

CITY OF VALDEZ, ALASKA

ORDINANCE NO. 24-16

AN ORDINANCE OF THE CITY OF VALDEZ, ENACTING CHAPTER 3.30 OF THE VALDEZ MUNICIPAL CODE ENTITLED OIL AND GAS EXPLORATION, PRODUCTION, PIPELINE TRANSPORTATION, AND SPILL PREVENTION AND RESPONSE PROPERTY TAX

WHEREAS, pursuant to Alaska Statute 29.45.010(b), “A home rule or first class municipality may levy a property tax subject to AS 29.45.550 – 29.45.560”; and

WHEREAS, Alaska Supreme Court Opinion No. 7694 states “If [the Department of] Revenue determines that oil and gas property is not taxable under AS 43.56, a municipality may instead tax that property via local ordinance”; and

WHEREAS, Alaska Supreme Court Opinion No. 7694 approvingly cites an Attorney General Opinion stating that the Department of Revenue’s decision that oil and gas property is not taxable under AS 43.56 permits municipalities to independently assess and tax that property; and

WHEREAS, AS 29.45.050(b)(2) provides a municipality may by ordinance “classify and exempt or partially exempt some or all types of personal property from ad valorem taxes”; and

WHEREAS, oil and gas exploration, production, and pipeline transportation property is a unique class of property that has been determined by statute to be a proper category of property for taxation; and

WHEREAS, the City desires to tax oil and gas exploration, production, and pipeline transportation property deemed not taxable under AS 43.56.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA THAT, the following:

Section 1. The City of Valdez hereby enacts Chapter 3.30 entitled Oil and Gas Exploration, Production, and Pipeline Transportation Property Tax as follows:

Chapter 3.30

OIL AND GAS EXPLORATION, PRODUCTION, PIPELINE TRANSPORTATION, AND SPILL PREVENTION AND RESPONSE PROPERTY TAX

- 3.30.010. Taxable Property.
- 3.30.020. Levy of Tax.
- 3.30.030. Assessments.
- 3.30.040. Refunds.
- 3.30.050. Returns.
- 3.30.060. Investigation.
- 3.30.070. Assessment Roll.
- 3.30.080. Assessment Notice.
- 3.30.090. Corrections and adjustments.
- 3.30.100. Appeal.
- 3.30.110. Certification.
- 3.30.120. Supplementary assessment rolls.
- 3.30.130. Collection and deposit.
- 3.30.140. Delinquency.
- 3.30.150. Tax liability.
- 3.30.160. Definitions.

3.30.010. Taxable Property.

A. "Taxable property" means all real and tangible personal property used or committed by contract or other agreement for use in the exploration for, production of, or pipeline transportation of gas or unrefined oil, or in the operation or maintenance of a marine terminal or other facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil that is not assessed under AS 43.56.060 is subject to taxation under this chapter. "Taxable property" includes, without limitation, the following:

1. Tangible personal property including vessels, barges, and other machinery and equipment used or committed by contract or other agreement for oil spill prevention and response;
2. Machinery, vessels, barges, appliances, supplies, and equipment;
3. Drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, and processing units;
4. Roads, tank farms, tanker terminals, docks and other port facilities, and air strips;

5. Aircraft, vessels, barges, and motor vehicles owned by a person whose principal business in the state is the exploration for, production of, or pipeline transportation of gas or unrefined oil and whose operation of the aircraft, vessel, barge or motor vehicle relates to the conduct of that business;
6. Maintenance equipment and facilities, maintenance camps, and other related facilities and equipment; and
7. Communications facilities owned by a person whose principal business in the state is the exploration for, production of, or pipeline transportation of gas or unrefined oil and whose operation of the communications facilities relates to the conduct of that business.

B. Exemptions from the meaning of “taxable property,” are narrowly limited to the following:

1. Real property otherwise taxed under Chapter 3.12;
2. Fishing vessels;
3. Tanker vessels engaged in the interstate transportation of gas or unrefined oil;
4. Oil and gas pipeline systems owned and operated by a public utility that is certificated under AS 42.05.221 and is regulated by the Regulatory Commission of Alaska;
5. Aircraft and motor vehicles, except aircraft and motor vehicles taxable under Section 3.30.010(A)(5); and
6. Communications facilities, except communication facilities taxable under 3.30.010(A)(7) of this paragraph.

3.30.020. Levy of Tax. An annual tax set at the mill rate applicable to real property set by resolution of the city council under section 3.12.170 is levied each tax year on the full and true value of the property taxable under this chapter.

3.30.030. Assessments. The City shall assess all property taxable under this chapter at its full and true value as of January 1 of the assessment year. Assessments shall be based upon a cost approach with a use premise of value and an economic life based upon the life of proven reserves.

3.30.040. Refunds. In the event property taxed under this provision is later determined to be taxable under AS 43.56 by a final non-appealable judgment, the City shall issue refunds for the amount of tax collected under this Chapter.

3.30.050. Returns. Every person having ownership or control of an interest in property that may be taxable under this chapter shall submit a return in the form and with the verification prescribed by the city, based on property values existing on January 1 of each year. Such returns shall contain a verified, complete, true, and correct rendering of all property that may be taxable. Knowingly failing to file a verified, complete, true, and correct rendering of all property that may be taxable under this Chapter, with intent to reduce taxes shall be punishable by a fine up to \$1,000 or imprisonment for 90 days.

3.30.060. Investigation.

A. The city may make an investigation of property on which a return has been filed or of taxable property upon which no return has been filed. In either case, the city may make its own valuation of the taxable property, which is prima facie evidence of full and true value.

B. An employee or agent of the city may enter any premises necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of the taxable property shall, upon request, furnish the employee or agent of the city with reasonable assistance required for the investigation. If refused entry or access to records, the city may seek a court order to compel entry or access to records.

C. For the purpose of the investigation, the owner of the taxable property or representatives of the owner designated by the city may be required to appear for examination under oath by the city.

3.30.070. Assessment Roll. The city shall prepare annually the assessment roll for taxation under this chapter. The roll must contain a description of all taxable property, the assessed value of all taxable property, and the names and addresses of persons owning property subject to assessment and taxation.

3.30.080. Assessment Notice. On or before March 1 of each year, the city shall send to every owner of taxable property named in the assessment roll a notice of assessment, showing the assessed value of the property. Notice of assessment is effective on the date of mailing.

3.30.090. Corrections and adjustments. An owner of taxable property may advise the city of any errors or omissions in the assessment. The city may correct errors or omissions in the assessment roll. If errors found in the preparation of the assessment roll are adjusted, the city shall mail a corrected notice allowing thirty days for appeal to the board of equalization. If the property owner has timely filed an appeal prior to the issuance of a corrected notice, the appeal process shall proceed as provided in Section 3.12.110.

3.30.100. Appeal. An owner of taxable property receiving an assessment notice may appeal an assessment as provided in Section 3.12.110.

3.30.110. Certification. No later than June 1 of each year, the city shall certify the final assessment roll and mail to the owner of the taxable property or an authorized agent a statement of the amount of tax due.

3.30.120. Supplementary assessment rolls. The city shall include property omitted from the assessment roll on a supplementary roll.

3.30.130. Collection and deposit. The tax levied by under this chapter is payable to the city on or before June 30 of the taxable year.

3.30.140. Delinquency.

A. When the tax levied under this chapter becomes delinquent, penalty, interest, and costs accrue as follows:

1. Penalty. A penalty of eight percent on the unpaid balance of a tax installment that was due shall be added to the delinquent tax.

2. Accrual of Interest. In addition to the penalty set out in subsection (A)(i) of this section, interest not to exceed the rate of fifteen percent per year shall be charged on the unpaid balance of delinquent taxes. No interest shall be applied until the first day of the month following the due date of the tax bill. When interest is to be applied, it shall be calculated on a monthly basis. All interest charged on tax payments shall be applied only on the principal, not on penalties or costs, and shall run from the date when the installment was due to the time it is paid.

3. Costs & Fees. In addition to the penalties and interest provided for this subsection, the actual, reasonable costs and fees associated with the collection of current or delinquent taxes, interest, or penalties shall be charged.

B. Application of Payments. Any payment received shall be applied first to delinquent taxes in the order that the taxes became delinquent and in the following order for each delinquent tax:

1. Costs & Fees.

2. Penalty.

3. Interest.

4. Principal tax.

3.30.150. Tax Liability.

A. The owner of assessed personal property is personally liable for the amount of taxes assessed against the property. The tax, together with penalty and interest, may be collected in a personal action brought in the name of the city.

B. Property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property.

3.30.160. Definitions.

In this Chapter:

A. "Used or committed by contract or other agreement" for those purposes described in Section 3.30.010 means all property that is legally required or otherwise necessary for those purposes including, but not limited to, oil spill prevention and response property and all property used or committed by contract or agreement to a state-approved oil spill response, prevention, or recovery plan including the Trans Alaska Pipeline System Pipeline Oil Discharge Prevention and Contingency Plan, the Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan, and the Prince William Sound Tanker Oil Discharge Prevention and Contingency Plan.

Section 2. This ordinance shall become effective immediately upon final approval and adoption by the Valdez City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ,
ALASKA, this _____ day of _____, 2024.

CITY OF VALDEZ, ALASKA

Austin Love, Mayor Pro Tempore

ATTEST:

Sheri L. Pierce, MMC, City Clerk

APPROVED AS TO FORM:

Jake Staser, City Attorney
Brena, Bell, & Walker, P.C.

Adoption:
Yeas:
Noes:
Absent:
Abstaining: