additional criteria including, but not limited to, financial solvency ratios for depository banks, limitations on securities, and collateralization requirements not inconsistent with the Charter or borough ordinances to govern the investment of borough funds. [Ord. 550 § 5, 1989.]

**5.02.030 Hold harmless.**

The borough will hold the borough's finance director and his designee harmless with regard to losses on investment transactions undertaken in accordance with the borough charter, borough ordinances and other investment policies authorized by the assembly by resolution. [Ord. 550 § 5, 1989.]

**5.02.040 Eligible moneys.**

Subject to any restrictions that may exist as to the derivation of the funds, all moneys in all borough funds are eligible for investment. [Ord. 550 § 5, 1989.]

**5.02.050 Investments.**

Investments shall be restricted to the following:

A. Treasury bonds, bills, notes, or other general obligation evidences of indebtedness of the United States or an agency or instrumentality of the United States, or of the State of Alaska, or of other states of the United States, or of this borough, of other cities of the state, and of boroughs of this state.

B. Fully insured certificates of deposit, savings deposits, and other interest-bearing deposit accounts in member banks insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

C. Fully collateralized certificates of deposits, savings deposits, or other interest-bearing deposit accounts of member banks insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC). Such deposits shall be fully collateralized for any amount of the deposit in excess of the FDIC or FSLIC insurance limits then in force.

D. Repurchase agreements where the general checking balance at the end of each business day is used to buy a security (as allowed under WMC 5.02.050(A), (B) or (C)) from the bank and held overnight. The bank agrees to repurchase the security at the beginning of the next business day and deposit back to the general checking. All repurchase agreements must meet all the investment guidelines as described in this chapter. [Ord. 563 § 4, 1990; Ord. 555 §§ 4, 5, 1990; Ord. 550 § 5, 1989.]

**5.02.060 Collateralization.**

All deposits that require collateralization shall be in accordance with the following requirements:

A. The market value of collateral must be maintained during the life of the investment at a level equal to or greater than the deposit.

B. All collateral securities must be delivered to and held by a third-party trustee bank under a written trust agreement.

C. An undivided interest in the securities pledged as collateral must be granted to the borough.

D. The trust agreement shall provide that upon trustee's receipt of written notice that the depository is in default of repayment of any deposit of borough funds or any part thereof, the trustee shall deliver to the designated official of the borough upon his order, all or such part of the collateral securities held by the trustees as directed.

E. Securities which may be used as collateral are limited to negotiable treasury bills, notes and other general obligation evidences of the indebtedness of the United States or any agency of the United States or of the State of Alaska or a municipality of the state. [Ord. 550 § 5, 1989.]

**5.02.070 Investments placed.**

A. Investments may be placed with or through the following financial institutions:

1. Member banks insured by the FDIC or FSLIC; and/or
2. Broker dealers that are members of the New York Stock Exchange (NYSE), members of the Securities Investor Protection Corporation (SIPC) and registered broker dealers in Alaska.

B. To facilitate convenient placement of investments, borough funds up to a combined limit of \$300,000 may be temporarily deposited for a period not to exceed 20 days in a cash management account or U.S. Government Securities money market fund sponsored by the financial institution through which such investments are being placed. [Ord. 555 § 6, 1990; Ord. 550 § 5, 1989.]

**5.02.080 Maturities.**

All investments shall have maturities measured from the date of purchase which do not exceed five years, except for investments that shall be put to specific uses (such as defeasance of debt or establishment of a linking fund) where the matching or maturity to the use is most important. [Ord. 583 § 4, 1992; Ord. 550 § 5, 1989.]

**5.02.085 Sale of borough-held notes.**

The borough may sell any presently held or future borough financed notes by bid or request for proposal process upon terms approved by the assembly through public process. [Approved by passage of Proposition No. 1 at regular election on October 5, 2004, as authorized by initiative petition certified on July 26, 2004.]

**5.02.090 Reports.**

The finance director shall prepare and submit to the borough assembly, at least once each quarter and otherwise upon request, a status report on all borough investments. [Ord. 550 § 5, 1989.]

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## Chapter 5.04

### PROPERTY TAX

#### Sections:

- 5.04.010 Levy and limitations.
- 5.04.020 Nonlimitation on levy for bond payments.
- 5.04.030 Exemptions.
- 5.04.035 *Repealed.*
- 5.04.036 *Repealed.*
- 5.04.040 Senior citizen and disabled veteran exemption qualifications.
- 5.04.080 Assessor – Designee.
- 5.04.090 Assessment – Determination.
- 5.04.095 Reevaluation.
- 5.04.100 Listing of property.
- 5.04.110 Description of property.
- 5.04.120 Assessment roll – Preparation.
- 5.04.130 Assessment notice.
- 5.04.140 Publication of notice of equalization hearings.
- 5.04.150 Corrections by assessor.
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- 5.04.320 Differential tax zones – Adoption – Classes – Review.
- 5.04.330 Assembly authority to fix tax rate.
- 5.04.340 Mailing of tax statements.
- 5.04.350 Delinquent date for payment of taxes.
- 5.04.360 Penalty and interest for late payments.
- 5.04.370 Enforcement of delinquent real property taxes.
- 5.04.380 *Repealed.*
- 5.04.390 *Repealed.*
- 5.04.400 *Repealed.*
- 5.04.410 *Repealed.*
- 5.04.420 *Repealed.*
- 5.04.430 *Repealed.*
- 5.04.440 *Repealed.*

**5.04.010 Levy and limitations.**

A. There shall be assessed, levied and collected a general tax for school and municipal purposes upon all real property. The levies for school and municipal purposes shall not be separately made and fixed, and the aggregate levy shall not exceed three percent of the assessed value of the real property assessed.

B. Boats and vessels are exempt and allowed under AS 29.45.050(D)(2). [Ord. 703 § 4, 2001; Ord. 700 § 4, 2001; Ord. 689 § 4, 2000; Ord. 441 § 4, 1982; Ord. 420 § 2, 1981.]

**5.04.020 Nonlimitation on levy for bond payments.**

The limitation provided for in WMC 5.04.010 does not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default. [Ord. 366 § 5, 1978; prior code § 60.20.015.]

**5.04.030 Exemptions.**

The following are exempted from the levy imposed under this chapter:

A. All property exempt from taxation as prescribed by Alaska law;

B. For four tax years, that part of residential property equal in value to the cost of qualifying repairs and rehabilitation as provided in WMC 5.04.035, but not exceeding \$10,000. "Residential property" is a structure used solely for nontransient, residential purposes containing eight or fewer living units;

C. All personal property tax is exempt effective January 1, 2001;

D. Any interest, other than record ownership, in real property of an individual residing in the property if the property has been developed, improved, or acquired with federal funds for low-income housing and is owned or managed as low-income housing by the Alaska Housing Finance Corporation under AS 18.55.100 through 18.55.960 or by a regional housing authority formed under AS 18.55.996. However, this exemption does not prohibit the Alaska Housing Finance Corporation from making payments to the City and Borough of Wrangell for improvements, services, and facilities furnished by Wrangell for the benefit of a housing project, and this subsection does not prohibit the City and Borough of Wrangell from receiving those payments or any payments in lieu of taxes authorized under federal law. [Ord. 837 § 2, 2009; Ord. 703 § 4, 2001; Ord. 450 § 4, 1983.]

**5.04.035 Repair and rehabilitation exemption qualification.**

*Repealed by Ord. 837. [Ord. 440 § 5, 1982.]*

**5.04.036 Exemption – Timber processing.**

*Repealed by Ord. 837. [Ord. 703 § 4, 2001; Ord. 661 § 4, 1999; Ord. 527 § 4, 1987.]*

**5.04.040 Senior citizen and disabled veteran exemption qualifications.**

A. The real property owned and occupied as the primary residence and permanent place of abode by:

1. A resident 65 years of age or older on January 1st of the assessment year; or
2. A resident who is a disabled veteran on January 1st of the assessment year; or
3. A resident at least 60 years old on January 1st of the assessment year who is the widow or widower of a person who qualified for an exemption under subsections (A)(1) or (A)(2) of this section is exempt from taxation on the first \$150,000 of the assessed value of the real property. Only one exemption

may be granted for the same property, and if two or more persons are eligible for an exemption for the same property, the parties shall decide between or among themselves who is to receive the benefit of the exemption. Real property may not be exempted under this subsection if the assessor determines, after notice and hearing to the parties, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor may be appealed under AS 44.62.560 through 44.62.570.

B. To be eligible for an exemption under subsection (A) of this section, for a year the individual applying for an exemption must also meet requirements under one of the following subsections:

1. The individual shall be eligible for a permanent fund dividend under AS 43.23.005 for that same year or for the immediately preceding year; or

2. If the individual has not applied or does not apply for one or both of the permanent fund dividends, the individual would have been eligible for one of the permanent fund dividends identified in subsection (B)(1) of this section had the individual applied.

An exemption may not be granted under subsection (A) of this section except upon written application for the exemption on a form designated by the assessor. The claimant must file the application no later than March 1st of the assessment year for which the exemption is sought. The assembly, for good cause shown, may waive the claimant's failure to make timely application for exemption for that year and authorize the assessor to accept the application as if timely filed. To be considered by the assembly, a request to waive the claimant's failure to make timely application for exemption must be in writing and filed no later than April 15th of the assessment year for which the exemption is sought. The claimant must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, the assessor shall allow an exemption in accordance with the provisions of this section. If the application for exemption is approved after taxes have been paid, the amount of tax that the claimant has already paid for the assessment year for the property exempted shall be refunded to the claimant. The assessor shall require proof in the form the assessor considers necessary of the right to and amount of an exemption claimed under subsection (A) of this section and shall require a disabled veteran claiming an exemption under subsection (A) of this section to provide evidence of the disability rating. The assessor may require proof under this section at any time.

C. In this section:

1. "Disabled veteran" means a disabled person:

a. Separated from the military service of the United States under a condition that is not dishonorable, who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as 50 percent or more by the branch of service in which that person served or by the Veterans' Administration; or

b. Who served in the Alaska Territorial Guard, who is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska Territorial Guard, and whose disability has been rated as 50 percent or more;

2. "Real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes. [Ord. 790 § 1, 2006; Ord. 741 § 5, 2004.]

#### **5.04.080 Assessor – Designee.**

As used in this chapter, the term "assessor" shall mean the assessor or the assessor's designee, and acts to be performed by the assessor may be performed by the assessor's designee. [Ord. 793 § 1, 2007.]

#### **5.04.090 Assessment – Determination.**

Property shall be assessed at its full and true value in money, as of January 1st of the assessment year. In determining the full and true value of property in money, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price for which the property would sell at auction, or at a forced sale, either separately or in

the aggregate with all of the property in the borough, but he shall value the property at such sum as he believes the same to be fairly worth in money at the time of assessment. [Ord. 703 § 4, 2001; Ord. 255 § 5, 1970; prior code § 60.20.080.]

#### **5.04.095 Reevaluation.**

There shall be a systematic reevaluation of all taxable real property undertaken by the assessor on a rotating basis at intervals not to exceed every three years. [Ord. 837 § 1, 2009.]

#### **5.04.100 Listing of property.**

The assessor shall complete the listing of all real property within the limits of the borough before March 20th of each year. The listing of all taxable property may be made upon permanent separate ledger cards which will be the combined assessment roll and tax ledger. Real property shall be assessed to the owner of record as shown in the records of the recorder for the Wrangell recording district; provided, however, that any other person having an interest in the property may be listed on the records with the owner. The person in whose name any property is listed as owner shall be conclusively presumed to be the legal owner of record. If the owner of the land is unknown the land may be assessed to an "unknown owner" or "unknown owners." No assessment shall be invalidated by a mistake, omission or error in the name of the owner of the real property assessed, if the property is correctly described. [Ord. 703 § 4, 2001; Ord. 441 § 7, 1982; Ord. 420 § 5, 1981.]

#### **5.04.110 Description of property.**

The assessor may list real property located in the townsite of Wrangell and any addition thereto by lot and block number, and similarly for any subdivided property. Unsubdivided property may be listed according to survey description, or by giving the boundaries thereof, or by reference to the book and page of the records of the Wrangell recording district where recorded, or by designation of tax lot number referring to a public record kept by the tax assessor of descriptions of real property, or by such other manner as to cause the description to be made certain. Initial letters, abbreviations, fractions and exponents to designate any lot or block or part thereof, or any distance, course, bearing or direction may be employed in any such description of real property. [Ord. 255 § 5, 1970; prior code § 60.20.100.]

#### **5.04.120 Assessment roll – Preparation.**

A. The assessor shall prepare an annual assessment roll, after consideration of all returns made to him pursuant to this chapter and after careful inquiry from such sources as he may deem reliable.

B. On the roll he shall enter the following particulars:

1. The names and last known addresses of all persons with property liable to assessment and taxation;
2. A description of all taxable property;
3. The assessed value, quantity, or amount of said property;
4. The arrears of taxes, if any, owing by any persons. [Ord. 255 § 5, 1970; prior code § 60.20.110.]

#### **5.04.130 Assessment notice.**

A. The assessor, or his designee, shall give to every owner, or his authorized agent named in the assessment roll, a notice of assessment showing the assessed value of his property. On the back of each assessment notice shall be printed a summary for the information of the taxpayer of the date when the taxes are payable, delinquent, and subject to penalty and interest; dates when the assembly will sit as an equalization board for equalization purposes; and any other particulars specified by the assembly.

B. The assessment notice shall be directed to the person to whom it is to be given, and shall be sufficiently given if it is mailed by first-class mail addressed to, or is delivered at, his address as last known to the assessor; or, if the address is not known to the assessor, the notice may be addressed to the person at the post office nearest to the place where the property is situated. The assessor shall, on or before March 20th of each year, mail or deliver the assessment notices and the date when mailed or delivered shall be deemed to be the date on which the notice was given for purposes of this chapter. [Ord. 476 § 6, 1985; Ord. 255 § 5, 1970; prior code § 60.20.120.]

**5.04.140 Publication of notice of equalization hearings.**

When all assessment notices have been mailed, the assessor shall cause to be published in a newspaper of general circulation which is published in the borough at least once each week for two successive weeks a notice that the assessment rolls have been completed. The notice shall state when and where the equalization hearings shall be held by the assembly sitting as a board of equalization, referred to in this chapter as “board.” The board of equalization meetings shall be held on the first Monday following the first Thursday in May and continue each day thereafter until its scheduled business is completed. [Ord. 255 § 5, 1970; prior code § 60.20.130.]

**5.04.150 Corrections by assessor.**

The assessor may correct any error or supply any omission made or arising in the preparation of the assessment roll at any time before the sitting of the board of equalization. It shall be the duty of every person receiving an assessment notice to advise the assessor of any error or omission he may have observed in the assessment of his property, in order that the assessor may correct the same. [Ord. 255 § 5, 1970; prior code § 60.20.140.]

**5.04.160 Appeal by person assessed.**

Any person who receives notice or whose name appears on the assessment roll may appeal, as provided in this chapter, to the board with respect to any alleged error in the valuation, overcharge or omission of the assessor, not adjusted to the taxpayer's satisfaction. A person appealing from a presumed assessment as provided in WMC 5.04.090 shall not prevail unless able to demonstrate excusable neglect, delay in mail delivery, or error in name. [Ord. 255 § 5, 1970; prior code § 60.20.150.]

**5.04.170 Notice of errors or changes in assessment roll.**

Whenever it appears to the board that there are overcharges or errors or invalidities in the assessment roll, or in any of the proceedings leading up to or subsequent to the preparation of the roll, and there is no appeal before the board by which the same may be dealt with, or where the name of any person is ordered by the board to be entered on the assessment roll, by way of addition or substitution, for the purpose of assessment, the board shall cause notice of assessment to be mailed by the assessor to that person or his agent giving him at least 30 days from date of such mailing within which to appeal to the board against assessment. [Ord. 255 § 5, 1970; prior code § 60.20.160.]

**5.04.180 Filing of appeal by person assessed.**

Notice of appeal, in writing, specifying the grounds for appeal shall be filed with the board within 30 days after the date on which the assessor's notice of assessment was given to the person appealing. The notice must contain a certification that a true copy thereof was mailed or delivered to the assessor. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board that the taxpayer was unable to appeal within the time so limited. A copy of the notice of appeal must be sent to the assessor as indicated in this chapter. [Ord. 255 § 5, 1970; prior code § 60.20.170.]

**5.04.190 Appeal record.**

Upon receipt of the notice of appeal, the assessor shall make a record of the same in such form as the board may direct, which record shall contain all the information shown on the assessment roll in respect of the subject matter of the appeal, and the assessor shall place the same before the board from time to time as may be required by the board. [Ord. 255 § 5, 1970; prior code § 60.20.180.]

**5.04.200 Hearing – Notice.**

The board shall cause a notice of the sitting at which the appeal is to be heard to be mailed by the assessor to the person by whom the notice of appeal was given, and to every other person in respect of whom the appeal is taken, to their respective addresses as last known to the assessor. [Ord. 225 § 5, 1970; prior code § 60.20.190.]

**5.04.210 Hearing – Procedures.**

A. At the time appointed for the hearing of the appeal or as soon thereafter as the appeal may be heard, the board shall hear the appellant, the assessor, other parties to the appeal and their witnesses, and

consider the testimony and evidence adduced, and shall determine the matters in question on the merits and render its decision accordingly.

B. If any party to whom notice was mailed as set forth in WMC 5.05.200 fails to appear, the board may proceed with the hearing in his absence.

C. The burden of proof in all cases shall be upon the party appealing. [Ord. 255 § 5, 1970; prior code § 60.20.200.]

**5.04.220 Appeal records.**

The board shall from time to time enter in the appeal record its decision upon the appeals brought before it, and shall certify to the same. [Ord. 255 § 5, 1970; prior code § 60.20.210.]

**5.04.230 Higher appeals.**

Any person feeling aggrieved by any order of the board shall have the right to appeal on a de novo basis to the superior court; provided, however, that the administrative remedy in this chapter has been exhausted. [Ord. 833 § 15, 2009; Ord. 255 § 5, 1970; prior code § 60.20.220.]

**5.04.240 Recordkeeping – Clerk of the board.**

The clerk shall be ex officio clerk of the board of equalization on appeals and shall record in the minutes of the meeting all proceedings before the board, the names of all persons protesting assessments, all changes, revisions, corrections, and orders relating to claims or adjustments. Within three days following the final hearings of the board, the clerk shall certify that the changes so reported are as approved by the board of equalization. [Ord. 255 § 5, 1970; prior code § 60.20.230.]

**5.04.250 Recordkeeping – Assessor.**

The assessor shall enter the changes, so certified, upon his records, and no assessed valuations shall thereafter be changed. [Ord. 255 § 5, 1970; prior code § 60.20.240.]

**5.04.260 Assessment roll – Completion.**

After the hearings held by the board of equalization on appeals are concluded, the assessor shall complete the annual assessment roll, at a time to be determined by the board, which shall be based on values as of January 1st immediately preceding, and he shall certify the same. [Ord. 255 § 5, 1970; prior code § 60.20.250.]

**5.04.270 Assessment – Computation.**

All taxes to be levied or collected, except as otherwise provided, shall be calculated, levied and collected upon the assessed values entered in the assessment roll and certified by the assessor, or his designee, as correct, subject to the taxpayer's rights to appeal and to the corrections made in the rolls pursuant to this chapter. [Ord. 703 § 4, 2001; Ord. 476 § 7, 1985; Ord. 441 § 8, 1982; Ord. 420 § 6, 1981.]

**5.04.280 Assessment roll – Validity.**

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

assessment roll or any part thereof, and notwithstanding any proceedings pertaining thereto. [Ord. 255 § 5, 1970; prior code § 60.20.270.]

**5.04.290 Assessment roll – Delivery to assembly.**

When the final assessment records have been completed by the assessor as provided in this chapter, the finance director shall deliver to the assembly on or before June 1st of each year a statement of the total assessed valuation of all real property within the borough. [Ord. 703 § 4, 2001; Ord. 476 § 8, 1985; Ord. 441 § 9, 1982; Ord. 420 § 7, 1981.]

**5.04.300 Differential tax zones – Established.**

A differential tax zone is hereby established for the purpose of levying property taxes at a different rate in the area or areas defined in WMC 5.04.310. The applicable tax zone shall be designated on each taxpayer's assessment notice. [Ord. 830 § 1, 2008.]

**5.04.310 Differential tax zones – Defined.**

The differential tax zone established by WMC 5.04.300 shall include the following areas:

A. Sections 27, 28, 29, 34 and 35 of T 62 S, R 84 E; and Sections 1, 2, 11, 12, 13, 14, 24 of T 63 S, R 84 E. [Ord. 830 § 1, 2008.]

**5.04.320 Differential tax zones – Adoption – Classes – Review.**

A. On or before March 20th of each year, the assembly shall review and enact, if necessary, an ordinance establishing differential taxation zones for that tax year in addition to those or amending those currently defined in WMC 5.04.310. The establishment of additional differential taxation zones may be accomplished by adopting a map or plat by reference with appropriate designations in lieu of descriptions. The applicable taxation zones shall be designated on each taxpayer's assessment notice.

B. At the time of annual review and adoption, if necessary, of additional differential tax zones as provided in subsection (A) of this section, the assembly shall also review the percentage of mill rate applicable to existing differential tax zone or zones and adopt any modification by ordinance defining such tax zone or zones or the applicable differential rate. [Ord. 830 § 1, 2008.]

**5.04.330 Assembly authority to fix tax rate.**

A. The assembly shall fix a rate of tax levy and designate the number of mills upon each dollar of value assessed taxable real property that shall be levied in accordance with the provisions of WMC 5.04.010.

B. In setting the tax rate for the differential tax zone or zones defined by WMC 5.04.310, the assembly may take into account the different levels of services provided to the tax zone or zones defined by WMC 5.04.310 and set a different rate of levy for that zone by providing for a percentage of mill rate applicable to each existing differential tax zone. [Ord. 830 § 1, 2008; Ord. 703 § 4, 2001; Ord. 441 § 10, 1982; Ord. 420 § 8, 1981.]

**5.04.340 Mailing of tax statements.**

The finance director shall then prepare and mail tax statements to the person listed as the owner on the tax rolls prior to July 1st of each year. [Ord. 476 § 9, 1985; Ord. 255 § 5, 1970; prior code § 60.20.300.]

**5.04.350 Delinquent date for payment of taxes.**

All taxes levied in accordance with this chapter shall be due and payable on or before August 15th of the assessment year and shall become delinquent if not paid before 5:00 p.m. on said date, or, if payment is received through the mail after said date, when the mailed payment is postmarked after said date; provided, however, that the taxpayer shall have the right to pay such taxes in two equal installments. If the taxpayer pays the taxes in two installments, the first one-half installment shall be due and payable on or before August 15th, the second one-half installment shall be due and payable on or before December 15th of the same year and shall become delinquent if not paid before 5:00 p.m. on said date, or, if payment is received through the mail after said date, when the mailed payment is postmarked after said date. Penalty and interest on an unpaid installment shall accrue from the date the installment becomes due. [Ord. 523 § 4, 1987.]

**5.04.360 Penalty and interest for late payments.**

When the general tax provided for in this chapter is not paid on or before the due date, penalties and interest will accrue as follows:

A. If the first one-half installment is not paid when due, a penalty of 10 percent, together with interest at the rate of eight percent per year on the unpaid installment, not including penalty, from due date until paid in full, shall be added thereto.

B. After the due date for the payment of the second one-half installment, a total penalty of not to exceed 10 percent shall be added to all delinquent taxes, and interest at the rate of eight percent per year shall accrue, as provided in this section, upon all unpaid taxes, not including the penalty, from due date until paid in full. [Ord. 590 § 4, 1993; Ord. 523 § 5, 1983; Ord. 255 § 5, 1970; prior code § 60.20.320.]

**5.04.370 Enforcement of delinquent real property taxes.**

The borough shall enforce delinquent real property tax liens by annual foreclosure, unless the assembly elects not to proceed in any given year. When the assembly elects to proceed, any and all delinquent real property tax liens shall be enforced as provided in Alaska Statutes, Title 29. [Ord. 523 § 6, 1987; Ord. 476 § 12, 1985.]

**5.04.380 Enforcement of delinquent personal property taxes.**

*Repealed by Ord. 833.* [Ord. 703 § 4, 2001; Ord. 523 § 7, 1987; Ord. 476 § 12, 1985.]

**5.04.390 Distraint and sale of personal property.**

*Repealed by Ord. 833.* [Ord. 476 § 13, 1985; Ord. 441 § 12, 1982.]

**5.04.400 Warrant of distraint.**

*Repealed by Ord. 833.* [Ord. 476 § 14, 1985; Ord. 441 § 12, 1982.]

**5.04.410 Notice of sale at public auction.**

*Repealed by Ord. 833.* [Ord. 476 § 15, 1985; Ord. 441 § 12, 1982.]

**5.04.420 Sale of seized property.**

*Repealed by Ord. 833.* [Ord. 476 § 16, 1985; Ord. 441 § 12, 1982.]

**5.04.430 Return on sale.**

*Repealed by Ord. 833. [Ord. 476 § 17, 1985; Ord. 441 § 12, 1982.]*

**5.04.440 Proceeds of sale.**

*Repealed by Ord. 833. [Ord. 476 § 18, 1985; Ord. 441 § 12, 1982.]*

**Chapter 5.06**

**TRANSIENT OCCUPANCY TAX**

Sections:

- 5.06.010 Definitions.
- 5.06.020 Imposition of transient occupancy tax.
- 5.06.030 Duty to collect and make return.
- 5.06.040 Tax to be paid quarterly.
- 5.06.050 Penalty, interest and collection procedures.
- 5.06.060 Limitations of use of tax proceeds.

**5.06.010 Definitions.**

For purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise:

A. "Guest" or "person" means an individual, corporation, partnership or association paying monetary or other consideration for the use of a sleeping room or rooms in a hotel.

B. "Hotel" means a structure or portion of a structure which is occupied or intended and designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any hotel, motel, inn, or bed and breakfast.

C. "Occupancy" means the use or possession, or the right to the use or possession of any rooms or portion thereof, in any hotel.

D. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other similar proprietary capacity.

E. "Transient" means a person who occupies or has available for occupancy a suite, room, or rooms in a hotel for not more than 30 consecutive days. Portions of days shall be counted as full days. The day a transient checks out shall not be included in determining the 30-day period if the transient is not charged rent for the day. [Ord. 528 § 4, 1987.]

**5.06.020 Imposition of transient occupancy tax.**

A. There is hereby levied a tax on hotel room rentals to transients equal to six percent of the room rent, regardless of the number of occupants of such room. This tax shall be applicable to all room rentals to transients, unless the rental is specifically exempted from taxation by constitution or other valid law. Note: The change in tax from \$3.00 per day per room to six percent of the room rent will be effective January 1, 2007.

B. Municipal, state and federal governments are exempt from this tax through purchase order or other device obligating the government to pay for the room. Government employees are not exempt from this tax if the room is rented to them individually or they have the ultimate obligation to pay for the room.

C. This tax shall be in addition to the general sales tax of the borough. General sales tax shall not be levied on this transient occupancy tax. Both taxes shall be computed individually on the room rent. [Ord. 779 § 1, 2006; Ord. 623 § 5, 1996; Ord. 528 § 4, 1987.]

**5.06.030 Duty to collect and make return.**

A. It is the duty of the operator or person furnishing such services to collect the transient occupancy tax from the transient guest and make a return thereof to the borough. All transient occupancy taxes collected or which should have been collected pursuant to this chapter are borough moneys for which the operator is at all times liable to the borough. The operator is also liable for all moneys collected from the transient guest as transient occupancy tax.

B. This tax accrues each day of occupancy and shall be paid by the operator to the borough at the time a tax return covering such date is due, irrespective of when the guests actually pay their bill to the hotel.

C. An operator may not advertise or state to the public or to any guest, directly or indirectly, that the tax or any part of it will be assumed or absorbed by the operator, or that the tax will not be added to the rental or that it will be refunded, nor may an operator absorb or fail to add the tax or any part of it or refund any tax or fail to separately state the tax to the guest.

D. The tax imposed shall be shown on the billing to the guest as a separate and distinct item. Each operator shall account separately and maintain separate monthly summary totals, for both taxable and nontaxable rents and for taxes collected.

E. Any person acquiring an ownership interest in an ongoing business or the accounts receivable of a business, whether by purchase, foreclosure, or otherwise, shall be liable for the payment of transient occupancy taxes, penalties, interest, fees and costs accruing and unpaid to the borough on account of the operation of the business by the former owner, owners or assigns. The borough may continue to make efforts to collect the transient occupancy tax from the person who owned the business at the time the liability was incurred.

F. The liability of a purchaser or other entity for outstanding taxes, penalties, interest, fees and costs accrued and unpaid by the former owner shall be limited to an amount stated in writing by the borough in response to a release of information request. The borough shall have 15 days to respond to the request.

G. The president and any officer, employee or agent of a corporation having control or supervision of or charged with the responsibility of filing transient occupancy tax returns or remitting transient occupancy taxes is personally liable for any unpaid corporate transient occupancy taxes, penalties, interest, fees and costs accruing and unpaid to the borough. Dissolution of, or sale of, or other change in the form of the corporation does not discharge this liability. [Ord. 598 § 4, 1995; Ord. 528 § 4, 1987.]

**5.06.040 Tax to be paid quarterly.**

A. The tax levied under this chapter shall be due and payable quarterly. Every operator shall make and file with the director of finance, on forms prescribed and furnished by the director of finance, a return 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 director of finance may require on such forms. The completed and executed return, together with remittance in full for the total amount of tax due, shall be transmitted to the director of finance on or before the last day of the calendar month following the close of each calendar quarter.

B. Every 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, to whom it was transferred, the date it was transferred, and the address and telephone number of the person to whom it was transferred.

C. Every 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 director of finance, 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 director of finance. Returns filed and taxes remitted and actually received by the director of finance on or before the same day of the next month following the cessation of business, or on the last day of the next month if no corresponding day exists, shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to penalties.

D. Proof of Exemption. Returns shall be accompanied by proof, satisfactory to the director of finance, as to claimed exemption, 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. [Ord. 528 § 4, 1987.]

#### **5.06.050 Penalty, interest and collection procedures.**

A. Any operator who fails to file a return when due and remit any tax imposed by this chapter within the time required shall pay penalty and interest in the amounts prescribed for sales tax in WMC 5.08.100.

B. 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 borough 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 borough, shall be deemed to be funds held in trust for the account of the borough. Collection of unpaid taxes shall be in the manner prescribed for collection of sales tax in Chapter 5.08 WMC. [Ord. 528 § 4, 1987.]

#### **5.06.060 Limitations of use of tax proceeds.**

A. The proceeds of the tax levied under this chapter shall be used only to develop and implement a visitor industry program.

B. The proceeds of the tax levied under this chapter shall be accounted for separately from the general fund and shall be budgeted for in accordance with Charter Section 5-2. In preparing the annual budget for anticipated revenues and estimated expenditures, the borough manager will accept recommendation for the use of proceeds in the ensuing year from any committee, or any subcommittee, appointed by the assembly for that purpose, if such recommendations are submitted in a timely manner. [Ord. 528 § 4, 1987.]

**Chapter 5.08****SALES TAX**

## Sections:

- 5.08.005 Definitions.
- 5.08.010 Levy of tax.
- 5.08.020 Rate of tax.
- 5.08.040 Tax levy on aggregate sales amount.
- 5.08.050 Exemptions from tax.
- 5.08.060 Tax-free days.
- 5.08.070 Limitations of use of tax proceeds.
- 5.08.080 Duty to collect and make return.
- 5.08.090 Quarterly returns.
- 5.08.095 Confidential information.
- 5.08.100 Penalty and interest.
- 5.08.105 Collection procedures.
- 5.08.110 Lien for unpaid taxes.
- 5.08.120 Payment to director of finance.
- 5.08.130 Sales tax inspector – Duties.
- 5.08.140 Discrepancies in returns – Investigation – Collection procedure.
- 5.08.160 Severability.
- 5.08.170 Ratification.

**5.08.005 Definitions.**

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

A. “Buyer or consumer” means, without limitation, every individual, receiver, assignee, trustee in bankruptcy, trust estate, member, firm, 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. “Common carrier” is a person or entity that holds itself out to the general public as providing transportation of goods for compensation and regularly issues bills of lading or other receipts for the carriage of goods.

C. “Finance director” means the borough finance director, or any other borough employee designated by the borough manager to perform the functions and duties of the finance director as described in the municipal code.

D. “Retail sale” means any sale of goods or services, including barter, credit, installment and conditional sales, for any purpose other than resale in the regular course of business. The delivery of property in the borough is considered subject to sales tax if the retailer maintains any office, distribution or sales house within the borough, or solicits business or accepts orders through any agent, salesman, member or representative within the borough.

E. “Sale of services” means the sale of services, which includes parts and labor, for a specific job or task. Sales tax shall be computed on the invoice for the total job or task, said invoice period not to exceed 30 days.

F. “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, federal and state taxes, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses.

G. "Sales tax" means and includes the tax levied in this chapter on gross revenues derived from all taxable commercial retail sales or services, said revenues being computed in dollars and cents and the tax payable by the seller or the person performing the services.

H. "Seller" means any person or entity making a retail sale to a buyer or consumer, whether as agent, broker or principal, any person or entity performing services for remuneration, or a purchasing cooperative. Notwithstanding any other provision of this chapter, arrangements made with another person or agent, including, but not limited to, a travel agent, cruise ship business, broker or other representative, regardless of the location of the travel agent, cruise ship business, broker or other representative, by a provider of services, rentals or goods, to market such services, rentals or goods (including travel and adventure services), to provide such services, rentals, or goods to another person, or the transfer to the buyer of the right or privilege to receive such services, rentals or goods, is a taxable sale by such provider, not a sale for resale, and such provider is a seller for the purposes of this chapter.

I. "Services" includes all services of every manner and description provided in whole or part within the borough, including travel and adventure services and delivery services, that are performed or furnished for consideration whether in conjunction with the sale of goods or not, but does not include services rendered by an employee to an employer.

J. "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 harbor fees and port dockage, each foot or other measurement of length will count as a single unit. Sales of package travel and adventure services sold to a single pre-existing group where the sales price is invoiced to a single person or company is a single unit sale to such group. Sales of a travel and adventure service to individuals is a single unit sale to the individual notwithstanding the fact that the service provider receives a single payment through an arrangement with a travel agent, cruise ship business, broker or other representative.

K. "Travel and adventure services" includes, but is 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, resale, 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 borough if the ultimate consumer of the travel and adventure service receives any such service which begins or occurs within the corporate limits of the City and Borough of Wrangell.

L. Tax on Noncash Considerations. When sales, rentals of property, or services are made, paid, performed or furnished for other than cash, the price shall be computed in dollars and cents on the reasonable value of the items sold, paid, performed or delivered.

M. Rent and Services Defined. The term "rent" as used in this chapter, includes rent of both real and personal property and the term "services" includes furnishing of labor and materials for accomplishing a

specified result when the resulting object or product is not for resale by the purchaser in the ordinary course of business. [Ord. 748 § 4, 2004; Ord. 738 § 4, 2003; Ord. 735 § 4, 2003.]

**5.08.010 Levy of tax.**

A consumer sales tax is assessed and levied on all retail sales, on all rents, and on all services made, paid or performed within the borough in the regular course of business, on and after the effective date of the ordinance codified in this chapter, except such sales are exempted under this chapter, to be collected and used for the purposes stated in this chapter. [Ord. 248 § 5, 1969; prior code § 60.10.010.]

**5.08.020 Rate of tax.**

The consumer sales tax is levied in the amount of seven percent of the sales price of all retail sales, on all rents, and on all services, made, paid or performed within the municipality. [Ord. 738 § 4, 2003; Ord. 560 § 4, 1990.]

**5.08.040 Tax levy on aggregate sales amount.**

The sales price of all items purchased or delivered at the same time shall be added together and the tax levied on the aggregate amount thereof. [Ord. 248 § 5, 1969; prior code § 60.10.040.]

**5.08.050 Exemptions from tax.**

The following transactions are exempt from the tax levied under this chapter:

- A. Salaries and wages received by an employee from an employer;
- B. Sales made and services performed which are not in the regular course of business;
- C. Sales, and the gross receipts derived therefrom, when the aggregate amount when computed under WMC 5.08.020 amounts to less than \$0.12;
- D. Sales, including such rentals and services, when the total sales and service prices derived by the seller or person furnishing such services does not aggregate \$200.00 in any calendar quarter year;
- E. Dues or fees to clubs, labor unions, or fraternal organizations;
- F. Gross receipts derived from funeral charges and services; medical, dental, optometric, veterinary and hospital services or from sales of prescription medicines; oxygen used for medical purposes; blood or 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 are exempt; however, services rendered by nurses, unless performed in a hospital or at the direction of a physician, and services rendered by druggists, pharmacists, barbers, cosmeticians and masseurs shall not be exempt;
- G. All sales of commodities made to a manufacturer, broker, wholesaler or dealer and which are not consumed or destroyed by such purchaser, but which are resold in the same or an altered form, or which are used to package, crate or deliver the products of such purchaser;
- H. All sales to a bona fide retailer when the same are purchased by him for resale in the ordinary course of business; in this connection, a retailer is one who regularly stocks merchandise for resale, displays the same to the public and holds himself out as regularly engaged in the business of selling such products either during a regular season or throughout the year directed to the consumer;

I. Gross receipts or proceeds derived from the transportation to and from grade or high schools in motor or other vehicles;

J. Gross receipts or proceeds derived from servicing, freezing, storing, handling or wharfing of fish; or lumber or any other commodities awaiting shipment or in the process of being shipped;

K. Gross receipts or proceeds derived from sales to the United States government, State of Alaska, City and Borough of Wrangell and any of its political subdivisions;

L. All sales for consumption outside of the borough if delivered by a common carrier by air, land or water to the purchaser;

M. All sales of any single unit of which the price exceeds \$1,200, and all services, including contract prices for any single job of which the price exceeds \$1,200 shall be taxable only to the limit of \$1,200;

N. All sales of newspaper;

O. Sales of services, or building and construction supplies, materials, or equipment, including rental of equipment or tools, to a licensed contractor for use in construction for resale;

P. The value of new or used articles taken in trade as a credit or part payment on the sale of new articles shall be deductible from the total sales price of the new article;

Q. Gross receipts derived from sales, services, rentals and transactions which the municipality is prohibited from taxing under the Constitution and laws of the United States or the State of Alaska;

R. Gross receipts derived from services provided by day care centers and preschool facilities;

S. Sales of services, or building and construction supplies, materials, or equipment, including rental of equipment or tools, to a licensed contractor for use in construction of projects under contract with the United States government, State of Alaska, City and Borough of Wrangell or any of its political subdivisions;

T. Purchases made with food coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011-2025 (Food Stamp Act);

U. Gross receipts derived from the sales of lawful games of chance and skill conducted by qualified organizations which hold a valid permit from the State of Alaska pursuant to Title 5, Chapter 15 of the Alaska Statutes;

V. Purchases made with food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Child Nutrition Act, WIC);

W. Gross receipts derived from services provided by any form of air service are exempt;

X. That part of the sales price paid by the buyer for travel and adventure services purchased outside the borough or on a cruise ship which is not remitted, directly or indirectly, to the person providing or performing the service within the borough. For purposes of this exemption, "cruise ship" means:

1. A commercial passenger vessel that carries passengers for hire except that "cruise ship" does not include a vessel:

a. Authorized to carry fewer than 20 passengers;

b. That does not provide overnight accommodations and transportation for at least 20 passengers for hire; or

c. Operated by the United States, State of Alaska, or a foreign government.

Y. Sales of goods where the entire transaction, both payment and delivery, takes place on board a cruise ship. For purposes of this exemption, a "cruise ship" has the same meaning as set forth in subsection (X) of this section. [Ord. 748 § 4, 2004; Ord. 738 § 4, 2003; Ord. 735 § 4, 2003; Ord. 559 § 4, 1990; Ord. 516 § 4, 1987; Ord. 502 § 4, 1986; Ord. 492 § 4, 1986; Ord. 467 §§ 4, 5, 1985; Ord. 402 § 4, 1980; Ord. 362 § 5, 1977; prior code § 60.10.050.]

#### **5.08.060 Tax-free days.**

A. Declaration of Tax-Free Days. One day in June and one day in September for each year are hereby declared "Tax-Free Days."

B. In June for One Day and September for One Day Each Year Sales Tax Exemptions.

1. Subject to the other provisions of this section and at the option of the seller, retail sales of goods and services for goods or services purchased and received by the buyer for one day in June and for one day in September each year are exempt from the borough's retail sales tax imposed by this chapter.

2. The exemption set forth in subsection (B)(1) of this section does not apply to rentals for any period greater than one day. Sales tax on rents for any period greater than one day shall not be prorated or adjusted in any manner to include a sales tax exemption for one day in June and for one day in September of each year.

3. The exemption provided for in subsection (B)(1) of this section shall not apply to taxable sales made by the borough.

4. All sales made under the exemption provided for in subsection (B)(1) of this section shall be reported to the borough as exempt sales using "TFD" as the exemption code for the sale. [Ord. 820 §§ 1, 2, 2008.]

#### **5.08.070 Limitations of use of tax proceeds.**

The proceeds of tax levied under this chapter shall be used in such amounts as the assembly of the borough shall determine from time to time, depending upon the rate of tax collected, as follows:

A. Twenty-eight percent of the total amount of tax collected shall be used only for any of the following purposes:

1. To pay principal and interest for any bond indebtedness relating to education and health of the borough;

2. To operate and maintain school facilities;

3. To construct and maintain sewers within the borough and other purposes relating to the health and sanitation of the borough.

B. Four percent of the total amount of tax collected shall be used only to plan, design, construct, and/or improve streets and sidewalks, such as pavement of gravel streets or the repavement of previously paved streets.

C. Sixty-eight percent of the total amount of tax collected shall be used only for any general fund purposes for which moneys of the borough may be disbursed for any purpose. [Ord. 735 § 4, 2003; Ord. 604 § 4, 1995; Ord. 592 § 4, 1994; Ord. 585 § 4, 1993; Ord. 562 § 4, 1990; 549 § 5, 1989.]

#### **5.08.080 Duty to collect and make return.**

A. It is the duty of the retailer or person furnishing such services to collect the tax from the purchaser or consumer and make a return thereof to the borough. All sales taxes collected or which should have been collected pursuant to this chapter are borough moneys for which the seller is at all times liable to the borough. The seller is also liable for all moneys collected from the buyer as sales tax.

B. Any person acquiring an ownership interest in an ongoing business or the accounts receivable of a business, whether by purchase, foreclosure, or otherwise, shall be liable for the payment of taxes, penalties, interest, fees and costs accruing and unpaid to the borough on account of the operation of the business by the former owner, owners or assigns. The borough may continue to make efforts to collect the tax from the person who owned the business at the time the liability was incurred.

C. The liability of a purchaser or other entity for outstanding taxes, penalties, interest, fees and costs accrued and unpaid by the former owner shall be limited to an amount stated in writing by the borough in response to a release of information request. The borough shall have 15 days to respond to the request.

D. The president and any officer, employee or agent of a corporation having control or supervision of or charged with the responsibility of filing sales tax returns or remitting sales taxes is personally liable for any unpaid corporate sales taxes, penalties, interest, fees and costs accruing and unpaid to the borough. Dissolution of, or sale of, or other change in the form of the corporation does not discharge this liability. [Ord. 598 § 5, 1995; Ord. 467 § 7, 1985; Ord. 248 § 5, 1969; prior code § 60.10.070.]

#### **5.08.090 Quarterly returns.**

A. The director of finance shall provide appropriate forms for the use of taxpayers in making returns of the taxes payable under this chapter; however, the director of finance's failure to mail said forms or provide notice of delinquency or prospective delinquency shall not be a waiver of the duty of the retailer or person furnishing said services to collect and remit the appropriate tax.

B. Every person, firm or corporation making such sales or supplying such services as are taxable under this chapter shall furnish the director of finance with a return containing such information as is necessary to fill in or complete the total sales price collected during each quarter for which the return is made and the amount of such sales and services as are exempt under this chapter and the tax due and payable for such quarter.

C. Sales tax returns shall be submitted on a quarterly basis and the forms and tax shall be remitted to the office of the director of finance by 5:00 p.m. on the last day of the month after the preceding calendar quarter. Forms and tax remitted through the U.S. Postal Service shall be postmarked no later than the last day of the month after the preceding calendar quarter. When such sales are made on credit, for the purpose of making a return and paying the tax, such sales shall be considered made or services furnished during the quarter in which payment is received for such sales or services unless the taxpayer elects to make his returns on an accrual basis. [Ord. 467 § 8, 1985; Ord. 351 § 5, 1976; prior code § 60.10.080.]

#### **5.08.095 Confidential information.**

A. Except as otherwise provided in this section, returns filed with the borough for the purpose of complying with the terms of this chapter and all information obtained from such returns are private and confidential, and such returns and information shall be kept from inspection by private persons.

B. This section does not prohibit the delivery to a person, or the person's duly authorized representative, of a copy of any return filed by that person.

C. This section does not prohibit the publication of statistics presented in a manner that prevents the identification of particular buyers or sellers.

D. This section does not prohibit the disclosure of such returns or information through enforcement or collection proceedings or when required by court order or prohibit furnishing such returns and information on a reciprocal basis to other agencies or political subdivisions of the state or United States concerned with the enforcement of tax laws.

E. The borough may disclose, by public inspection or publication, the name (including any business name), the estimated balance due, and the current status of payments and filings of any seller, or agent of any seller, who does not file a return or remit in full all sales taxes and any penalty and interest due within 45 days after being required to do so by the provisions of this chapter. In disclosing or publishing information under this section, the borough need not notify a taxpayer prior to disclosure or publication. Publication of delinquencies under this section may report tax amounts delinquent by more than 45 days according to records maintained by the borough in the normal course of business. Publications may indicate whether the amount has been calculated based upon voluntary filings or based upon involuntary estimated filings. Publications need not reflect whether the amount is disputed by the taxpayer. [Ord. 774 § 1, 2005.]

#### **5.08.100 Penalty and interest.**

In the event a return is not made or the appropriate tax not paid within one month following the reporting quarter, such failure is presumed willful and, regardless of willful or inadvertent, a penalty of five percent of such tax as is unpaid shall be added to such tax for the first month of delinquency or any fraction thereof, and an additional five percent shall be added for each additional month of delinquency or fraction thereof, until the total penalty of 15 percent has accrued. Interest at the rate of 15 percent per year from the date of delinquency until paid shall accrue in the same manner. The borough assembly may upon a verified showing of medical necessity, as the reason for a failure to pay sales tax in a timely manner, waive all or any portion of the penalty and/or interest assessed hereinabove. Such penalty and interest shall be collected in the same manner as the tax. [Ord. 719 § 4, 2002; Ord. 487 § 4, 1986; Ord. 467 § 9, 1985; Ord. 351 § 5, 1976; prior code § 60.10.090.]

#### **5.08.105 Collection procedures.**

A. Whenever the finance director believes a return is inaccurate, or whenever a seller is delinquent in filing a report or paying tax due, the finance director shall mail to the seller's last address on file with the borough a written demand requesting the filing of a corrected or required sales tax return and payment of the tax due within 10 days.

B. In the event the seller does not comply with the demand, the finance director shall make a sales tax assessment against the seller. The assessment shall estimate the taxable revenue received by the seller during the period in question. The estimate may be based upon previous returns filed by the seller, information received during an investigation conducted under WMC 5.08.130, or any other relevant information known to the finance director. The assessment shall state the amount of taxes, penalties and interest assessed, and shall contain a brief statement explaining the basis of the assessment.

C. A notice of assessment shall be sent to the seller's last known address by first class mail. The notice of assessment shall contain a copy of the assessment and a statement notifying the seller of the seller's right to a hearing. The notice of assessment shall state that if a timely request for a hearing is not made, the assessment shall become final 30 days after the date the notice of assessment was mailed to the seller.

D. The seller shall have a right to a hearing before the finance director concerning the assessment. The seller may request a hearing by delivering to the finance director a written request for a hearing within 30 days of the date the notice of assessment was mailed. The finance director shall schedule the hearing and notify the seller of date and time for the hearing by mail. The hearing shall be conducted informally. The seller shall make available for examination and copying at the hearing the seller's books, records, papers and other documents relating to the seller's sales and revenue during the period involved in the assessment. The seller shall be given an opportunity to produce records and testimony and to present argument relating to the assessment.

E. After the hearing, the finance director shall issue a written decision upholding or modifying the assessment. The decision shall be mailed by first class mail to the seller's last address on file with the borough. The decision shall notify the seller the assessment may be appealed by filing a written notice of appeal to the sales tax board of appeals within 30 days of the date the written decision of the finance director was mailed to the seller. Failure of the seller to file a timely appeal shall be deemed to be a waiver of any right to appeal such decision.

F. Board of Appeals.

1. The sales tax board of appeals consists of three members. One member shall be appointed by the mayor from the borough assembly, with majority approval of assembly. One member is to be appointed by the appellant. One member is to be mutually agreed upon by the other two members. If the third member is not mutually agreed upon within 45 days after receipt of the written decision of the finance director, the mayor shall appoint the third member with majority approval of assembly. The board shall elect from its membership a chairperson, a vice-chairperson and a secretary. Three members of the board shall constitute a quorum for the transaction of business. The borough shall provide secretarial and other staff support required by the board.

2. All decisions of the board shall be in writing and shall be maintained and indexed by the sales tax office or review by the public. Records and proceedings before the board is public, except that the board may deliberate in closed session. The board may recommend, in writing, that the borough manager compromise and abate penalties and interest, and may recommend, in writing, that the borough manager negotiate and enter into a payment plan for delinquent sales taxes, penalties and interest.

3. The board shall follow rules of procedure governing sales tax appeals and proceedings as adopted by the borough assembly.

4. The board shall issue a final decision upholding or modifying the assessment. The final decision shall be mailed by first class to the seller's last known address. The final assessment shall notify the seller that it is the final administrative decision of the borough on the subject of the assessment and may be appealed to the Superior Court for the State of Alaska in accordance with state law and court rules.

G. After an assessment has become final, the borough may file a civil action against the seller for collection of the taxes, penalties and interest due under the assessment. The seller shall be liable to pay the borough's full reasonable attorney's fees and costs incurred in the civil action. Interest and penalties on the assessment shall continue to accrue until the seller's liability has been paid in full. [Ord. 774 § 2, 2005; Ord. 735 § 4, 2003.]

**5.08.110 Lien for unpaid taxes.**

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 borough 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 and continues until the entire amount is satisfied.

C. If delinquent sales taxes, including interest and penalties, are not paid within 10 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; and
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 through 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 borough 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. Filings of notices of lien: \$25.00, plus recorder's office filing fee.
2. Release of liens: \$25.00, plus recorder's office filing fee. [Ord. 775 § 1, 2005; Ord. 248 § 5, 1969; prior code § 60.10.100.]

#### **5.08.120 Payment to director of finance.**

The taxes imposed under this chapter shall be paid to and collected by the director of finance, shall be deposited in special accounts and withdrawn therefrom only for the purposes mentioned in WMC 5.08.070. [Ord. 467 § 10, 1985; Ord. 248 § 5, 1969; prior code § 60.10.110.]

#### **5.08.130 Sales tax inspector – Duties.**

A. The borough assembly shall from time to time designate a person to make investigations and inspections of the books and records of the persons, firms and corporations who are liable for taxes under this chapter. Such persons shall be the sales tax inspector of the borough.

B. The sales tax inspector is authorized and empowered to make inspections from time to time of all the books and records pertaining to purchases and sales, including services, made or performed by parties who are liable for the tax levied under this chapter. The sales tax inspector is granted the right to inspect all such books and records including the records of purchases made by retailers from wholesalers or other retailers, the ledger accounts of customers of the taxpayers, the sales slips made by taxpayers and all other books and records of the taxpayers which would in any way tend to prove or reveal information concerning the tax liability of the taxpayer under this chapter.

C. It shall be the duty of every person engaged in retail business or in furnishing services to the public in the borough to allow the sales tax inspector to examine such books and records during regular business hours at such times as the sales tax inspector shall require. [Ord. 735 § 4, 2003; Ord. 248 § 5, 1969; prior code § 60.10.120.]

#### **5.08.140 Discrepancies in returns – Investigation – Collection procedure.**

A. If the sales tax inspector should find discrepancies in favor of the borough between the sales reported to the director of finance and the sales which appear to have been made by any taxpayer, it shall be the duty of the director of finance to demand that the taxpayer forthwith make an amended return showing the correct amount of sales made and services performed for each month for which the discrepancy appears and to pay the taxes due the borough.

B. Unless a taxpayer upon whom such demand is made makes such returns and pays the taxes due the borough within five days from the date of the demand by the director of finance, the director of finance shall report the facts in full to the assembly.

C. Except as otherwise provided in this chapter, the director of finance shall keep confidential all facts which he has learned as a result of such investigations until such time as the same are reported to the borough assembly.

D. In the event of a dispute between the taxpayer and the director of finance as to the amount of tax due, the taxpayer may, within five days of the demand made upon him for the filing of amended returns and the payment of such taxes, demand a hearing before the borough assembly on his tax liability. In such event the borough assembly shall notify the taxpayer of the time and place at which such hearing will be held. The borough assembly shall, after receiving a report from the director of finance of delinquent taxes

and after affording an opportunity for such hearing in case the taxpayer demands the same, take such action at law as is necessary to collect any taxes which the borough assembly shall find to be delinquent, including penalties and interest. [Ord. 467 § 11, 1985; Ord. 248 § 5, 1969; prior code § 60.10.120.]

**5.08.160 Severability.**

It is the intention of the assembly that each separate provision of this chapter shall be deemed independent of all other provisions of this chapter and it is the further intention of the assembly that if any provision of this chapter is declared invalid, all other provisions thereof shall remain valid and enforceable. [Ord. 539 § 4, 1988; Ord. 254 § 4, 1970; prior code § 60.10.150.]

**5.08.170 Ratification.**

A new sales or use tax, or an increase in the rate of levy of a sales or use tax, does not take effect until ratified by a majority of voters at an election. [Ord. 815 § 5, 2008.]

**Chapter 5.10****PURCHASES AND SALES**

## Sections:

- 5.10.010 Contractual services defined.
- 5.10.012 Public improvement defined.
- 5.10.020 Borough manager or authorized personnel to make purchases.
- 5.10.030 When prior approval by the assembly is required.
- 5.10.035 When prior approval by the voters is required.
- 5.10.040 When competitive bidding or quotations are required.
- 5.10.050 When competitive bidding or quotations are not required.
- 5.10.060 Sale of surplus, obsolete, or unneeded personal property.
- 5.10.062 Disposition of personal property for economic development purposes.
- 5.10.065 Findings supporting local hire requirement on public improvement contracts.
- 5.10.070 Local hire required on public improvement contracts.

**5.10.010 Contractual services defined.**

“Contractual services,” for the purpose of this chapter, means services performed for the borough by persons not in the employment of the borough, and may include the use of equipment or the furnishing of commodities in connection with the services under express or implied contract. Contractual services include travel; telephone, telegraph, utilities; rents; printing and binding; repairs, alterations, and maintenance of buildings, equipment, streets and bridges, and other physical facilities of the borough; and other services performed for the borough by persons not in the employment of the borough. [Ord. 444 § 4, 1983.]

**5.10.012 Public improvement defined.**

“Public improvement,” as used in this chapter, means the erection, building, construction, placement, creation or explosion, demolition or removal of an improvement to land. [Ord. 444 § 4, 1983.]

**5.10.020 Borough manager or authorized personnel to make purchases.**

All purchases of supplies, materials, equipment, and contractual services for the offices, departments, and agencies of the borough government shall be made by the borough manager or by other borough personnel in accordance with purchase authorization issued by the borough manager. In the event any purchasing authority has any financial interest in a vendor, then the purchase order shall be issued by the borough clerk. [Ord. 535 § 4, 1988; Ord. 444 § 4, 1983.]

**5.10.030 When prior approval by the assembly is required.**

Every contract for, or purchase of, supplies, materials, equipment, contractual services, or public improvements for more than \$25,000, excluding freight, shall require the prior approval by motion or resolution of the assembly; and under no circumstances may such contract or purchase be made without first obtaining the approval of the assembly. [Ord. 856 § 1, 2011; Ord. 816 § 1, 2008; Ord. 444 § 4, 1983.]

**5.10.035 When prior approval by the voters is required.**

A. The sale or lease of any borough property, real or personal, or the sale or other disposal of any interest therein, the value of which property, lease or interest is more than \$1,000,000, shall be made only by authority of an ordinance enacted or ratified at an election by an affirmative vote of a majority of the qualified voters of the borough who vote upon the question of approval or enacting the ordinance (the ordinance being submitted to the voters by the assembly or by initiative of the voters).

B. An entire public utility and appurtenant franchises belonging to the borough may be sold or leased only by authority of an ordinance enacted or ratified at an election by an affirmative vote of a majority of the qualified voters of the borough who vote upon the question.

C. Any other provision notwithstanding, the borough may enter into an agreement for the purchase, sale or other disposal of electric power, or an agreement providing for participation by the borough in the construction, acquisition or operation of hydroelectric power facilities, upon such terms as the borough assembly may approve by resolution. [Ord. 815 § 6, 2008.]

**5.10.040 When competitive bidding or quotations are required.**

A. Purchases of, or contracts for, supplies, materials, equipment, contractual services, or public improvements whose cost does not exceed \$10,000 in a single transaction may be made on the open market without competitive bidding or quotations; provided, that such purchases or contracts are for budgeted items or items previously approved by the assembly.

B. Except as otherwise provided in WMC 5.10.050, purchases of, or contracts for, supplies, materials, equipment, or contractual services whose cost exceeds \$10,000 but does not exceed \$25,000 in a single transaction shall, at the option of the borough purchasing authority, be made in the open market by written quotation or telephone solicitation or through the competitive bidding process set out in subsection (C) of this section.

C. Except as otherwise provided in WMC 5.10.050, before any purchase of, or contract for, supplies, materials, equipment, or contractual services is made whose cost exceeds \$25,000, the borough purchasing authority shall submit to at least three persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three dealing in and able to supply the same, invitations to bid and specifications to give them opportunity to bid. He shall also publish notice of the proposed purchase in the newspaper of general circulation within the borough.

Adequate public notice shall be given at least 21 days before bid opening. If the borough manager makes a determination, in writing, that a shorter notice period is necessary for a particular bid, the period may be shortened.

When there are at least three such persons, firms or corporations in the borough, he need not, but he may, submit invitations to bid to those outside the borough; provided, that he can always do this at no additional cost to the borough. He shall, however, submit invitations to bid to those outside the borough when this may be necessary to secure bids or to create competitive conditions, or when he thinks that by so doing he can make a saving for the borough.

All bids shall be sealed and shall be opened in public at a designated time and place. He may repeatedly reject all bids and again may submit to the same or other persons, firms or corporations an invitation to bid, and again publish notice of the proposed purchase.

All bids in excess of 10 percent of the engineer's estimate shall be rejected.

He shall purchase from the bidder whose bid is most advantageous to the borough.

**D. Local Bidder Preference Award.**

1. Unless contrary to federal or state law or regulation, or as otherwise provided in section (D)(2) of this section, a contract for, or purchase of, supplies, materials, equipment, contractual services, or public improvements shall be awarded to a local bidder where the bid by such local bidder is in all material respects comparable to the lowest responsible nonlocal bid, and if the amount bid by such local bidder does not exceed the lowest responsible nonlocal bid by more than:

a. Five percent of the amount bid by the lowest responsible nonlocal bidder if that nonlocal bidder's bid is \$1,000,000 or less;

b. Three percent of the amount bid by the lowest responsible nonlocal bidder if that nonlocal bidder's bid is \$1,000,001 or more.

2. This preference shall not be interpreted to mean that the borough is precluded from making the purchase from whatever source is most advantageous to the borough after considering all factors in the

public interest even when the price quoted by the local bidder satisfies subsection (D)(1)(a) or (b) of this section.

3. "Local bidder" for purposes of the section shall mean a bidder who:
  - a. Holds a current Alaska business license;
  - b. Submits a bid for goods or services under the name appearing on the person's current Alaska business license;
  - c. Has maintained a place of business within the boundaries of the borough for a period of six months immediately preceding the date of the bid;
  - d. Is not delinquent in the payment of any utilities, taxes, charges or assessments owing to the borough on account of that business;
  - e. Is incorporated or qualified to do business under the laws of Alaska with its principal place of business in the borough, is a proprietorship and the proprietor is a resident of the borough, or is a partnership and all partners are residents of the City and Borough of Wrangell;
  - f. If a joint venture, all joint venture partners must qualify under subsection (D)(3)(a) through (e) of this section;
  - g. The manager may require such documentation or verification by the person claiming to be a local bidder as is deemed necessary to establish the requirements of this section. [Ord. 817 § 1, 2008; Ord. 816 § 1, 2008; Ord. 605 § 4, 1995; Ord. 444 § 4, 1983.]

#### **5.10.050 When competitive bidding or quotations are not required.**

The following may be purchased or contracted for without giving an opportunity for competitive bidding or soliciting quotations:

- A. Supplies, materials, equipment, or contractual services whose cost does not exceed \$10,000, excluding freight costs, in a single transaction;
- B. Supplies, materials, equipment, or contractual services which can be furnished only by a single dealer, or which have a uniform price wherever bought;
- C. Supplies, materials, equipment, or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers, including war surplus;
- D. Contractual services purchased from a public utility corporation at a price or rate determined by state or other governmental authority;
- E. Contractual services of a professional nature, such as legal, engineering, architectural, and medical services;
- F. Supplies, materials, equipment, or contractual services which must be purchased from a specific source in order to prevent incompatibility with previously purchased supplies, materials, equipment, or contractual services. For purposes of this subsection the term "incompatibility" is defined as the inability to (1) interconnect, combine, interchange, or join, or (2) that which causes or necessitates maintenance expertise or training where such acquisition would result in substantial duplication. The assembly must approve by motion or resolution any purchase whose cost exceeds \$25,000 which is to be excluded from competitive bidding by the authority of this subsection;
- G. Supplies, materials, equipment, contractual services, or public improvements which the assembly declares to be required on an emergency basis or which the assembly declares is impractical or impossible;
- H. Placement of insurance coverage;

I. When it is advantageous to the borough to enter into a contract with a bidder for the same supplies or services such bidder is providing another Alaskan local government, the State of Alaska, or the United States where such supplies or services are being provided the other government unit on the basis of formal bids submitted and where the borough contract is on substantially the same terms as those bids, or to contract with or through such other government unit so that the benefit of the lowest and best responsible bid accrues to the borough;

J. When competitive bidding has been followed, but no bids or quotations are received or the bids or quotations are rejected. In such a case, after assembly approval, the borough manager may proceed to have the services performed or the supplies purchased without further competitive bidding or quotation;

K. Public improvement whose cost does not exceed \$10,000 in a single transaction. [Ord. 816 § 1, 2008; Ord. 444 § 4, 1983.]

**5.10.060 Sale of surplus, obsolete, or unneeded personal property.**

A. No surplus, obsolete, or unneeded supplies, materials, equipment, or other personal property may be sold until the assembly has declared, by motion or resolution, them obsolete or surplus.

B. Before the borough manager sells any surplus, obsolete, or unneeded supplies, materials, equipment, or any other personal property, the borough manager shall advertise them for sale in a newspaper of general circulation in the borough and give notice in such other manner as he deems necessary to adequately reach prospective buyers to give them an opportunity to make bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The borough manager may repeatedly reject all bids and advertise or give notice again. He shall sell such supplies, materials, equipment, or other personal property to the highest responsible bidder for cash. In case of a tie, the successful bidder shall be determined by publicly drawing lots at a time and place specified by the borough manager, always selling to the highest responsible bidder or bidders for cash. If there are no bidders, the borough manager is authorized to sell such supplies, materials, equipment or other personal property for the minimum value established prior to sealed bidding. A sale of property of more than \$1,000,000 in value must meet with the requirements of Section 5-14 of the borough charter.

C. Personal property, or an interest therein, may be sold or otherwise disposed of without competitive bidding as follows:

1. Supplies, materials, equipment or other personal property, or any interest therein, may be sold or otherwise disposed of by the manager when the total value thereof, as estimated by the manager, does not exceed collectively \$2,000.

2. The manager may sell, lease, donate, exchange or otherwise dispose of personal property, or an interest therein, to or with another municipality, a state or the United States when and under such terms and conditions as the assembly, in its sole judgment, is in the best interest of the borough. [Ord. 667 § 4, 1999; Ord. 645 § 4, 1998; Ord. 597 § 4, 1995; Ord. 444 § 4, 1983.]

**5.10.062 Disposition of personal property for economic development purposes.**

A. In the exercise of the borough's economic development powers, the assembly may determine, in its sole discretion, that it is in the best interest of the borough to dispose of borough-owned personal property, or any interest therein, which interest has a value of \$1,000,000 or less (as determined by the borough assessor or a qualified appraiser), by sale, lease or otherwise, without requests for proposals or sealed bid procedures and at less than fair market value.

B. In determining the best interests of the borough under this section, the assembly may consider any relevant factors, which may include:

1. The desirability of the economic development project;

2. The actual or potential economic benefits to the borough, its economy and other businesses within the borough;
3. The contribution of the proponent to the economic development project in terms of money, labor, innovation, expertise, experience and otherwise;
4. The business needs of the proponent of the project in terms of integration into existing facilities and operations, stability in business planning, business commitments, and marketing;
5. Actual or potential local employment due to the economic development project; and
6. Actual and potential enhancement of tax and other revenues to the borough related to the project.

C. Prior to disposal under subsection (A) of this section, the assembly shall hold a public hearing. The borough clerk shall publish notice of the public hearing in a newspaper of general circulation in the borough at least 14 days prior to the hearing. The notice shall include the date, time and place of the hearing, a general description of the personal property or interest, and the proposed disposition and its purpose.

D. Following the hearing, the assembly may authorize disposition of the personal property or interest therein by resolution.

E. Where the acquisition of the personal property or any interest therein has been approved by the voters at an election, the disposition of such property or interest under this section by sale, trade or lease for a term exceeding five years shall be made only by authority of and ordinance ratified by a majority of the qualified voters of the borough who vote upon the question. For purposes of this subsection, the term of any such lease shall include the terms of all options to extend or renew the lease. The requirements of this subsection do not apply where the voter approval involved was in the form of authorizing the issuance of bonds to finance the acquisition of the personal property or any interest therein. [Ord. 780 §§ 1, 2, 2006; Ord. 757 § 1, 2004.]

#### **5.10.065 Findings supporting local hire requirement on public improvement contracts.**

The borough assembly finds:

A. Because of its isolated location and economic dependency on the seasonal and volatile industries of timber and fishing, the City and Borough of Wrangell has historically experienced social, seasonal, and geographic economic conditions that result in an unstable economy.

B. Because of the unstable economy, there is a high rate of unemployment among the residents of the borough, creating a hardship that is aggravated by the influx of transient nonresident workers.

C. The borough has a vested interest in providing jobs for its unemployed residents.

D. There is a high rate of resident unemployment in the construction industry in the borough.

E. It is in the public interest for the borough to allocate public funds for capital projects in order to reduce unemployment among its resident construction workers.

F. It is appropriate for the borough to consider the welfare of its residents when it funds or administers construction activities.

G. The influx of transient nonresident construction workers contributes to the high unemployment among resident construction workers, because the nonresident workers compete with residents for the available construction jobs.

H. The borough has a vested interest in seeing that the benefits of public construction spending accrue to its residents, and nonresident workers displace qualified, available and unemployed Wrangell workers on borough funded and administered public works projects.

I. A high percentage of the borough's revenue is derived from property tax and the resident construction workers' contribution to the tax base help to fund the public works projects.

J. The borough has a duty of loyalty to its citizens and should fulfill this duty by giving Wrangell residents an employment preference on all borough funded or administered projects in order to promote a more stable economy.

K. There is a legitimate vested governmental interest, in that the public health and welfare of Wrangell will suffer if its residents are not afforded employment preference in borough funded and administered capital improvement and public works construction projects.

L. After review of the special study, measuring the economic impact of nonresidents on Alaska's economy during the 1984 calendar year, prepared by the State of Alaska, and specifically the data pertaining to Wrangell, the assembly finds support for its independent analysis and above findings.

M. The assembly has previously considered the preferential hire to Alaskans issue in August of 1985, and in 1983, and further finds that the need for local hire is greater now than previously. [Ord. 489 § 4, 1986.]

**5.10.070 Local hire required on public improvement contracts.**

Contracts for public improvements which are funded in whole or in part by local funds or by funds which, in accordance with a federal grant or otherwise, the borough expends or administers, and to which the borough is signatory, may include the requirement that 90 percent of the work shall be accomplished by bona fide local residents, if qualified and available. In the case of federal funds used on a public improvement, the federal program should be intended to encourage economic revitalization, including improvement opportunities for the poor and unemployed. [Ord. 489 § 5, 1986; Ord. 444 § 4, 1983.]

**Chapter 5.12****IMPROVEMENTS AND ASSESSMENTS**

## Sections:

- 5.12.010 Policy established.
- 5.12.020 *Repealed.*
- 5.12.030 Definitions.
- 5.12.040 Abandonment of proceedings.
- 5.12.050 Curative provision.
- 5.12.060 Special assessment by petition – Petition.
- 5.12.070 Special assessment by petition – Assembly review of petition.
- 5.12.080 Special assessment by petition – Notice of hearing.
- 5.12.090 Special assessment by petition – Mailed notice.
- 5.12.100 Special assessment by petition – Hearing.
- 5.12.110 Special assessment by petition – Objections.
- 5.12.120 Special assessment by petition – Manager’s report.
- 5.12.130 Special assessment by petition – Ordinance or resolution.
- 5.12.140 Special assessment initiated by assembly.
- 5.12.150 Determination of assessment.
- 5.12.160 Methods of determining proportion of benefits and assessments.
- 5.12.170 Equal assessments for all parcels.
- 5.12.180 Assessment determined by use factor.
- 5.12.190 Assessment roll and related procedures.
- 5.12.200 Advance payment of assessments.
- 5.12.210 Invalid or insufficient assessments – Reassessment.
- 5.12.220 Assessment segregation.
- 5.12.230 Objection and appeal.
- 5.12.240 L.I.D.s – Area and boundaries – Changes.
- 5.12.250 L.I.D.s – Hearing.
- 5.12.260 L.I.D.s – Limitation on creation.
- 5.12.270 L.I.D.s – Unanticipated costs.
- 5.12.280 L.I.D.s – Funding.
- 5.12.290 L.I.D.s – Warrants.
- 5.12.300 L.I.D.s – Surplus money.
- 5.12.310 L.I.D.s – Improvement construction – Bids.
- 5.12.320 Bonds – Authority.
- 5.12.330 Bonds – Form and contents.
- 5.12.340 Bonds – Sale.
- 5.12.350 Bonds – Redemption.
- 5.12.360 Bonds – Nonliability of borough.
- 5.12.370 Bonds – Remedy of holders.
- 5.12.380 Surplus money.
- 5.12.390 Local improvement guaranty fund – Established.
- 5.12.400 Local improvement guaranty fund – Use.
- 5.12.410 Local improvement district revolving fund – Created – Purpose.
- 5.12.420 Local improvement district revolving fund – Sources.
- 5.12.430 Local improvement district revolving fund – Repayments.

**5.12.010 Policy established.**

The assembly establishes a policy whereby public improvements for which assessments are authorized under the Charter may be financed in whole or in part by the levy and collection of special assessments upon the real property specially benefited by said improvements. [Ord. 392 § 1(A.010), 1980.]

**5.12.020 Applicability of state law.**

*Repealed by Ord. 833. [Ord. 392 § 1(A.070), 1980.]*

**5.12.030 Definitions.**

For the purposes of this chapter, the following words shall have the following meanings:

- A. "Assembly" means the duly constituted and acting assembly of the borough from time to time.
- B. "Assessment" or "assessments" means the assessments appearing on each L.I.D. assessment roll and include the installments thereof and any interest and penalties required to be paid thereon.
- C. "Current assessed value of all property within the district" includes all property whether taxable or not. The value of property of the United States, the State of Alaska, the borough or any other public or private corporation, associate or individual whose property is not assessed for general taxes shall be computed according to the standards afforded by similarly situated property which is assessed for general taxes, and shall be included in determining the current assessed value of all the property within the district.
- D. "Cost or costs of improvements" includes all costs of the L.I.D. including but not limited to the cost of requisition of materials and the cost of construction of the improvements; reasonable allowance for contingencies; acquisition, overhead, advertising, engineering, legal, administrative, and other incidental costs.
- E. "Local improvement district," also known as "L.I.D.," means an area upon which a local improvement is made pursuant to this chapter or Chapter 5.16 WMC. Local improvement may consist of the following:
1. The broadening, graveling, paving or other surfacing of any street; or opening, laying out, widening, extending, altering, changing the grade of, or constructing any street or alley; or acquisition of property therefor;
  2. The acquisition, reconstruction or repair of any street or alley improvement mentioned in this section;
  3. The construction or reconstruction of sidewalks;
  4. The acquisition, establishment, construction or reconstruction of any off-street motor parking facility;
  5. The construction, reconstruction or repair of any sanitary or storm sewer or water main or portion of a water system, or acquisition of property therefor, including potable water system;
  6. The acquisition, construction, reconstruction or repair of any flood-control structure or drainage way;
  7. The acquisition, construction, reconstruction, installation and equipping of a park, playground or neighborhood recreation facility;
  8. The installation of overhead or underground wiring or related equipment and acquisition of property therefor for the installation of power and/or communication systems;
  9. The installation of street lights;
  10. Any other local improvement for which an assessment may be made on the property specially benefited.
- F. "Owner" means all owners of legal title of record on the municipal property tax roll, which owner is conclusively presumed to be the legal owner of record to each lot, tract or parcel of land in any L.I.D.; and, in addition, shall include the purchasers of record of an equitable interest under a contract for deed, purchase contract or like instrument whereby legal title is delivered upon final payment. If the owner is unknown, the assessment may be made against unknown owner. For the purpose of this chapter, trustees

and beneficiaries of deeds of trust and real estate mortgages or leaseholders are not included in the definition of “owner.”

G. “Petitioned local improvement district,” also known as “petitioned L.I.D.,” means an L.I.D. established and financed according to the provisions of this chapter, along with such modifications of said provisions applicable to the borough as the assembly may enact by ordinance under its home-rule powers. Descriptively, a petitioned L.I.D. is initiated by a petition of the property owners within the proposed district requesting the acquisition, construction and/or installation of certain public improvements and containing a statement of the estimated cost thereof and the proposed payment terms, which is presented to the assembly for further action.

H. “Property” means land and any improvements attached thereto. [Ord. 392 § 1(A.240(1) – (9)), 1980.]

#### **5.12.040 Abandonment of proceedings.**

The assembly shall have full power and authority to abandon and rescind proceedings for improvements undertaken under this chapter at any time prior to the final consummation of such proceedings. If liens have been assessed upon any property under this procedure, they shall be cancelled, and any payments made thereon shall be refunded to the payer, such assigns, or legal representatives. [Ord. 392 § 1(A.250), 1980.]

#### **5.12.050 Curative provision.**

No improvement assessment shall be invalid by reason of a failure to give, in any report on the proposed assessment, in the assessment ordinance, in the lien docket, or elsewhere in the proceedings, the name of the owner of any lot or other parcel of land, or part thereof, or the name of any person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdiction or otherwise, in any of the proceedings specified in this chapter unless it appears that the assessment as made, insofar as it affects the person complaining, is unfair and unjust. The assembly shall have power and authority to remedy and correct all such matters by suitable action and proceedings. [Ord. 392 § 1(A.260), 1980.]

#### **5.12.060 Special assessment by petition – Petition.**

The petition for an improvement by special assessment shall be in a form prescribed by the borough manager and shall include a description of the improvement sought by the petition. The original or copies of the petition shall be signed by the owners of the properties which will bear at least 50 percent of the estimated cost of the improvement sought by the petition. The petition when signed shall be filed with the borough clerk. [Ord. 392 § 1(A.030(a)), 1980.]

#### **5.12.070 Special assessment by petition – Assembly review of petition.**

After the petition has been filed with the borough clerk, the assembly shall determine by resolution whether the petition has sufficient and property signatories thereto, and whether the improvement is necessary. The findings of the assembly are conclusive. If the assembly finds that the improvement is necessary, the assembly shall also set a time for public hearing thereon. [Ord. 392 § 1(A.030(b)), 1980.]

#### **5.12.080 Special assessment by petition – Notice of hearing.**

A. Notice of such hearing shall be published at least once a week for four consecutive weeks in a newspaper of general circulation throughout the borough prior to the date set for such hearing.

B. The notice shall contain a statement of the following:

1. A general description of the improvements to be ordered and a description of the boundaries of the proposed L.I.D.;
2. A statement of the estimated cost of the proposed improvements and the estimated proportion of such cost to be borne by the property specially benefited thereby;
3. That a map or plat showing thereon the lots, tracts and parcels of land which will be specially benefited by the proposed improvement, the proposed assessment schedule and the proposed assessment against each such lot, tract or parcel of land is on file for public inspection at the office of the borough clerk;
4. Whether special assessment district bonds will be issued and sold to provide funds to pay the cost of improvements;
5. The time, date and place of such hearing; and that the owners of any property within the proposed district may file a written objection to the creation of such district and the ordering of the work to be done therein with the borough clerk up to the time of the hearing. [Ord. 620 § 5, 1996; Ord. 392 § 1(A.030(c)), 1980.]

**5.12.090 Special assessment by petition – Mailed notice.**

A. Notice of such hearing shall also be mailed to all owners within the proposed district according to the tax roll of the borough at the last address shown thereon, at least 60 days prior to the date set for such hearing if special assessment bonds are to be issued. If special assessment bonds are not to be issued to pay the cost of improvements, then the notice shall be mailed not less than 20 days prior to such hearing date.

B. Such notice shall contain, in addition to the items required to be set forth in the published notice, the following:

1. A description of each lot, tract or parcel of land owned by said owner and the estimated assessment to be levied against each such property;
2. The estimated payment schedule of such assessment;
3. A statement that the assessment proposed to be levied against each such lot, tract or parcel of land is an estimated amount and that when actual costs are known they will be assessed against all of the real property in the L.I.D. in accordance with the benefits received. [Ord. 392 § 1(A.030(d)), 1980.]

**5.12.100 Special assessment by petition – Hearing.**

The public hearing shall be held by the assembly at the time indicated in the notice, which time shall be no earlier than 10 days after the final date of publication of notice. [Ord. 392 § 1(A.030(e)), 1980.]

**5.12.110 Special assessment by petition – Objections.**

A. If written protests as to the necessity of the local improvement are made by the owners of benefited property which will bear 50 percent or more of the estimated cost of the improvement, the improvement shall not proceed until the protests have been reduced so that the property of those still protesting shall not bear 50 percent of the estimated cost of the improvement, except upon passage by the assembly of a resolution to proceed by a vote of at least six assembly members. Such protests must be filed with the borough clerk before the close of the public hearing on the necessity of the improvement.

B. The assembly may decrease the extent or value of the improvement, or may delete from the properties to be assessed those not benefited in whole or in part by the improvement. At the conclusion of the public hearing, the assembly shall by resolution determine whether or not to proceed with the improvement. Said resolution, pursuant to WMC 5.12.150, 5.12.160, and 5.12.170, shall also specify the method of apportioning benefits to be employed. After the assembly revises the plans it shall, if it determines to proceed with the improvements under the revised plan, readvertise and renounce the proposed improvements and hold another hearing thereon, and be subjected to the same time notice limitations as required

in the first instance, and so on until the objections have been reduced to less than 50 percent as referred to above.

C. If the owners of property bearing more than 50 percent of the estimated assessments agree in writing to any revised plan, there shall be no need to readvertise or hold further hearings and the assembly may proceed with the revised plan. [Ord. 392 § 1(A.030(f)), 1980.]

#### **5.12.120 Special assessment by petition – Manager’s report.**

Upon passage by the assembly of a resolution that the improvement is necessary and the petition has sufficient and proper signatures, as provided in WMC 5.12.070, the assembly shall authorize the borough manager to prepare a report to the assembly concerning the need for the estimated cost of the improvement. The report shall contain a plan specifying the properties to be assessed and showing the desirable extent of the proposed improvement. The report of the borough manager may be presented to the assembly either before or at the time of the public hearing required in this chapter. [Ord. 392 § 1(A.030(g)), 1980.]

#### **5.12.130 Special assessment by petition – Ordinance or resolution.**

If, as and when the assembly finds that the L.I.D. should be formed, it shall by ordinance, or by resolution if special assessment district bonds are not to be issued, find that the creation of such L.I.D. is in the public interest, and create such district, describe the boundaries thereof, describe the improvements to be acquired, constructed and installed therein, declare the estimated cost thereof, declare the proportionate amount of the funds of the borough, if any, to be applied thereto and order such work to be done. If necessary, such ordinance or resolution shall authorize the acquisition of all land necessary for such improvements, the payment of all damages caused thereby and the commencement in the name of the borough of such eminent domain proceedings and assessment proceedings required to pay all eminent domain awards as may be necessary to enable the borough to proceed with the work. [Ord. 392 § 1(A.030(h)), 1980.]

#### **5.12.140 Special assessment initiated by assembly.**

A. The borough assembly may, on its own motion, direct the borough manager to prepare a report to the assembly concerning the need for and the estimated cost of a public improvement. The report shall contain a plan specifying the properties to be assessed and showing the desirable extent of the proposed improvement. The report of the borough manager may be presented to the assembly either before or at the time of the public hearing on the necessity for the proposed improvement.

B. Simultaneously with its motion authorizing the report by the borough manager, the assembly shall provide for notice of public hearing in accordance with the procedure established by WMC 5.12.070 and 5.12.080.

C. At the conclusion of the public hearing the assembly shall determine by resolution whether or not to proceed with the improvement. The assembly shall not proceed with any public improvement if written protests as to the necessity of such improvement are made by the owners of benefited property which will bear 50 percent or more of the estimated cost of the improvement until the protests have been reduced so that the property of those still protesting shall not bear 50 percent of the estimated cost of the improvement, except upon passage by the assembly of a resolution to proceed by a vote of at least six assembly members. Said resolution, pursuant to WMC 5.12.150, 5.12.160, and 5.12.170, shall also specify the method of apportioning benefits to be employed. [Ord. 392 § 1(A.035), 1980.]

**5.12.150 Determination of assessment.**

The assembly shall assess 50 percent of the cost of all improvements made in accordance with this chapter against the properties benefited thereby; provided, that the assembly may decide, prior to or at the time of determining to proceed with the improvement project, to reduce or increase the portion of the cost to be assessed against the property benefited specially by the improvement, or that the nature of the improvement or lack of general funds requires that the improvement be financed by an assessment against the benefited property greater or less than 50 percent of the cost of the improvement. [Ord. 392 § 1(A.040), 1980.]

**5.12.160 Methods of determining proportion of benefits and assessments.**

The following methods shall be used in determining the proportion of benefits and assessments to real properties specially benefited from improvements authorized and constructed under the authority of this chapter:

A. Street and Sidewalk Improvements, Squares, Benefited Areas. Except in the cases otherwise specifically provided for under this chapter, or unless provided for in the resolution ordering such improvement, "property benefited" shall mean and shall include all property abutting upon or adjacent to the street, avenue, alley, drive, square or other public place proposed to be improved. "All of the property" shall be considered and held to be all the property specially benefited by such local improvement and shall be the property to be assessed to pay the cost thereof or such portion of the costs as are chargeable against the property specially benefited by such improvement, which cost and expense shall be assessed against all of such property so benefited in conformance to the special benefits so conferred on such property using one of the following methods for proportions:

1. One hundred percent of the improvement assessable to such properties shall be distributed to each lot, tract or parcel of property in proportion to its area.
2. One hundred percent of the costs assessable to such properties shall be distributed to each lot, tract or parcel of property in proportion to the frontage of that property on the improved street, avenue, alley, drive, square or other public place.

The total assessment thus determined shall be entered upon the assessment roll as the amount to be levied and assessed against each separate lot, tract or parcel of land or other property.

Corner lots shall be assessed on the same basis as above, except that where such lot is bounded by two streets which are being improved, the front footage basis shall be the full frontage on the longest side and one-half the frontage on the shortest side.

B. Sanitary Sewers and Storm Sewers. In spreading assessments, as set forth in subsection (A)(1) or (2), for sewers and drains, including storm drains, the cost shall be assessed in proportion to the area of each lot, tract or parcel that abuts upon, or is beneficially affected by such improvement although not abutting such improvement, such benefited area to be determined by the assembly by the resolution passed determining the necessity for such improvement.

C. Other Improvements. The assembly shall determine the method of proportioning the benefits, as set forth in subsection (A)(1) or (2), from other types of improvements at the time of declaring the necessity of the improvement, or upon creation of an improvement district.

D. Reserve for Delinquencies. In anticipation of delinquent assessments, there may be added to each separate assessment appearing on each assessment roll a sum not less than three percent nor greater than 10 percent of such assessment. Said charge shall constitute a reserve to be used only if payment of assessments become delinquent to the extent that any amounts due on debt incurred by the borough for financing the property owners' share of the local improvement district in question cannot be met as they become due. Any balance remaining in said reserve after all debts incurred relative to the L.I.D. in question have been repaid shall be refunded pro rata to such property owners within the L.I.D. on whose lots the assessments have been paid promptly during the full period of the payment schedule without being in default

at any time. Any refunds due shall be paid to the then owner of the lot as shown on the tax roll for the year in which the refund is declared. No such refund shall be in an amount greater than the original percentage charged to that lot.

E. Government Properties. Assessments levied in any L.I.D. may be levied against properties of the United States of America, the State of Alaska, the borough, and the borough as provided in this chapter and the assessments levied against any properties of the borough or the borough shall have a lien thereon and shall be collectible as assessments levied against properties of owners except where prohibited by law. Should it appear for any reason that the assessments levied against any properties of the United States of America or the State of Alaska are uncollectible, such assessments shall not be counted in the computation of the final assessment roll of any L.I.D. and, if any such assessments are collected, the same shall be paid into the fund of such L.I.D. as are all other assessments. [Ord. 620 § 4, 1996; Ord. 392 § 1(A.050(a)), 1980.]

#### **5.12.170 Equal assessments for all parcels.**

In the event all the lots, tracts, or parcels of land in any L.I.D. are substantially equal in size and are substantially equal in distance from the improvements constructed therein, and the benefits derived by each such lot, tract or parcel of land are substantially equal to the benefits derived by every other lot, tract or parcel of land within the district, or all of the property owners agree thereto, then the total assessment roll may be apportioned equally among all such lots, tracts and parcels of land; otherwise, the assembly shall determine the amount of the individual assessments fixed in any assessment roll on such basis as may be legal, equitable and proper under all the circumstances. [Ord. 392 § 1(A.050(b)), 1980.]

#### **5.12.180 Assessment determined by use factor.**

Nothing in this chapter or Chapter 5.16 WMC governing local improvement districts shall prohibit the assembly from utilizing some formula or method of determining benefits where it can be shown that the property benefited should bear a greater amount of the assessment. As an example, but not by way of limitation, where commercially zoned property is directly adjacent to residentially zoned property, but both are served by the same sewer connection and the multiple-story building on the commercial property may have 10 users whereas the residential property may have only two users, the commercial area shall therefore bear more of the assessment costs. [Ord. 392 § 1(A.050(c)), 1980.]

#### **5.12.190 Assessment roll and related procedures.**

WMC 5.16.070 through 5.16.190 relating to the assessment roll and procedures related thereto, are incorporated by reference as if fully set forth in this chapter as said sections may from time to time be amended or modified. [Ord. 392 § 1(A.060), 1980.]

#### **5.12.200 Advance payment of assessments.**

To facilitate the financing of construction of improvements authorized under this chapter, the director of finance is authorized to accept from owners of real property advance payments of assessments based upon estimated assessments. The amount of the advance payment shall be credited against the actual assessment when the same shall have been levied by the assembly. If the advance payment exceeds the actual assessment, the difference shall be promptly refunded to the owner of real property who made the payment. If the advance payment is less than the actual assessment, the difference shall be billed to the owner of the real property in the same manner as provided for other assessments. [Ord. 392 § 1(A.080), 1980.]

**5.12.210 Invalid or insufficient assessments – Reassessment.**

If any special assessment fails to be valid in whole or in part, or if for any cause, mistake or inadvertence the amount assessed is not sufficient to pay the cost of a public improvement or the part thereof to be assessed against benefited property, then the assembly is authorized to cause such assessment to be reassessed. [Ord. 833 § 18, 2009; Ord. 392 § 1(A.090), 1980.]

**5.12.220 Assessment segregation.**

Whenever property has been assessed in an entire tract and subsequently subdivided, any owner so desiring may make an application to the assembly for a segregation of the assessment and a determination of the amount due on each portion thereof. The assembly shall thereupon cause an appraisal to be made of the entire property as a whole, and also of the segregated portions. If the assembly deems that such segregation can be made without prejudice to the borough's security, it may order the assessment to be segregated and assessed against each portion of the divided property. In case the assembly determines that the borough cannot, without injury to its security, permit such segregation, it shall require payment of the entire amount as a whole before any portion of the tract is discharged from the lien of such assessment. [Ord. 392 § 1(A.095), 1980.]

**5.12.230 Objection and appeal.**

A. The regularity or validity of an assessment may not be contested by a person who did not file with the borough clerk a written objection to the assessment roll before its confirmation.

B. The decision of the assembly upon an objection may be appealed to the superior court within 30 days of the date of confirmation of the assessment roll.

C. If no objection is filed or an appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects. [Ord. 392 § 1(A.100), 1980.]

**5.12.240 L.I.D.s – Area and boundaries – Changes.**

A. An L.I.D. may include adjoining, vicinal or neighboring streets, avenues and alleys even though the improvements thus made are not connected or continuous as long as there is no more than 2,500 feet between continuous units; provided, that the cost and expense of each continuous unit of the improvement may be ascertained separately as near as may be and, if so ascertained separately, the assessment rates shall be computed on the basis of the cost and expense of each unit.

B. The assembly may at any time at its discretion, by ordinance, eliminate from said district any unit of the improvement which is not completed and may proceed with the construction of the balance of the improvements within said district as fully and completely as though said eliminated unit had not been included within the district; provided, however, that the assessments to be levied to pay part or all of the costs of the improvements actually constructed may be levied only against the properties within such district specially benefited thereby. [Ord. 392 § 1(A.110(a), (b)), 1980.]

**5.12.250 L.I.D.s – Hearing.**

A. The assembly shall by resolution fix a time, date and place for a hearing on the question of whether or not it should abandon the acquisition, construction and installation of a portion of the improvements. Notice of such hearing shall be published once, at least 10 days prior to the date thereof, in a newspaper of general circulation within the borough, and shall be mailed at or prior to the same time to all owners of property within such district. Such notice shall state the proposed assembly action and shall also require that any owner who objects thereto should file a written notice of that objection with the borough clerk at or prior to the hearing.

B. At the time of the hearing, the assembly shall hear all such protests and all evidence material to the question of whether or not the completion of such improvements should be abandoned and after considering the same the assembly shall then decide whether or not to so abandon a portion of the improvements. In the event that written objections to such proposed abandonment are filed by the owners of property in the district bearing less than 50 percent of the owners of property within the area proposed to be abandoned, the assembly shall proceed to complete the construction of the improvements originally authorized in such district. In the event protests equaling 50 percent or more are filed and the assembly decides that the portion of such improvements incurred to the time of such abandonment shall be assessed only against the property within such district specially benefited by the improvements actually completed. [Ord. 392 § 1(A.110(b)(1), (2)), 1980.]

**5.12.260 L.I.D.s – Limitation on creation.**

A. The borough shall not proceed with an L.I.D. if it appears from the preliminary estimates and assessment roll that the amount of the estimated cost of improvements to be acquired, constructed and installed to be assessed against the property in the proposed district, when added to all other outstanding L.I.D. assessments against such property, is more than the current assessed value of the land within the district, including 25 percent of the current assessed value of the improvements thereon and 75 percent of the estimated cost of the improvements as a result of the L.I.D. to the land within the district, unless:

1. If special assessment district bonds are to be issued, the property owners or someone in their behalf deposits with the borough a sum of money equal to the amount by which the estimated cost of improvements exceeds the limit hereinabove fixed; or

2. If special assessment district bonds are not to be issued, the persons objecting to the creation of the L.I.D. do not own property therein greater than 20 percent in current assessed value of all the property within the district.

B. The limitation fixed in this section shall not apply to the improvement of a particular disconnected unit included in an L.I.D. as permitted by WMC 5.12.240, but shall apply only to the L.I.D. as a whole. [Ord. 392 § 1(A.110(c)), 1980.]

**5.12.270 L.I.D.s – Unanticipated costs.**

A. When the improvements in any L.I.D. are to be acquired, constructed and installed by a contractor or contractors, and if it appears after consideration of the contract cost plus all other costs of improvements that the total cost of improvements will exceed the estimated cost as it appears on the approving resolution or ordinance, by 20 percent or more, then at least 15 days before the notice to proceed is given the contractor or contractors, the director of public works of the borough shall give notice of such estimated increased cost by certified mail to the owners of the lots, tracts and parcels of land within the district at their last known address, and shall also publish, on or before the same date, a similar notice at least once in a newspaper of general circulation in the borough.

B. The mailed and published notice shall state the amount, and percentage, of total cost of the expected additional charges over the last complete estimated cost, and shall further state that unless written objections to the borough ordering the contractor or contractors to proceed are filed with the borough clerk by the owners of property within the district bearing 50 percent or more of the estimated cost of the improvements to be paid from assessments within 10 days from the date of the mailing and publishing of such notice, said contractor or contractors will be ordered to proceed, and that said estimate of costs as increased shall be the cost of improvements until all actual costs after completion are known.

C. In the event such written objections are so filed by the owners of property within the district bearing 50 percent or more of the estimated cost of the improvements to be paid from assessments, then no notice to proceed shall be given the contractor and further work on the project shall cease. The borough shall bear the costs of the project to date of termination. [Ord. 392 § 1(A.110(d)), 1980.]

**5.12.280 L.I.D.s – Funding.**

A. Each L.I.D. of the borough shall be given a number in the ordinance or resolution creating the district, and each such ordinance or resolution shall create an “L.I.D. No. \_\_\_\_\_ Fund.” Into such fund shall be paid all receipts pertaining to the L.I.D. including, but not limited to, proceeds from the sale of warrants and/or bonds, transfers from the borough general fund and assessments as paid.

B. Such funds shall be drawn upon for the purpose of paying construction costs of such L.I.D., redemption of warrants and bonds and the payment of interest thereon.

C. Within such fund, accounts such as may be necessary, such as construction revenue, bond redemption and sinking fund accounts, may be set up. [Ord. 392 § 1(A.110(e)), 1980.]

**5.12.290 L.I.D.s – Warrants.**

A. The borough may provide by resolution or ordinance for the issuance of warrants payable out of such L.I.D. fund in payment of the cost and expense of any L.I.D. improvements. The warrants shall bear interest at a rate not to exceed 10 percent per year and shall be redeemed either in cash or by exchange for special assessment district bonds of such district. Such warrants shall be redeemed in order of their number whenever there is enough money in such fund to redeem such lowest number warrant or warrants.

B. Warrants may be issued to the borough general fund when the general fund advances the costs of improvements. [Ord. 392 § 1(A.110(f)), 1980.]

**5.12.300 L.I.D.s – Surplus money.**

All moneys remaining in any L.I.D. fund of any special assessment district after all costs of improvement in such district, including the redemption of all warrants and bonds of such district, have been paid shall be paid into the guaranty fund of the borough as provided in WMC 5.12.380. If no special assessment bonds have been issued in any L.I.D., surplus moneys shall then be paid into the L.I.D. revolving fund of the borough. [Ord. 392 § 1(A.110(g)), 1980.]

**5.12.310 L.I.D.s – Improvement construction – Bids.**

A. It shall be the general policy of the borough to call for bids for making local improvements and to award the bid to the lowest responsible bidder. This general policy, however, shall not prohibit the assembly from providing that the borough construct the local improvements rather than private contractors.

B. In the event more than one L.I.D. is advertised for bids at the same time, all L.I.D.s shall be bid separately. The assembly shall have the authority, however, to accept the lowest aggregate bid for all the L.I.D.s bid at same time.

C. If the improvement cost of an L.I.D. is less than the amount requiring competitive bid as provided by law, the borough may award the contract without bid.

D. At the option of the borough, bids for improvements may be taken prior to the public hearing; however, no contract for construction shall be awarded prior to enactment of a resolution creating the improvement district, unless agreed to in writing by 100 percent of the owners of the property to be benefited. [Ord. 392 § 1(A.115), 1980.]

**5.12.320 Bonds – Authority.**

A. Bonds to be entitled “L.I.D. No. \_\_\_\_\_, City and Borough of Wrangell, Alaska, Bonds” may be issued to provide funds to pay any part or all of the costs of improvements in any special assessment district; provided, that such bonds shall not be issued in a total principal amount in excess of such costs of improvement.

B. Such bonds shall be issued pursuant to ordinance and shall be made payable on a date not sooner than two years later than the date upon which the last installment of the assessments securing such bonds becomes due and not later than two years, six months after the date upon which the last installment of the assessments securing such bonds becomes due. [Ord. 392 § 1(A.120), 1980.]

**5.12.330 Bonds – Form and contents.**

A. Such bonds shall bear interest at a rate not to exceed 10 percent per year, payable annually or semi-annually, shall be in such denominations as may be provided in the ordinance authorizing their issuance, and shall be numbered from one up, consecutively.

B. Each bond shall be signed by the mayor of the borough and attested by its clerk; shall have the seal of the borough impressed or reproduced thereon; refer to the improvement to pay for which it is issued and the ordinance ordering it; provide that the principal amount thereof and the interest thereon shall be payable out of the L.I.D. fund of such district or out of the local improvement guaranty fund of the borough and not otherwise; provide that the bondholders’ remedy in case of any nonpayment shall be confined to the enforcement of the special assessments levied for the improvements in such L.I.D. and to such guaranty fund; and have attached thereto interest coupons for each interest payment which coupons may have printed or reproduced thereon the facsimile signatures of such mayor and clerk. [Ord. 392 § 1(A.130), 1980.]

**5.12.340 Bonds – Sale.**

Such L.I.D. bonds may be issued to the contractor or contractors constructing and installing the improvements in such district, or may be sold by the borough at public or private sale, but at not less than par and accrued interest. The proceeds of sale of such bonds shall be deposited in the applicable L.I.D. fund and be applied in payment of the costs of improvement either in cash or by the redemption of warrants or other obligations of the borough issued to pay such costs. [Ord. 392 § 1(A.140), 1980.]

**5.12.350 Bonds – Redemption.**

The borough treasurer shall call in and redeem the principal of one or more bonds of any issued in their numerical order whenever there is sufficient money in the L.I.D. fund against which the bonds have been issued, over and above the amount needed for payment of current annual interest and the annual interest next to fall due on all unpaid bonds of the issue. Such call shall be made by publication of a notice thereof in a newspaper of general circulation throughout the borough as soon as practicable after the day of delinquency of any assessment installments, and in any other manner as may be deemed necessary to advise the holder of the bonds being called of such call. The notice of call shall state the serial number or numbers of the bonds being called, that they will be paid on the date the next interest coupons on the same become due, and that interest thereon will cease on such call date. [Ord. 392 § 1(A.150), 1980.]

**5.12.360 Bonds – Nonliability of borough.**

Neither the holder nor the owner of any L.I.D. bond, interest coupons or warrant issued against an L.I.D. fund shall have any claim therefor against the borough except for payment from the special assessments made for the improvement for which such bond or warrant was issued and except for payment from the local improvement guaranty fund of the borough as to bonds issued the payment of which is secured

by such fund. The borough shall not be liable to the holder or owner of any such bond, interest coupon or warrant for any loss to the local guaranty fund occurring in the lawful operation thereof. A copy of the foregoing part of this section shall be plainly written, printed or engraved on each L.I.D. bond. [Ord. 392 § 1(A.160), 1980.]

#### **5.12.370 Bonds – Remedy of holders.**

If the borough fails to pay any bonds, interest coupons or warrants issued against an L.I.D. fund or promptly to collect any assessments when due, the owner or holder of any bond may enforce payment of the principal thereof or interest thereon and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property. Any number of owners or holders of bonds of any single L.I.D. may join as plaintiffs, and any number of owners or property upon which the delinquent assessments are liens may be joined as defendants in the same suit. Such owners and holders shall also have recourse against the local improvement guaranty fund. [Ord. 392 § 1(A.170), 1980.]

#### **5.12.380 Surplus money.**

A. If special assessment bonds have been issued in any L.I.D. based on the estimated cost of the improvements, and if after actual costs have been ascertained the amount of bonds issued exceeds the property owner's share of the actual costs plus any delinquency charge that may have been included in the assessment by more than one percent, credit shall be given on assessments due or refunded on assessments paid in full in the same proportion as they were levied.

B. If special assessment bonds have been issued in any L.I.D., all moneys remaining in any L.I.D. fund after all costs of improvements in such district (including the redemption of all warrants and bonds of such district which have been paid) shall be paid into the guaranty fund of the borough as provided in WMC 5.12.300.

C. If no special assessment bonds have been issued in any L.I.D., all moneys remaining in any L.I.D. fund after all costs of improvements in such district (including the redemption of all warrants which have been paid) shall be paid into the L.I.D. revolving fund of the borough. [Ord. 392 § 1(A.180), 1980.]

#### **5.12.390 Local improvement guaranty fund – Established.**

A. There is established a local improvement guaranty fund of the borough (herein at times called the "guaranty fund") for the purpose of guaranteeing the payment of the principal of all special assessment bonds, interest coupons pertaining thereto, and warrants issued upon any special assessment district funds. The guaranty fund shall be kept separate from all other funds of the borough. All assets of this fund shall be held in trust for the uses and purposes provided in this chapter. Money in this fund shall be deposited in a bank in which such a deposit is covered by the full amount of Federal Deposit Insurance Corporation insurance available to banks or in a savings and loan association in which such a deposit is covered by the full amount of federal savings and loan insurance acceptable to the borough. Such insurance shall be equal to Federal Deposit Insurance Corporation insurance. Money in this fund may also be invested in direct obligations of the United States of America or other obligations, the payment of the principal of and interest on which is guaranteed by the United States of America.

B. Prior to the issuance of any special assessment fund warrants or bonds, the borough shall deposit in the guaranty fund a sum which, when added to the existing moneys in the guaranty fund, shall not be less than 20 percent of the principal amount of all special assessment fund warrants and bonds. The borough shall always maintain in the guaranty fund an amount not less than 20 percent of the principal amount of all outstanding special assessment fund warrants and bonds then outstanding. Any moneys paid out of the guaranty fund to redeem special assessment district bonds, coupons pertaining thereto, or

warrants shall be replaced by the borough as soon as possible out of any legally available sources. [Ord. 392 § 1(A.190), 1980.]

**5.12.400 Local improvement guaranty fund – Use.**

A. Defaulted special assessment bonds, interest coupons pertaining thereto, and special assessment fund warrants shall be purchased out of the guaranty fund and, as between the several issues of bonds, coupons or warrants, no preference shall exist, but they shall be purchased in the order of their presentation.

B. Whenever any sum is paid out of the guaranty fund on account of principal or interest on a special assessment district bond or warrant, the borough, as trustee of such fund, shall be subrogated to all the rights of the holder of such bond, interest coupon or warrant so paid, and the proceeds thereof or of the underlying assessment shall become a part of the guaranty fund.

C. All interest and earnings derived from the investment of moneys in the guaranty fund shall be credited to such fund.

D. As provided in WMC 5.12.300, if special assessment district bonds have been issued, all moneys remaining in any L.I.D. fund or of any special assessment district fund after all costs of improvements in such district including the redemption of all warrants and bonds of such district have been paid shall also be paid into the guaranty fund.

E. Should the assembly, after determining that the amount in the guaranty fund meets all required guaranty requirements plus foreseeable future requirements, find there are excess moneys in the guaranty fund, it may authorize transfer of said excess to the revolving fund. [Ord. 392 § 1(A.200), 1980.]

**5.12.410 Local improvement district revolving fund – Created – Purpose.**

There is created a local improvement district revolving fund of the borough, which shall be used for the following purposes:

A. Financing the property owners' share of the cost of improvements of an L.I.D. not available from other moneys of the municipality or where the sale of special assessment bonds is not feasible.

B. Financing the municipal share of the cost of improvements of an L.I.D. not available from other moneys of the municipality.

C. Making payments into the guaranty fund. [Ord. 392 § 1(A.210), 1980.]

**5.12.420 Local improvement district revolving fund – Sources.**

A. Moneys to be paid into this revolving fund may be provided from general taxes, from the sale of general obligation bonds of the borough, or from any other legal sources as determined by the assembly.

B. As provided in WMC 5.12.290, if special assessment district bonds have not been issued, all moneys remaining in any L.I.D. fund after all costs of improvements in such district including the redemption of all warrants and bonds of such district have been paid shall also be paid into the revolving fund. [Ord. 392 § 1(A.220), 1980.]

**5.12.430 Local improvement district revolving fund – Repayments.**

When any disbursements are made from such revolving fund to pay part of the costs of improvements in any L.I.D., any assessment paid by owners in such L.I.D. shall be repaid to the revolving fund to the extent of the moneys disbursed by such fund to such L.I.D. [Ord. 392 § 1(A.230), 1980.]

**Chapter 5.14****BOROUGH BUDGET**

## Sections:

- 5.14.010 Preparation and submission of borough budget.
- 5.14.020 Fund transfers.

**5.14.010 Preparation and submission of borough budget.**

At least five weeks before the beginning of the fiscal year, and in accordance with the borough charter, the borough manager shall prepare and submit to the assembly a proposed budget for the next year. [Ord. 815 § 7, 2008.]

**5.14.020 Fund transfers.**

A. A transfer of any funds from the swimming pool fund to any other fund requires a vote of the people.

B. None of the income, money, resources or property of borough-operated enterprise funds shall be placed in the general fund or be used for the benefit of anything outside of the fund to which it belongs without due compensation or due value received in return; provided, that this shall not prohibit payment into the general fund by borough-operated utilities of an amount in lieu of taxes reasonably estimated to be the amount which said utilities would pay in taxes if they were privately owned. [Ord. 815 § 7, 2008.]

**Chapter 5.16****IMPROVEMENTS BY PETITION**

## Sections:

- 5.16.010 Provisions of Chapter 5.12 WMC applicable to this chapter.
- 5.16.020 Definitions.
- 5.16.030 Petition and assembly action.
- 5.16.040 Estimates and specifications.
- 5.16.050 Method of determining proportion of benefits.
- 5.16.060 Exclusive nature of procedure.
- 5.16.070 Assessment roll – Preparation and contents.
- 5.16.080 Assessment roll – Notice of hearing.
- 5.16.090 Assessment roll hearing – Contents of published notice.
- 5.16.100 Assessment roll hearing – Contents of mailed notice.
- 5.16.110 Assessment roll hearing – Proof of notice mailing.
- 5.16.120 Assessment roll hearing – Procedures.
- 5.16.130 Assessment roll – Amendments.
- 5.16.140 Assessment roll – Timeliness of objections.
- 5.16.150 Assessment roll – Conclusiveness of proceedings.
- 5.16.160 Reassessments.
- 5.16.170 Assessment – Interest and method of payment.
- 5.16.180 Assessment – Notice of time for payment.
- 5.16.190 Assessment – Lien on property.

**5.16.010 Provisions of Chapter 5.12 WMC applicable to this chapter.**

WMC 5.12.030, 5.12.040, 5.12.050, 5.12.210, and 5.12.300 are applicable to this chapter. [Ord. 392 § 1(A.270), 1980.]

**5.16.020 Definitions.**

Definitions provided in WMC 5.12.030 shall also apply to this chapter. [Ord. 392 § 1(A.240(10)), 1980.]

**5.16.030 Petition and assembly action.**

The petition shall be presented to the assembly in writing by those property owners desiring the extension or installation of the capital improvement project, which petition shall contain a promise by the property owners to pay the actual cost, the amount thereof as determined by the assembly, of the public improvement. The assembly shall, by motion, determine the necessity for the improvements and the method of apportioning the benefits. The minutes shall properly reflect the findings of the assembly as to the necessity of the improvement and the apportionment of the benefits. [Ord. 392 § 2(B.010), 1980.]

**5.16.040 Estimates and specifications.**

The engineering department of the borough shall make an itemized estimate based upon detailed plans and specifications, said specifications to be on file in the engineering department, said estimate to specifically include the costs for cash. [Ord. 392 § 2(B.020), 1980.]

**5.16.050 Method of determining proportion of benefits.**

The method of determining proportion of benefits shall be as provided in WMC 5.12.150, 5.12.160, and 5.12.170. [Ord. 392 § 2(B.030), 1980.]

**5.16.060 Exclusive nature of procedure.**

The procedure provided for under this chapter shall only be available where all property and the owners thereof to be benefited by the public improvement are in complete agreement as to the costs pursuant to the engineering estimate, and as to the property owners' absolute promise to pay for the costs of labor and material. [Ord. 392 § 2(B.040), 1980.]

**5.16.070 Assessment roll – Preparation and contents.**

If the assembly decides to make the improvement, correct account shall be kept of all the expenses of the improvement, and as soon as the improvement is completed, the assembly shall apportion that percentage of the costs and shall assess against the various tracts of real estate in proportion to the benefit received by each. The assessment roll shall contain a brief legal description or designation of each tract of property, the name or names of the owner, or reputed owner, and the amount of the assessment. When the roll is complete the assembly shall fix the time at which to hear objections to the assessment. The clerk shall send a written notice by certified mail to each owner of a tract against which an assessment is made, stating the amount of the assessment against the tract and the time fixed by the assembly for hearing objections. [Ord. 392 § 2(B.050), 1980.]

**5.16.080 Assessment roll – Notice of hearing.**

When the assessment roll or rolls for any L.I.D. has or have been prepared as provided by law and this chapter, the same shall be filed with the borough clerk. A notice of hearing as set by the assembly shall be published at least once a week for two consecutive weeks in a newspaper of general circulation throughout the borough and the date of the first publication thereof shall be at least 15 days prior to the day on which the hearing will be held. Notice of such hearing shall also be mailed by certified mail at least 15 days prior to such hearing date to each owner or owners of the lots, tracts or parcels of land listed on the assessment roll at the address last shown on the tax rolls of the borough. [Ord. 392 § 2(B.050(a)), 1980.]

**5.16.090 Assessment roll hearing – Contents of published notice.**

The published notice of such hearing shall specify the number of the L.I.D. and a short statement of the nature of the improvements contemplated therein and shall contain any other information deemed relevant by the assembly or the borough clerk, and shall notify all persons who may desire to object to such assessment roll or any of the separate assessments appearing thereon:

A. To make their objections in writing and to file them with the borough clerk at or prior to the time fixed for the hearing;

B. That at the time and place fixed for such hearing and at times to which the hearing may be adjourned the assembly will sit as a board of equalization for the purpose of considering the roll and the separate assessments appearing thereon; and

C. That at the hearing, or the times to which it may be adjourned, the assembly will consider the objections made and will correct, revise, raise, lower, change or modify the roll or any part thereof, or set aside the roll and order the assessment to be made de novo, and at the conclusion of such hearing or hearings will confirm the roll by ordinance or resolution. [Ord. 392 § 2(B.050(b)), 1980.]

**5.16.100 Assessment roll hearing – Contents of mailed notice.**

The mailed notice of such hearing shall contain all of the statements and information required for the published notice and, in addition thereto, shall also contain a description of each lot, tract, or parcel of

land owned by the owner to which it is addressed being assessed, and the amount of the proposed assessment against each such property. [Ord. 392 § 2(B.050(c)), 1980.]

**5.16.110 Assessment roll hearing – Proof of notice mailing.**

Proof of mailing of the notice shall be made by the borough clerk's filing a certificate with the assembly to the effect that on the date in question she mailed by certified mail notices of such hearing. Such certificate shall be conclusive as to the date of mailing. [Ord. 392 § 2(B.050(d)), 1980.]

**5.16.120 Assessment roll hearing – Procedures.**

At the hearing, all persons concerned may present their objections to the assessment or any part of it, and point out errors and inequities, and submit reasons for amendment and corrections. The assembly may continue the hearing from time to time. After the assembly has heard all objections and suggestions, it shall correct any errors which it finds in the assessment roll as originally made and, when the roll is finally settled, the mayor shall sign the assessment roll certifying that it is the assessment roll as finally settled by the assembly. The assessment roll as certified shall be recorded in the Recorder's Office, Wrangell Recording District, First Judicial District, State of Alaska. [Ord. 392 § 2(B.060), 1980.]

**5.16.130 Assessment roll – Amendments.**

If any assessment roll is amended so as to raise any separate assessment appearing thereon or to include omitted property, a new time, date and place for hearing shall be fixed and new notices of hearing on the roll shall be given as in the case of an original hearing; provided, that as to any property originally entered upon the roll, the assessment upon which has not been raised, no objections to confirmation of the assessment roll shall be considered by the assembly or by any court of appeal unless the objections were made in writing at or prior to the time fixed for the original hearing upon the assessment roll. [Ord. 392 § 2(B.061), 1980.]

**5.16.140 Assessment roll – Timeliness of objections.**

All objections to the confirmation of the assessment roll or any of the separate assessments appearing thereon shall be in writing and shall state clearly the grounds of objections. Objections not made in writing and not filed with the borough clerk at or prior to the time of the original hearing shall be conclusively presumed to have been waived. [Ord. 392 § 2(B.062), 1980.]

**5.16.150 Assessment roll – Conclusiveness of proceedings.**

Whenever any assessment roll for local improvements in any L.I.D. has been confirmed by the assembly, the regularity, validity and correctness of the proceedings relating to the improvements therein and to the assessments therefor including the action of the assembly upon the assessments roll and the confirmation thereof shall be conclusive in all things upon all parties. They cannot in any manner be contested or questioned in any proceeding by any owner unless he files written objections to the assessments roll or any separate assessment appearing thereon in the manner and within the time required by the preceding provisions of this chapter and unless he prosecutes his appeal in the manner and within the time required in this chapter. [Ord. 392 § 2(B.063), 1980.]

**5.16.160 Reassessments.**

Whenever an assessment authorized as provided in this chapter is set aside, annulled or declared void, or its enforcement refused by a court of competent jurisdiction, whether directly or by virtue of a decision of such court, the assembly may by ordinance or resolution make a new assessment or reassessment upon the lots, tracts or parcels of land benefited by the improvement for which such assessment was levied, in the manner provided by ordinance. [Ord. 833 § 19, 2009; Ord. 392 § 2(B.064), 1980.]

**5.16.170 Assessment – Interest and method of payment.**

After the assessment roll has been completed, the assembly shall fix by resolution the following:

A. The type of payments, whether lump sum or installment;

B. The date of payment or payments;

C. The percentage of the total cost of the project to which the first payment shall be equal, if to be repaid in installments; and

D. The interest rate on all deferred payments. [Ord. 392 § 2(B.070), 1980.]

**5.16.180 Assessment – Notice of time for payment.**

A. Within 10 days after the resolution fixing the time of delinquency is adopted by the assembly, the clerk shall mail with postage prepaid a notice to the owner of each property assessed. The notice shall designate the property, the amount of the assessment, the time of delinquency and the amount of penalty and interest provided for.

B. Within five days after the notices are deposited in the post office, the clerk shall file her affidavit setting forth the mailing. The affidavit is conclusive as to the facts stated in it except in proceedings against the clerk for perjury or for malfeasance, misfeasance or nonfeasance in office. [Ord. 392 § 2(B.080), 1980.]

**5.16.190 Assessment – Lien on property.**

The assessments provided for under this chapter are a first, prior, and paramount lien upon the property assessed and, when delinquent, may be enforced in the manner provided for the collection and the enforcement of general taxes. The remedy provided for in this section shall not be exclusive, but shall be in addition to all other remedies provided for by law. [Ord. 392 § 2(B.090), 1980.]

**Chapter 5.18****GRANTS ADMINISTRATION**

## Sections:

- 5.18.010 Purpose.
- 5.18.020 Definitions.
- 5.18.030 General provisions.
- 5.18.040 Grant administration fee schedule.

**5.18.010 Purpose.**

A. The purpose of this chapter is to set forth the procedures for handling pass-through grants, which are governed by AS 37.05.315. The procedures are designed to minimize any liability or loss to the borough which may arise from administering said grants, while at the same time maximizing the amount of said grant funds brought to the purposes of the grants.

B. Loss or liability may arise out of the following: administrative costs, loss of interest, ineligible expenditures, and the grantee's failure to perform. Most administrative costs can be determined soon after the completion of construction or of the grant project. Ineligible expenditures can be determined only after a state audit. A grantee's failure to perform can only be determined after a term equal to the practical life of the facility constructed with the grant funds. [Ord. 613 § 5, 1995.]

**5.18.020 Definitions.**

A. "Administrative costs" means the costs to the borough of administering the grant.

B. "Grant" means all grants to or administered by the borough, to include without limitation a state grant governed by AS 37.05.315, other state grants, federal grants or other grants; provided, however, the term grant excludes all grants for which the recipient or administering agency is prohibited by law from retaining or taking an administration fee.

C. "Grant agreement" means the contract document, including but not limited to rules, regulations and laws, pertaining to the grant between the borough and the grantee. [Ord. 613 § 5, 1995.]

**5.18.030 General provisions.**

A. The borough assembly may authorize the mayor or borough manager to enter into grant agreements with grantees which set forth the terms and conditions of the grant and its administration.

B. The grant agreement with a grantee shall set forth all terms and conditions for administering the grant including but not limited to scope of work, payment and process schedule, State of Alaska Municipal Grant Agreement, and such security devices as are deemed reasonable by the borough manager.

C. Grant funds are not to be disbursed until the borough and grantee have entered into a grant agreement. [Ord. 613 § 5, 1995.]

**5.18.040 Grant administration fee schedule.**

To administer grants, the borough may retain a fee of up to 10 percent from the grant funds. [Ord. 627 § 4, 1996; Ord. 613 § 5, 1995.]

**Chapter 5.20****INVESTMENT POLICY, OBJECTIVES, AND GUIDELINES  
CITY AND BOROUGH OF WRANGELL PERMANENT FUND**

## Sections:

- 5.20.010 Scope of investment policy.
- 5.20.020 Investment policy statement.
- 5.20.030 Delegation of authority.
- 5.20.040 Definitions.
- 5.20.050 Assignment of responsibility.
- 5.20.060 General investment principles.
- 5.20.070 Investment management policy.
- 5.20.080 Investment objectives.
- 5.20.090 Specific investment goals.
- 5.20.095 Distribution of permanent fund earnings.
- 5.20.100 Definition of risk.
- 5.20.110 Liquidity.
- 5.20.120 Marketability of assets.
- 5.20.130 Investment guidelines.
- 5.20.140 Selection of investment managers.
- 5.20.150 Investment manager performance review and evaluation.
- 5.20.160 Investment policy review.

**5.20.010 Scope of investment policy.**

This investment policy reflects only investment policy, objectives, and constraints of the permanent fund and does not amend or change any of the policies for investment of borough general funds herein above. [Ord. 665 § 5, 1999.]

**5.20.020 Investment policy statement.**

This statement of investment policy is set forth by the City and Borough of Wrangell regarding its permanent fund in order to:

- A. Define and assign the responsibilities of all involved parties.
- B. Establish a clear understanding for all involved parties of the investment goals and objectives of plan assets.
- C. Offer guidance and limitations to all investment managers regarding the investment of plan assets.
- D. Establish a basis for evaluating investment results.
- E. Manage plan assets according to prudent standards as established in common trust law.
- F. Establish the relevant investment horizon for which the plan assets will be managed.

In general, the purpose of this statement is to outline a philosophy and attitude which will guide the investment management of the assets toward the desired results. It is intended to be sufficiently specific to be meaningful, yet flexible enough to be practical. [Ord. 665 § 5, 1999.]

**5.20.030 Delegation of authority.**

The City and Borough of Wrangell is a fiduciary, and is responsible for directing and monitoring the investment management of plan assets. As such, the City and Borough of Wrangell will from time to time delegate certain responsibilities to professional experts in various fields. These include, but are not limited to:

A. Investment Management Consultant. The consultant may assist the City and Borough of Wrangell in establishing investment policy, objectives, and guidelines; selecting investment managers; reviewing such managers over time, measuring and evaluating investment performance, and other tasks as deemed appropriate.

B. Investment Manager. The investment manager has discretion to purchase, sell, or hold the specific securities that will be used to meet the plan's investment objectives.

C. Custodian. The custodian will physically (or through agreement with a subcustodian) maintain possession of securities owned by the plan, collect dividend and interest payments, redeem maturing securities, and effect receipt and delivery following purchases and sales. The custodian may also perform regular accounting of all assets owned, purchased, or sold, as well as movement of assets into and out of the plan accounts.

D. Additional specialists such as attorneys, auditors, actuaries, retirement plan consultants, and others may be employed by the City and Borough of Wrangell to assist in meeting its responsibilities and obligations to administer plan assets prudently.

The City and Borough of Wrangell will not reserve any control over investment decisions, with the exception of specific limitations described in these ordinances. Managers will be held responsible and accountable to achieve the objectives herein stated. While it is not believed that the limitations will hamper investment managers, each manager should request modifications which they deem appropriate.

If such experts employed are also deemed to be fiduciaries, they must acknowledge such in writing. All expenses for such experts must be customary and reasonable, and will be borne by the plan as deemed appropriate and necessary. [Ord. 665 § 5, 1999.]

**5.20.040 Definitions.**

A. "Plan" shall mean the City and Borough of Wrangell permanent fund.

B. "The City and Borough of Wrangell" shall refer to the borough assembly which shall administer the plan as specified by applicable ordinance.

C. "Fiduciary" shall mean any individual or group of individuals that exercise discretionary authority or control over fund management or any authority or control over management, disposition or administration of the plan assets.

D. "Investment manager" shall mean any individual, or group of individuals, employed to manage the investments of all or part of the plan assets.

E. "Investment management consultant" shall mean any individual or organization employed to provide advisory services, including advice on investment objectives and/or asset allocation, manager search, and performance monitoring.

F. "Securities" shall refer to the marketable investment securities which are defined as acceptable in this statement.

G. "Investment horizon" shall be the time period over which the investment objectives, as set forth in this statement, are expected to be met. The investment horizon for this plan is 20 years. [Ord. 665 § 5, 1999.]

#### **5.20.050 Assignment of responsibility.**

A. Responsibility of the Investment Managers. Each investment manager must acknowledge in writing its acceptance of responsibility as a fiduciary. Each investment manager will have full discretion to make all investment decisions for the assets placed under its jurisdiction, while observing and operating within all policies, guidelines, constraints, and philosophies as outlined in this statement. Specific responsibilities of the investment managers include:

1. Discretionary investment management including decisions to buy, sell, or hold individual securities, and to alter asset allocation within the guidelines established in this statement.
2. Reporting, on a timely basis, quarterly investment performance results.
3. Communicating any major changes to economic outlook, investment strategy, or any other factors which affect implementation of investment process, or the investment objective progress of the plan's investment management.
4. Informing the City and Borough of Wrangell regarding any qualitative change to investment management organization. Examples include changes in portfolio management personnel, ownership structure, investment philosophy, etc.
5. Voting proxies, if requested by the City and Borough of Wrangell, on behalf of the plan, and communicating such voting records to the investment committee on a timely basis.

B. Responsibility of the Investment Consultant. The investment consultant's role is that of a nondiscretionary advisory to the investment committee of the City and Borough of Wrangell. Investment advice concerning the investment management of plan assets will be offered by the investment consultant, and will be consistent with the investment objectives, policies, guidelines and constraints as established in this statement. Specific responsibilities of the investment consultant include:

1. Assisting in the development and periodic review of investment policy.
2. Conducting investment manager searches when requested by the investment committee.
3. Providing "due diligence," or research, on the investment manager(s).
4. Monitoring the performance of the investment manager(s) to provide the investment committee with the ability to determine the progress toward the investment objectives.
5. Communicating matters of policy, manager research, and manager performance to the investment committee.
6. Reviewing plan investment history, historical capital markets performance and the contents of this investment policy statement to any newly appointed members of the investment committee. [Ord. 665 § 5, 1999.]

#### **5.20.060 General investment principles.**

- A. Investments shall be made solely in the interest of the beneficiaries of the plan.
- B. The fund shall be invested with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the investment of a fund of like character and with like aims.
- C. Investment of the fund shall be so diversified as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
- D. The City and Borough of Wrangell may employ one or more investment managers of varying styles and philosophies to attain the fund's objectives.

E. Cash is to be employed productively at all times, by investment in short-term cash equivalents to provide safety, liquidity, and return. [Ord. 665 § 5, 1999.]

**5.20.070 Investment management policy.**

A. Preservation of Capital. Consistent with their respective investment styles and philosophies, investment managers should make reasonable efforts to preserve capital, understanding that losses may occur in individual securities.

B. Risk Aversion. Understanding that risk is present in all types of securities and investment styles, the City and Borough of Wrangell recognizes that some risk is necessary to produce long-term investment results that are sufficient to meet the plan's objectives. However, the investment managers are to make reasonable efforts to control risk, and will be evaluated regularly to ensure that the risk assumed is commensurate with the given investment style and objectives.

C. Adherence to Investment Discipline. Investment managers are expected to adhere to the investment management styles for which they were hired. Managers will be evaluated regularly for adherence to investment discipline. [Ord. 665 § 5, 1999.]

**5.20.080 Investment objectives.**

In order to meet its needs, the investment strategy of the City and Borough of Wrangell permanent fund is to emphasize total return, that is, the aggregate return from capital appreciation and dividend and interest income.

A. Specifically, the primary objective in the investment management for plan assets shall be:

1. Preservation of Purchasing Power After Spending. To achieve returns in excess of the rate of inflation plus spending over the investment horizon in order to preserve purchasing power of plan assets. Risk control is an important element in the investment of plan assets.

B. The secondary objective in the investment management of plan assets shall be:

1. Long-Term Growth of Capital. To emphasize long-term growth of principal while avoiding excessive risk. Short-term volatility will be tolerated in as much as it is consistent with the volatility of a comparable market index. [Ord. 665 § 5, 1999.]

**5.20.090 Specific investment goals.**

A. Over the investment horizon established in this statement, it is the goal of the aggregate plan assets to exceed:

1. An absolute rate of return of nine and one-half percent. This rate of return will satisfy five and one-half percent to be deposited annually in the City and Borough of Wrangell's general fund, three percent inflation as determined by the consumer price index for Anchorage, and one percent fund growth.

B. The investment goals above are the objectives of the aggregate plan, and are not meant to be imposed on each investment account. The goal of each investment manager, over the investment horizon, shall be to:

1. Meet or exceed the market index, or blended market index, selected and agreed upon by the investment committee that most closely corresponds to the style of investment management.

2. Display an overall level of risk in the portfolio which is consistent with the risk associated with the benchmark specified above. Risk will be measured by the standard deviation of quarterly returns.

C. Specific investment goals and constraints for each investment manager, if any, shall be incorporated as part of this statement of investment policy. Each manager shall receive a written statement out-

lining his specific goals and constraints as they differ from those objectives of the entire plan. [Ord. 728 § 4, 2003; Ord. 665 § 5, 1999.]

#### **5.20.095 Distribution of permanent fund earnings.**

The distribution of permanent fund earnings shall be as follows:

A. The fund shall be protected from inflation by returning to the fund the amount of inflation from the previous calendar year. The percent of inflation shall be calculated by the percent change in the Anchorage Consumer Price index from December 31st of one year to December 31st of the next year. The amount that should be in the fund through inflation proofing is cumulative from November 1, 1997. Any amount above the accumulation of the annual inflation may be distributed to the general fund. In the event that there is not enough earnings to inflation proof the fund in a given year, no funds may be distributed until the inflation proof for that year and all previous years is satisfied.

B. After the fund is inflation proofed each year, any earnings which total up to five and one-half percent may be distributed to the general fund. In the event that one year does not provide distribution to the general fund, the following year would be limited to the maximum of the five and one-half percent distribution amount, even if earnings were more.

C. After the fund is inflation proofed and five and one-half percent is distributed to the general fund, any excess funds shall be returned into the fund for growth. [Ord. 728 § 5, 2003.]

#### **5.20.100 Definition of risk.**

The investment committee realizes that there are many ways to define risk. It believes that any person or organization involved in the process of managing the City and Borough of Wrangell permanent fund assets understands how it defines risk so that the assets are managed in a manner consistent with the plan's objectives and investment strategy as designed in this statement of investment policy. The City and Borough of Wrangell defines risk as:

A. The probability of not maintaining purchasing power over the plan's investment time horizon.

B. The possibility of surprises (upside or downside) in investment returns. [Ord. 665 § 5, 1999.]

#### **5.20.110 Liquidity.**

To minimize the possibility of a loss occasioned by the sale of a security forced by the need to meet a required payment, the City and Borough of Wrangell will periodically provide investment counsel with an estimate of expected net cash flow. The City and Borough of Wrangell will notify the investment consultant in a timely manner, to allow sufficient time to build up necessary liquid reserves. [Ord. 665 § 5, 1999.]

#### **5.20.120 Marketability of assets.**

The City and Borough of Wrangell requires that all plan assets be invested in liquid securities, defined as securities that can be transacted quickly and efficiently for the plan, with minimal impact on market price. [Ord. 665 § 5, 1999.]

#### **5.20.130 Investment guidelines.**

A. Allowable Assets.

1. Cash Equivalents.

a. Treasury bills;

- b. Money market funds;
- c. STIF funds;
- d. Commercial paper;
- e. Banker’s acceptances;
- f. Repurchase agreements;
- g. Certificates of deposit.
- 2. Fixed Income Securities.
  - a. U.S. government and agency securities;
  - b. Corporate notes and bonds;
  - c. Mortgage backed bonds;
  - d. Preferred stock;
  - e. Fixed income securities of foreign governments and corporations;
  - f. Planned amortization class collateralized mortgage obligations (PAC CMOs) or other “early tranche” CMOs.
- 3. Equity Securities.
  - a. Common stocks;
  - b. Convertible notes and bonds;
  - c. Convertible preferred stocks;
  - d. American Depository receipts (ADRs) of non-U.S. companies;
  - e. Stocks of non-U.S. companies (ordinary shares).
- 4. Mutual Funds.
  - a. Mutual funds which invest in securities as allowed in this statement.
- 5. Other Assets.
  - a. GICs.

B. Stock Exchanges. To ensure marketability and liquidity, investment advisors will execute equity transaction through the following exchanges: New York Stock Exchange; and NASDAQ over-the-counter market. In the event that an investment manager determines that there is a benefit or a need to execute transactions in exchanges other than those listed in this statement, written approval is required from the City and Borough of Wrangell.

C. Prohibited Assets. Prohibited investments include, but are not limited to, the following:

- 1. Commodities and future contracts;
- 2. Private placements;
- 3. Options;
- 4. Limited partnerships;
- 5. Venture-capital investments;
- 6. Real estate properties;
- 7. Interest-only (IO), principal-only (PO), and residual tranche CMOs;
- 8. Derivative investment.

D. Prohibited Transactions. Prohibited transactions include, but are not limited to, the following:

- 1. Short selling;
- 2. Margin transactions.

E. Asset Allocation Guidelines. Investment management of the assets of the City and Borough of Wrangell permanent fund shall be in accordance with the following asset allocation guidelines:

- 1. Aggregate Plan Asset Allocation Guidelines (at market value).

<b>Asset Class</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Preferred</b>
Equities	35	65	50
Fixed Income	30	60	45
Cash and Equivalents	5	15	5

2. The City and Borough of Wrangell may employ investment managers whose investment disciplines require investment outside the established asset allocation guidelines. However, taken as a component of the aggregate plan, such disciplines must fit within the overall asset allocation guidelines established in this statement. Such investment managers will receive written direction from the City and Borough of Wrangell regarding specific objectives and guidelines.

3. In the event that the above aggregate asset allocation guidelines are violated, for reasons including but not limited to market price fluctuations, the City and Borough of Wrangell will instruct the investment manager(s) to bring the portfolio(s) into compliance with these guidelines as promptly and prudently as possible. In the event that any individual investment manager's portfolio is in violation with its specific guidelines, for reasons including but not limited to market price fluctuations, the City and Borough of Wrangell expects that the investment manager will bring the portfolio into compliance with these guidelines as promptly and prudently as possible without instruction from the investment committee.

F. Diversifications for Investment Managers. The City and Borough of Wrangell does not believe it is necessary or desirable that securities held in the plan represent a cross-section of the economy. However, in order to achieve a prudent level of portfolio diversification, the securities of any one company or government agency should not exceed five percent of the total fund, and no more than 15 percent of the total fund should be invested in any one industry. Individual treasury securities may represent five percent of the total fund, while the total allocation to treasury bonds and notes may represent up to 100 percent of the plan's aggregate bond position.

G. Guidelines for Fixed Income Investments and Cash Equivalents.

1. Plan assets may be invested only in investment grade bonds rates (or equivalent) or better.
2. Plan assets may be invested only in commercial paper rates A1 (or equivalent) or better.
3. Money market funds selected shall contain securities whose credit rating at the absolute minimum would be rated investment grade by Standard and Poors, and/or Moody's. [Ord. 665 § 5, 1999.]

#### **5.20.140 Selection of investment managers.**

The City and Borough of Wrangell's selection of investment manager(s) must be based on prudent due diligence procedures. A qualifying investment manager must be a registered investment advisor under the Investment Advisors Act of 1940, or a bank or insurance company. The investment committee requires that each investment manager provide, in writing, acknowledgement of fiduciary responsibility to the City and Borough of Wrangell permanent fund. [Ord. 665 § 5, 1999.]

#### **5.20.150 Investment manager performance review and evaluation.**

Performance reports generated by the investment consultant shall be compiled at least quarterly and communicated to the City and Borough of Wrangell for review. The investment performance of total portfolios, as well as asset class components, will be measured against commonly accepted performance benchmarks. Consideration shall be given to the extent to which the investment results are consistent with the investment objectives, goals, and guidelines as set forth in this statement. The City and Borough of Wrangell intends to evaluate the portfolio(s) over at least a three-year period, but reserves the right to terminate a manager for any reason including the following:

- A. Investment performance which is significantly less than anticipated given the discipline employed and the risk parameters established, or unacceptable justification of poor results.
- B. Failure to adhere to any aspect of this statement of investment policy, including communication and reporting requirements.
- C. Significant qualitative changes to the investment management organization.
- D. The pleasure of the borough assembly.

Investment managers shall be reviewed regularly regarding performance, personnel, strategy, research capabilities, organizational and business matters, and other qualitative factors that may impact their ability to achieve the desired investment results. [Ord. 665 § 5, 1999.]

**5.20.160 Investment policy review.**

To assure continued relevance of the guidelines, objectives, financial status and capital markets expectations as established in this statement of investment policy, the City and Borough of Wrangell plans to review investment policy at least annually. [Ord. 665 § 5, 1999.]

**Chapter 5.22****ENHANCED 911 TELEPHONE SERVICE**

## Sections:

- 5.22.010 Definitions.
- 5.22.020 Authorization to provide enhanced 911 service.
- 5.22.030 Enhanced 911 surcharge on local exchange access lines and wireless telephone numbers.
- 5.22.040 Billing and collection.
- 5.22.050 Use of proceeds.
- 5.22.060 Annual review.

**5.22.010 Definitions.**

The following definitions shall apply to this chapter:

A. "Enhanced 911 service area" means the area accessible from the borough/state-maintained roaded system on Wrangell Island.

B. "Enhanced 911 system" means a telephone system consisting of network, database and enhanced 911 equipment that uses the single three-digit number, 911, for reporting a police, fire, medical or other emergency situation and that enables the users of a public telephone system to reach a public safety answering point to report emergencies by dialing 911; an enhanced 911 system includes the personnel required to acquire, install, administer, operate and maintain the system and its facilities and to dispatch the calls generated by the system.

C. "Local exchange access line" means a telephone line that connects a local exchange service customer to the local exchange telephone company switching office and has the capability of reaching local public safety agencies but does not include a line used by a carrier to provide inter-exchange services.

D. "Local exchange service" means the transmission of two-way interactive switched voice communications furnished by a local exchange telephone company within a local exchange area, including access to enhanced 911 systems; in this paragraph, "local exchange area" means a geographic area encompassing one or more political subdivisions as described in maps, tariffs or rate schedules filed with the Regulatory Commission of Alaska.

E. "Local exchange telephone company" means any telephone utility certificated under AS 42.05 to provide local exchange service and includes all public and privately owned telephone utilities.

F. "Public safety answering point" means a borough-operated 24-hour local jurisdiction communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency.

G. "Wireless telephone" means a telephone that is not a wireline telephone and includes cellular and mobile telephones; each wireless telephone number is considered to be a separate wireless telephone.

H. "Wireless telephone company" means any telephone utility or provider of local telephone service that provides telephone service for wireless telephone customers who receive monthly or periodic bills sent to an address within the designated enhanced 911 service area. It includes both publicly and privately owned providers.

I. "Wireline telephone" means a telephone that uses a local exchange access line. [Ord. 833 § 20, 2009; Ord. 758 § 2, 2004.]

**5.22.020 Authorization to provide enhanced 911 service.**

The manager is authorized and directed to continue to provide enhanced 911 service to users of telephone service provided by any local exchange telephone company and any wireless telephone company within the enhanced 911 service area. The manager is further authorized to provide for the operation of an enhanced 911 system. The enhanced 911 system shall provide service for all of the enhanced 911 service area. [Ord. 758 § 2, 2004.]

**5.22.030 Enhanced 911 surcharge on local exchange access lines and wireless telephone numbers.**

Beginning with the first billing for any telephone services rendered on January 1, 2005, and each month thereafter, there is imposed a surcharge of \$0.75 per month for each local exchange access line for wireline telephones and for each wireless telephone number within the enhanced 911 service area. The surcharge shall apply to all such wireline and wireless telephones, even those serving government agencies and nonprofit organizations. The amount of the surcharge imposed is subject to review and determination by the assembly pursuant to WMC 5.22.060. [Ord. 758 § 2, 2004.]

**5.22.040 Billing and collection.**

A. Each local exchange telephone company shall bill each month and collect the enhanced 911 surcharge from all of its customers in the enhanced 911 service area. Each wireless telephone company that provides telephone service to wireless telephone customers with billing addresses within the enhanced 911 service area shall impose an enhanced 911 surcharge each month and collect the surcharge from customers in the enhanced 911 service area. A local exchange telephone customer may not be subject to more than one enhanced 911 surcharge on a local exchange access line for a wireline telephone. A wireless telephone customer may not be subject to more than one enhanced 911 surcharge for each wireless telephone number. A customer that has more than 100 local exchange access lines from a local exchange telephone company in the municipality is liable for the enhanced 911 surcharge only on 100 local exchange access lines.

B. Each local exchange telephone company or wireless telephone company shall include the appropriate enhanced 911 surcharge, stated separately and included in the total amount owed, in the bills delivered to its customers. A customer is liable for payment of the enhanced 911 surcharge in the amounts billed by the telephone company until the amounts have been paid to the telephone company.

C. Each local exchange telephone company or wireless telephone company shall remit the amounts collected to the borough no later than 60 days after the end of the month in which the amount was collected. From each remittance made in a timely manner under this subsection, the telephone company is entitled to deduct and retain the greater of one percent of the collected amount or \$150.00 as the cost of administration for collecting the enhanced 911 surcharge. In addition, a wireless telephone company is entitled to full recovery of the recurring and nonrecurring costs associated with implementation and operation of Phase I E911 service as allowed under Federal Communications Commission proceedings entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 9-1-1 Emergency Calling Systems" (CC Docket No. 94-102; RM-8143).

D. A local exchange telephone company or wireless telephone company is not obligated to take legal action to enforce collection of the enhanced 911 surcharge. However, if a company is attempting to collect an unpaid debt from a customer, the telephone company shall also attempt to collect any unpaid enhanced 911 surcharge that the customer owes. If a customer pays a portion of a bill that includes an enhanced 911 surcharge, the amount paid shall be prorated between the telephone company and the enhanced 911 surcharge. The telephone company shall annually provide the borough with a list of the amounts due for the nonpayment of enhanced 911 surcharges, together with the names and addresses of

those customers who carry a balance that can be determined by the telephone company to be for the non-payment of the enhanced 911 surcharges. The telephone company is not liable for uncollected amounts.

E. The borough may, at its own expense, require an annual audit of a local exchange telephone company's or wireless telephone company's books and records concerning the collection and remittance of the enhanced 911 surcharge. [Ord. 758 § 4, 2004.]

**5.22.050 Use of proceeds.**

All of the revenue received by the borough under this chapter shall be used for the enhanced 911 system. [Ord. 758 § 4, 2004.]

**5.22.060 Annual review.**

The assembly shall review the surcharge annually to determine whether the amount of the surcharge is adequate, excessive or insufficient to meet anticipated enhanced 911 system needs. The review may be part of the borough budget process. Approval of a budget that includes expenditures for enhanced 911 services which are equal to or greater than the budgeted revenues from the surcharge will be deemed to be the assembly's review and determination that the surcharge is sufficient for the year. In the event the assembly fails to timely conduct the review or make the determination, any adjustment in the amount of the surcharge will be prospective only from the date the review and determination is made. [Ord. 758 § 4, 2004.]

**Chapter 5.24**

**GENERAL FIXED ASSETS**

Sections:

5.24.010 General fixed assets.

**5.24.010 General fixed assets.**

The finance director shall maintain a general fixed asset group of accounts detailing all assets purchased from revenues of any source of \$5,000 or greater, and all assets received as donations and gifts of \$5,000 or greater. All licensed vehicles and mobile equipment of any value shall also be included in the general fixed assets. All fixed assets shall be coded to reflect the borough department which is using and responsible for the asset. The general fixed assets should be part of the annual financial statement audit. [Ord. 711 § 4, 2002.]