CITY OF KOTZEBUE
"Gateway to the Arctic"

P.O. Box 46
Kotzebue, Alaska 99752

City Hall
(907) 442-3401

Police Dept.
(907) 442-3351

Fire Dept.
(907) 442-3404

Public Works
(907) 442-3401

CITY OF KOTZEBUE, ALASKA
ORDINANCE NO. 15-11

ENTITLED: "AN ORDINANCE ADDING A NEW CHAPTER 3.40, 'EXCISE TAX ON CIGARETTES AND TOBACCO PRODUCTS,' TO TITLE 3, 'REVENUE AND FINANCE,' OF THE KOTZEBUE MUNICIPAL CODE."

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF KOTZEBUE, ALASKA:

Section 1. This is a Code Ordinance.

Section 2. The new Kotzebue Municipal Code, Chapter 3.40, "Excise Tax on Cigarettes and Tobacco Products," is attached hereto as Exhibit "A."

Section 3. Pursuant to the Kotzebue Municipal Code, § 1.12.030(B), this Ordinance shall become effective July 1, 2015, with actual collection and remittance of the excise tax to begin on or after October 1, 2015, once necessary forms have been developed and State of Alaska requirements/agreements have been effectuated.

ENACTED this 4th day of June, 2015

CITY OF KOTZEBUE

Maija K. Lukin, Mayor

[SEAL]

ATTEST:

Linda B. Greene, City Clerk

ATTESTATION: I, Linda B. Greene, Clerk for the City of Kotzebue, hereby attest that the above Ordinance, No. 15-11, was duly presented to the Kotzebue City Council, duly published and that a valid public hearing was held and that it was duly enacted on June 4, 2015.

Published/Posted:	May 29, 2015
Introduction:	June 4, 2015
First Public Hearing:	June 4, 2015
Passage:	June 4, 2015

Attachment:

Exhibit "A" -- New Chapter 3.40, "Excise Tax on Cigarettes and Tobacco Products, to the Kotzebue Municipal Code [16 pages]

CHAPTER 3.40
EXCISE TAX ON CIGARETTES AND TOBACCO PRODUCTS

Section:

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3.40.040	**Intent and purpose of chapter and taxpayer.**
3.40.050	**Exemptions.**
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3.40.260	**Severability.**
3.40.270	**Definitions.**

3.40.010 Applicability of chapter.

Unless provided otherwise, this chapter shall apply to the taxation of all cigarettes and tobacco products brought into or acquired in the City of Kotzebue, Alaska.

3.40.020 Tax on cigarettes.

(A) The City hereby levies an excise tax of 110 mils, adjusted annually, as provided in subsection (B) of this section, on each cigarette brought into the City after June 30, 2015. Cigarettes upon which the tax is imposed are not again subject to the tax when acquired, subsequently, by another person.

EXHIBIT "A"

(B) The annual Consumer Price Index adjustment shall be based on the August release date of the semi-annual report for the Municipality of Anchorage from the United States Department of Labor statistics and determined to be the percent change to the current year from the average of the first and second halves of the prior year, and will be effective January 1st of each year following the August release date. The first such adjustment shall be made on January 1, 2016.

3.40.030 Tax on other tobacco products.

An excise tax of 55 percent (55%) of the wholesale price is levied on tobacco products, other than cigarettes, brought in to the City. The tax is levied effective July 1, 2015. Tobacco products upon which this tax is imposed are not again subject to this tax when acquired, subsequently, by another person.

3.40.040 Intent and purpose of chapter and taxpayer.

(A) It is the intent and purpose of this chapter to collect the tax from the person who:

(1) first acquires the cigarettes or other tobacco products within the City;

(2) brings or causes cigarettes or other tobacco products to be brought into the City;

(3) makes, manufactures, or fabricates cigarettes or other tobacco products in the City; or,

(4) ships or transports cigarettes or other tobacco products into the City.

(B) Notwithstanding anything to the contrary contained in this chapter, the taxpayers shall be those persons described in this section and no others.

3.40.050 Exemptions.

(A) The tax imposed under this chapter does not apply to cigarettes and other tobacco products if the United States Constitution or other federal laws prohibit the levying of this tax on such products by the City.

(B) Provided all persons otherwise subject to this chapter comply with its requirements, cigarettes and other tobacco products are exempt from the tax imposed under this chapter if all of the following conditions are met:

(1) cigarettes and other tobacco products are brought into or acquired within the City;

(2) cigarettes and other tobacco products are transported outside the City; and,

(3) cigarettes and other tobacco products are for resale outside the City by a merchant with an Alaska State Business License carrying an Alaska State Tobacco Endorsement thereon.

3.40.060 Exemption cards.

(A) Except as otherwise provided herein, no person may acquire tax exempt cigarettes or other tobacco products in the City unless that person has been issued an exemption card in accordance with this chapter. No licensee shall claim any exemption under this chapter unless cigarettes or other tobacco products for which an exemption is claimed have been sold or transferred to a person presenting a valid and current exemption card issued by the department in accordance with this chapter, prior to such sale or transfer.

(B) Any person with an active physical business presence within the City, including a licensee, may apply for an exemption card under this section as an agent for merchants whose principal places of business are located outside of the City and who acquire from said agent cigarettes or other tobacco products exempt from the tax imposed under this chapter, provided each merchant has a valid Alaska State Business License with a tobacco endorsement and the line of business code or equivalent thereon.

(C) A merchant acquiring cigarettes and other tobacco products through an agent under this section shall be considered an exemption cardholder for all purposes under this chapter.

(D) A person or licensee issued an exemption card as an agent under this section shall comply with all provisions of this chapter except the agent shall not be required to maintain records to prove that cigarettes and other tobacco products for which an exemption is claimed under the agent's exemption card have been resold outside the City by the merchant. Violation of any provision of this chapter relating to exemption cardholders by a licensee as agent for a merchant shall be grounds for revocation of the licensee's license issued under this chapter.

(E) Notwithstanding anything to the contrary contained in or implied by other provisions of this chapter, the licensee shall be, and remain, the taxpayer liable for the payment of taxes due under this chapter.

(F) Application for an exemption card is restricted to:

(1) persons with an active physical business presence within the City;

(2) acting as an agent for merchants whose principal places of business are located outside the City; and,

(3) shall be on a form provided by the department.

EXHIBIT "A"

(G) Application forms for an exemption card, provided by the department, shall require the following information to be provided by the applicant, as well as such other information deemed appropriate by the department:

(1) applicant's name and address;

(2) copy of the applicant's current Alaska State Business License, including a tobacco endorsement and the line of business code or equivalent;

(3) merchant names and locations where cigarettes and tobacco products will be sold; and,

(4) a fee of Fifty Dollars ($50.00) for each application.

(H) All exemption card holders must maintain a valid, current business license, with a tobacco endorsement and line of business code or equivalent, issued by the State of Alaska.

(I) Each exemption card, unless suspended or revoked by the department, is valid from the date of issuance until the end of the calendar year in which it was issued. Exemption cards may be renewed each year upon application and payment of the fee to the department.

(J) The department may suspend, revoke or refuse to issue an exemption card under this section for any violation of, or failure to comply with, the requirements of this chapter by the agent or cardholder, including any act or omission by such person which withholds, misstates or provides false or misleading information required by the department.

3.40.070 License required for dealers in cigarettes or tobacco products – Issuance.

(A) No person may sell, purchase, possess, or acquire cigarettes or tobacco products within the City as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license issued under this chapter.

(B) The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator or buyer. A copy of the applicant's current City business license is required and must accompany the application. The application must include the following information:

(1) applicant's name and address;

(2) name under which the cigarette or tobacco products business will be conducted;

(3) applicant's cigarette or tobacco products business categories as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer;

(4) number of vending machines which will be operated, if applicant is a vending machine operator; and,

(5) other information required on the department's application form.

(C) The department may refuse to issue a license if there is reasonable cause to believe that the applicant has willfully withheld information requested to determine the applicant's eligibility to receive a license or if there is reasonable cause to believe that information provided on the application is false or misleading and/or not provided in good faith.

(D) A license required by this chapter is in addition to any other license required by law.

(E) A license issued under this chapter shall include:

(1) name and address of the licensee;

(2) type of business to be conducted;

(3) the address at which the business is conducted; and,

(4) the period of time for which the license is issued.

3.40.080 License fee.

For each license issued under this chapter and for each renewal, the fee is One Hundred Dollars ($100.00) per year, except for calendar year 2015, for which the fee is Fifty Dollars ($50.00).

3.40.090 Expiration and renewal of licenses.

A license issued under this chapter expires on December 31st of each respective year. Prior to the expiration of the license, upon application to the department accompanied by the renewal fee, a licensee may renew the license for two (2) years from the current expiration date of the license. If the licensee moves the business to another location within the City, upon application to the department by the licensee, the license shall be reissued for the new location for the balance of the unexpired term. A person whose license is lost, stolen or defaced shall immediately file an application with the department for reissuance of the license for the balance of the unexpired term.

3.40.100 Transfer of license.

A license issued under this chapter is not assignable or transferable. However, in the case of death, bankruptcy, receivership on incompetency of the licensee or if the business of the licensee is transferred to another person by operation of law, the department may, in its discretion, extend the license for a limited time to the executor, administrator, trustee or receiver, or the transferee of the licensee.

3.40.110 Refund of tax or license fee.

(A) The department shall not refund the license fee paid pursuant to this chapter upon the surrender or revocation of a license after the beginning of the license year. Upon application, the department will refund a license fee that is paid or collected in error.

(B) If a remittance by a licensee exceeds the amount due and the department -- after an audit of the account in question -- is satisfied that an overage does exist, the department shall, upon written request by the licensee, refund the excess to the licensee without interest.

(C) Any claim for refund filed more than one (1) year after the tax due date is forever barred.

3.40.120 Display of license – Surrender of license – Suspension or revocation of license.

(A) A license issued under this chapter must be prominently displayed at the licensee's place of business.

(B) A licensee shall surrender a license within ten (10) days after:

(1) revocation of a license;

(2) cessation of business;

(3) change of ownership; or

(4) change of location of business.

(C) The department may suspend or revoke a license issued under this chapter:

(1) for violation of this chapter or a regulation of the City adopted pursuant to this chapter; or

(2) if a licensee ceases to act in the capacity for which the license was issued.

(D) No person whose license is suspended or revoked shall sell cigarettes or tobacco products or permit cigarettes or tobacco products to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person. No disciplinary proceeding or action is barred or abated by the expiration, transfer, surrender, renewal or extension of a license issued under this chapter.

3.40.130 Tax returns.

(A) On or before the last day of each calendar month, a licensee shall submit a tax return to the department, upon forms provided by the department, for each license and submit payment for the taxes due.

(B) The tax return shall be signed by the licensee or his/her agent, under penalty of perjury, and must include:

(1) name and address of licensee;

(2) name and address of the person filing the return, if different from the licensee;

(3) the license number issued under this chapter;

(4) the name under which the cigarette or tobacco business is being conducted;

(5) the number of cigarettes manufactured, brought into or acquired within the City during the preceding month from any source, whatsoever;

(6) the wholesale price of all tobacco products brought into or acquired within the City during the preceding month from any source, whatsoever;

(7) names of persons from whom cigarettes and other tobacco products were acquired within the City during the preceding month from any source, whatsoever;

(8) number of cigarettes brought into or acquired in the City from each person named in subparagraph (7), of this section;

(9) deductions claimed for the number of cigarettes and the wholesale price of other tobacco products for which exemptions are claimed under this chapter;

(10) deductions claimed for the number of cigarettes and the wholesale price of other tobacco products, specified in the tax return in response to subparagraphs (5) and (6) of this section, for which the tax has been previously paid by another person;

(11) the amount of tax due on the non-exempt cigarettes manufactured, brought into or acquired within the City during the preceding month; and the amount of tax due, based upon the wholesale price of non-exempt, other, tobacco products manufactured, brought into or acquired within the City during the preceding month; and,

(12) other information and supporting documentation which may be required by the department for completion of the tax return.

(C) Each licensee shall report the cigarette and other tobacco product sales for which an exemption is claimed as a deduction on its monthly tax return to the department and shall provide a copy of an invoice or other document, satisfactory to the department, supporting each sale to a cardholder.

(D) A tax return must be filed even if no cigarettes or tobacco products were manufactured, brought into or acquired within the City during the preceding month.

(E) The taxes imposed under this chapter and the return required by this section must be received by the department on or before, or postmarked by, the last day of the month following the month covered by the tax return.

3.40.140 Involuntary returns.

If a licensee fails to file a return, as required by this chapter, or when the department finds that a return is not supported by the records to be maintained pursuant to this chapter, the department may prepare and file a return on behalf of the licensee. Involuntary returns filed under this section may be premised upon any information that is available to the department, including, among other things, comparative data for similar businesses. A licensee for whom an involuntary return is filed under this section shall be subject to liability for the tax stated in the return, as well as subject to the penalties and interest provided for in this chapter. A return prepared by the department is, *prima facie*, good and sufficient for all legal purposes. However, nothing prevents the licensee from presenting evidence on an appeal to rebut the presumed sufficiency of a return prepared by the department, nor does the presumption of sufficiency alter the parties' respective burdens of proof once the licensee has presented evidence to rebut the presumption.

3.40.150 Amended tax returns.

(A) Any tax return filed hereunder may be amended by the licensee within one (1) year after the due date of the tax return being amended. No amendment by the licensee shall be allowed after this one-year period.

(B) Any tax return prepared and filed by the department on behalf of the licensee may be amended by the licensee within one (1) year of the date filed by the department. No amendment by the licensee shall be allowed after this one-year period.

3.40.160 Application of payments.

Any payment submitted to the department for any taxes, penalties, interest or costs due under any provision of this chapter or any return or any finding or determination by the department under this chapter shall be credited to the monthly tax period for which remitted, first to the payment of costs, penalties, interest and, then, taxes – in that order.

3.40.170 Prohibited acts and penalties.

(A) No person, in violation of or without compliance to the provisions of this chapter, may:

(1) import cigarettes or other tobacco products into the City;

(2) sell, transfer or acquire cigarettes or other tobacco products in the City; or,

(3) participate in the importation into the City or in the sale, transfer or acquisition within the City of cigarettes or other tobacco products.

(B) A penalty of six percent (6%) of the taxes due shall be incurred, automatically, when a person fails to pay the full amount of the tax due under this chapter within seven (7) calendar days following its due date. An additional penalty of six percent (6%) of the taxes due shall be incurred, automatically, when a person fails to file a tax return or report within seven (7) calendar days following its due date under this chapter. If a person fails to pay the full amount of the tax due and/or file a tax return or report required under this chapter within sixteen (16) calendar days after its due date, the six percent (6%) penalties noted above shall be increased, automatically, to fifteen percent (15%). When a licensee is found to be delinquent in filing a tax return and/or remitting the appropriate taxes:

(1) the penalty shall be computed on the unpaid balance of the tax liability as determined by the department.

(2) Notice of the penalties incurred and to be incurred shall be provided to the person responsible for payment of the taxes or filing the return or report, when such tax payment, return or report is delinquent for seven (7) calendar days after the due date.

(3) The penalties provided for in this section shall be in addition to all other penalties and interest provided for under this chapter.

(C) If a properly-filed, amended tax return reduces the total tax liability of the tax required to be paid, or the department reduces the tax liability, the related penalty will be reduced accordingly.

(D) All penalties and remedies enumerated in this chapter are cumulative.

(E) Unless otherwise provided for in this section, any person who violates or fails to comply with the provisions of this chapter shall be personally liable for all costs, interest, penalties and taxes due under this chapter, plus a penalty equal to thirty percent (30%) of the tax due. For good cause shown, the Finance Director may waive or reduce all or part of any penalty imposed under this subsection.

3.40.180 Civil fraud.

(A) A civil fraud penalty may be assessed against a person in addition to a penalty for failure to file or failure to pay.

(B) If it is determined by the department that a tax deficiency or part of a tax deficiency is due to fraud, a penalty will be added to the tax. The penalty will be fifty percent (50%) of the deficiency due or Five Hundred Dollars ($500.00), whichever is greater. The penalty is computed on the total amount of the deficiency due.

(C) Fraud is the intentional misrepresentation of a material fact with the intent to evade payment of tax which the person believes to be owed. The person must have had knowledge of its falsity and intended that it be acted upon or accepted as the truth.

(D) To establish civil fraud, the department must prove by clear and convincing evidence that:

(1) the tax liability was understated; and,

(2) the understatement was the result of intent to evade tax.

(E) An intent to evade tax may be demonstrated by any relevant evidence, including, but not limited to, the following:

(1) the person has provided false explanations regarding understated or omitted acquisitions of cigarettes or tobacco products;

(2) the person has provided falsified or incomplete source documents;

(3) the person has not justified an omission or understatement of a significant amount of acquisitions of cigarettes or tobacco products; or,

(4) the person has substantially overstated a deduction and has failed to justify the overstatement.

3.40.190 Tax lien.

(A) If any person who is liable to pay a tax or license fee under this chapter neglects or refuses to pay the tax or license fee after demand, the amount, including interest, additional amounts, or assessable penalties – together with costs – is a lien in favor of the City upon all property and rights to property, real or personal, belonging to that person.

(B) The lien imposed by this section arises upon delinquency and continues until the amount is paid or a judgment against the person arising out of the liability is satisfied.

(C) A lien arising out of a tax due under this chapter, including the penalties and interest on the tax, is subject to A.S. 29.45.300, a lien prior, paramount and superior to all other liens, mortgages, hypothecations, conveyances and assignments, upon all real and personal property of the person liable for the tax and upon all of the real and personal property used with the permission of the owner to carry on the business which is subject to the tax.

(D) The lien on personal and real property may be enforced as provided in A.S. 29.45.300 – 29.45.480 for enforcement of real and personal property tax liens.

3.40.200 Interest on unpaid tax.

In addition to any penalties imposed by this chapter, interest at the rate of 12 percent (12%) per annum shall be charged on the unpaid balance of delinquent taxes.

3.40.210 Taxpayer, licensee, cardholder or other person remedies.

(A) Any person aggrieved by any action of the department in issuing, suspending, revoking or refusing to issue any license or exemption card under this chapter or in fixing the amount of taxes, penalties, interest or costs under this chapter may apply to the department and request a hearing within thirty (30) days from the date the department mails the notice of the department's action. Upon timely application for a hearing, under this subsection, the Finance Director or his/her designee shall hold a hearing to determine whether a correction is warranted. Under this subsection, hearings before the Finance Director may, at the option of the Finance Director, be conducted by an administrative hearing officer designated by the Finance Director. If the Finance Director elects to refer the matter to an administrative hearing officer, the hearing officer shall conduct the hearing and prepare findings and conclusions. These findings and conclusions must be forwarded to the Finance Director for adoption, rejection or modification and issuance of a final order or decision by the Finance Director. An application for a hearing must notify the department of the specific action complained of and amount of tax, interest, costs or penalties contested and the reason such amounts are contested. After receipt of a written decision by the department, a person may appeal to the Superior Court of the Second Judicial District at Kotzebue, in accordance with the Alaska Appellate Court Rules. The person shall be given access to the department's file in the matter for preparation of the appeal.

(B) A request for appeal is filed on the date it is personally delivered or, if delivered to the department by the United States Postal Service, on the date of the postmark stamped on the properly-addressed cover in which the request is mailed. If the due date falls on a Saturday, Sunday or Holiday, the due date is the next working day. A current mailing address must be provided to the department with the request for appeal. Any change in mailing address that occurs after the request for appeal is filed must be reported to the department.

(C) If the notice to the person pursuant to subsection (A) of this section shows an amount due the department, the uncontested portion of the amount due must be paid within thirty (30) days of the date of the notice. If the uncontested amount is not paid within thirty (30) days, collection actions will be taken on that amount even if the person has filed a request for appeal. Payment of the total amount due may be made at any time before the hearing. If the department has reason to believe that collection of the total amount due might be jeopardized by delay, immediate payment of the total amount due will be demanded and the department may pursue any collection remedies provided by law. Payment in full does not affect the person's right to a hearing.

(D) If a person requests a hearing and fails to appear at the hearing, the Finance Director (or hearing officer) may issue a decision without taking evidence from that person, unless that person shows reasonable cause for failure to appear within seven (7) days of the scheduled hearing date.

(E) Taxes, license fees, penalties and interest declared to be due in the final administrative decision must be paid within thirty (30) days after the date of the decision or a bond must be filed with the court in accordance with the Alaska Court Rules of Appellate Procedures.

3.40.220 Reports by manufacturers.

No later than the end of each calendar month, a manufacturer shall submit a report to the department to include:

(1) a list of all tobacco products, their quantity, wholesale prices and the number of cigarettes which were brought into the City from the manufacturer during the preceding month;

(2) the names and addresses of those persons bringing cigarettes and tobacco products into the City from the manufacturer during the preceding month; and,

(3) a list of the quantity of tobacco products, the wholesale prices, and the number of cigarettes brought from the manufacturer in to the City by each person named in paragraph (2) of this section.

3.40.230 Inspection and maintenance of documents and records.

(A) Every person subject to this chapter shall keep a complete and accurate record of all cigarettes and other tobacco products manufactured, purchased, sold, brought into, transported outside of or acquired within the City by such person, as follows:

(1) Except in the case of a manufacturer, the records shall include a statement containing the name and address of the person from whom cigarettes or other tobacco products were purchased or acquired, the date(s) of delivery, the quantities of cigarettes and other tobacco products, the trade names and brands, and the prices paid for all tobacco products purchased.

(2) Each invoice or other documentation of the sale of cigarettes or other tobacco products within the City shall state whether the tax imposed under this chapter has been paid.

(3) Persons subject to this chapter shall keep such other documents and records as the department prescribes.

(4) All documents and records required by this section shall be preserved by persons subject to this chapter for three (3) years. All records and documents required to be kept or retained by this chapter are subject to inspection within the City upon demand by the department.

(B) A licensee transferring or selling cigarettes or other tobacco products to an exemption cardholder must keep a record of cigarettes and other tobacco products transferred or sold to such person, including the serial number of the exemption card.

(C) The Finance Director may, during business hours, enter the business premises of a licensee or cardholder where cigarettes or other tobacco products are kept or stored, so far as it may be necessary for the purpose of examining such products and the related business records.

3.40.240 Administrative regulations.

The Finance Director, or his/her designee, may adopt regulations providing for the application and interpretation of this chapter and providing methods and forms for reporting and collecting the tax imposed by this chapter.

3.40.250 Confidentiality of records.

(A) All tax returns, documents, records and/or reports filed with the City pursuant to the provisions of this chapter and all data obtained from such tax returns, documents, records and/or reports are confidential and may not be released for inspection by any person except the City Manager, Finance Director, City Attorney, internal auditor or the City Council; provided, however, that such data may be released upon court order.

(B) It is the duty of the Finance Director to safely keep tax returns, documents, records and/or reports and all data taken thereof secure from public and private inspection, expect as provided by this chapter.

(C) This section does not prohibit the City from compiling and publishing statistical evidence concerning the data submitted; provided, that no identification of particular tax returns, documents, records and/or reports is made. Nothing in this section shall be deemed to prohibit the internal auditor from examining the tax returns, documents, records and/or reports; provided, that no information obtained from specific or identifiable tax returns shall be made available to persons other than those authorized to review them under subsection (A) of this section.

3.40.260 Severability.

The sections, paragraphs, sentences, clauses and phrases of this chapter are severable. If any provision of this chapter shall be declared invalid or void, it shall not invalidate or void the other provisions of this chapter. Such invalid or void provisions shall be severed from this chapter and not adversely affect the lawful enforcement of the other provisions.

3.40.270 Definitions.

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

(1) "Brought into or acquired" includes all manners, ways and modes of bringing cigarettes or tobacco products into the City or obtaining such products within the City

(2) "Buyer" means a person who brings into or acquires in the City cigarettes or other tobacco products for his/her own consumption from any source other than a manufacturer, distributor, direct-buying retailer or retailer.

(3) "Cardholder or exemption cardholder" means a person in whose name a valid and current exemption card has been issued by the department.

(4) "Cigarette" means a roll for smoking of any size or shape, made wholly or partly of tobacco, whether the tobacco is flavored, adulterated or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco.

(5) "City" means the City of Kotzebue, Alaska.

(6) "Department" means the Finance Department of the City of Kotzebue.

(7) "Direct-buying retailer" means a person who is engaged in the sale of cigarettes or other tobacco products at retail establishments within the City; and who brings or causes them to be brought into the City.

(8) "Distributor" means a person who brings cigarettes or other tobacco products into the City or causes them to be brought into the City and who sells or distributes them to others for resale in the City or a person who supplies cigarettes to retailers for sale.

(9) "Exemption card" means a City cigarette and tobacco products exemption card issued under this chapter.

(10) "Finance Director" means the City of Kotzebue's Finance Director or his/her designee.

(11) "Licensee" means a person licensed under this chapter.

(12) "Manufacturer" means a person who makes, fashions or produces cigarettes or other tobacco products for sale to distributors or other persons within the City.

(13) "Other tobacco products" refers to:

(a) cigar;
(b) cheroot;
(c) stogie;
(d) perique;
(e) snuff and snuff flour;
(f) smoking tobacco, including granulated, plug-cut, crimp-cut and ready-rubbed tobacco and any form of tobacco suitable for smoking in a pipe or cigarette;

(g) chewing tobacco, including Cavendish, twist, plug or scrap tobacco, and tobacco suitable for chewing; or,

(h) an article or product made of tobacco or a tobacco substitute, but not including a cigarette as defined in this section or a tobacco substitute prescribed by a licensed physician.

(14) "Person" includes an individual, company, partnership, joint venture, joint agreement association (mutual or otherwise), corporation, estate, trust, business trust, receiver or trustee, syndicate, or political subdivision of this state, or combination acting as a unit including individuals who are employees or officers of any of the such entities who are under a duty to perform an act concerning which a violation of this chapter could occur. It is the intent of this chapter that such persons be personally liable for unremitted taxes.

(15) "Place of business" means a place where cigarettes or other tobacco products are sold, or where they are brought or kept for the purpose of sale or consumption, including a vessel, vehicle, airplane or train.

(16) "Purchase" means the acquisition of ownership or possession of cigarettes or other tobacco products from any source.

(17) "Record" means a group of logically-related fields of information concerning events affecting an organization, which comprise an integral part of an accounting information system, where separate, identifiable transaction data is entered as historical data.

(18) "Retail" means a sale to a consumer or to any person for any purpose other than for resale.

(19) "Retailer" means a person within the City who is engaged in the business of selling cigarettes or other tobacco products.

(20) "Sale" includes a sale, barter, exchange and every other manner of transferring the ownership of personal property.

(21) "Tax" means the cigarette and other tobacco products excise tax assessed pursuant to this chapter.

(22) "Tax return" means the monthly report, with payment of taxes due, to be submitted to the department, as required by this chapter.

(23) "Vending machine operator" means a person who brings or causes cigarettes or tobacco products to be brought in the City and who owns or operates a vending machine that dispenses cigarettes, whether the vending machine is installed on the person's own premises or installed elsewhere.

(24) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a distributor or other person, after deduction of a discount or other reduction received by the distributor for quantity or cash.

EXHIBIT "A"