

Submitted by: ASSEMBLY CHAIR TRAINI
Prepared by: Assembly Counsel
For reading: January 23, 2017

ANCHORAGE, ALASKA
AO No. 2017-149(S)

1
2 AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE
3 MUNICIPALITY OF ANCHORAGE A BALLOT PROPOSITION AMENDING THE
4 ANCHORAGE MUNICIPAL CHARTER TO ADOPT A WHOLESALE SALES TAX
5 ON ALCOHOLIC BEVERAGES; TO ESTABLISH ~~[AN INITIAL RATE OF LEVY~~
6 ~~AND]~~ A “NOT TO EXCEED” MAXIMUM RATE; TO AUTHORIZE THE
7 ASSEMBLY TO SET THE INITIAL RATE AND EFFECTIVE DATE, AND TO
8 ADJUST THE TAX RATE OF LEVY BY ORDINANCE WITHOUT ADDITIONAL
9 VOTER APPROVAL PROVIDED UPWARD ADJUSTMENTS ARE ALLOWED
10 ONLY ONCE EVERY TWO YEARS, AN ADJUSTMENT DOES NOT INCREASE
11 THE RATE MORE THAN TWO PERCENT (2%), AND THE RATE OF LEVY
12 NEVER EXCEEDS THE MAXIMUM AUTHORIZED BY THE VOTERS; AND
13 DEDICATING THE NET RECEIPTS [REVENUE] FROM SAID TAX TO HEALTH
14 AND PUBLIC SAFETY USES RELATED TO CONSUMPTION OR USE OF
15 ALCOHOLIC BEVERAGES OR DRUGS; TO ALLOW USE OF THE NET
16 RECEIPTS TO SUPPORT PROGRAMS AND PROJECTS OF THE
17 MUNICIPALITY, INCLUDING THE PAYMENT OF FINANCING OBLIGATIONS
18 FOR SUCH PROJECTS; TO AUTHORIZE THE ISSUANCE OF REVENUE
19 BONDS FOR SUCH PURPOSES; ~~[REVENUE TO FINANCE BONDS FOR~~
20 PROGRAMS AND PROJECTS RELATED TO ALCOHOL AND/OR DRUG
21 TREATMENT AND REHABILITATION;] AND TO PROVIDE FOR APPROVAL BY
22 A MAJORITY (FIFTY PERCENT PLUS ONE) OF QUALIFIED VOTERS VOTING
23 ON THE QUESTION.

24
25 THE ANCHORAGE ASSEMBLY ORDAINS:

26
27 Section 1. Pursuant to state law and the Anchorage Municipal Charter, a ballot
28 proposition in substantially the same form as appears in Section 2 below shall be
29 placed on the ballot and submitted to the qualified voters of the Municipality at the
30 regular municipal election on April 3, 2018.

31
32 Section 2. The proposition shall be presented in substantially the following form:

33
34 PROPOSITION NO. _____

35
36 CHARTER AMENDMENT TO AUTHORIZE A WHOLESALE SALES TAX
37 ON ALCOHOLIC BEVERAGES, ESTABLISHING A MAXIMUM RATE AND AN
38 INITIAL RATE WITH PERIODIC INCREASES BY THE ASSEMBLY ALLOWED;
39 DEDICATING THE NET RECEIPTS [REVENUE] TO HEALTH AND PUBLIC
40 SAFETY USES RELATED TO CONSUMPTION OR USE OF ALCOHOLIC
41 BEVERAGES AND/OR DRUGS, AND AUTHORIZING THE ISSUANCE OF
42 REVENUE BONDS AND THE USE OF THE NET RECEIPTS [REVENUE] TO
43 FINANCE BONDS AND OTHER OBLIGATIONS FOR RELATED CAPITAL

**IMPROVEMENT PROJECTS [~~RELATED TO ALCOHOL AND/OR DRUG
TREATMENT OR REHABILITATION~~].**

This proposition would amend the Anchorage Municipal Charter by adding a new section 14.07 to read as follows:

Section 14.07 Alcoholic beverages wholesale sales tax.

- (a) The assembly is hereby authorized, to the extent provided by law, to levy a tax on all wholesale sales of alcoholic beverages in an amount not to exceed ten [six] percent (10 [6]%) of the wholesale sales price. The initial rate of levy shall be no greater than five [two] percent (5 [2]%). The assembly by ordinance shall determine the initial rate and effective date [July 1, 2018].
- (b) The tax rate on wholesale sales of alcoholic beverages may, without additional voter approval, be increased by the assembly by ordinance no more frequently than once every two years, subject to the limitations in this section. An adjustment to the tax rate shall have a prospective [July 1] effective date that coincides with a tax reporting period [with the year to be specified in the enactment ordinance]. Any increase in this tax shall not exceed two percent greater than the tax rate in effect at the time of the increase. Any increase by the assembly by ordinance as authorized by this section shall be considered authorized by voter approval under Section 14.03(b)(3) of this Charter, and added to the base amount for the calculations of the subsequent year tax increase limit in accordance with Section 14.03(c).
- (c) The net receipts from the wholesale sales tax on alcoholic beverages, after payment of the costs of administration, collection and audit to the municipality, [Revenues received from this tax] are dedicated to providing for and financing alcohol and/or drug treatment or rehabilitation programs and facilities, including housing, and [emergency transportation,] public safety purposes related to detrimental primary and secondary effects of alcohol or

1 drug abuse[, ~~and housing programs, including~~
2 ~~housing programs for chronic inebriates~~].
3

4 (d) The assembly may authorize the issuance of
5 revenue bonds for the purposes described in
6 subsection (c). The assembly may by ordinance
7 direct the use of net receipts from the tax to support
8 obligations incurred by or on behalf of the
9 municipality in order to finance projects described
10 in subsection (c). [~~If bonds are issued to finance the~~
11 ~~acquisition or construction of facilities for alcohol~~
12 ~~and/or drug treatment, rehabilitation or housing, the~~
13 ~~revenue derived from this tax may be used to pay~~
14 ~~annual principal, interest and other carrying costs~~
15 ~~of said bonds.~~]
16

17 (e) The assembly shall enact such additional provisions,
18 not inconsistent with this section, as necessary or
19 desirable to implement this section. The assembly may
20 prescribe exemptions to the tax imposed by this section
21 by ordinance.
22

23 And by amending Anchorage Municipal Charter, Article II (4), and Charter
24 §14.01(b) as follows (underlined and bolded words are proposed new
25 words; ~~strikeouts in bold~~ are proposed deletions):
26

27 **ARTICLE II BILL OF RIGHTS**

28
29 This Charter guarantees rights to the people of Anchorage
30 that are in addition to rights guaranteed by the Constitution of
31 the United States of America and the Constitution of the State
32 of Alaska. Among rights guaranteed by this Charter are:
33

34 *** **

35 (4) the right of immunity from sales taxes, except upon
36 approval by three-fifths (3/5) of the qualified voters
37 voting on the question, except the taxes imposed by
38 Charter § 14.05 and Charter § 14.07 shall be effective
39 if approved by a majority (50 percent + one) of the
40 qualified voters voting on the question.
41

42 **Section 14.01 Taxing Authority**

43

*** *** ***
(b) Unless otherwise provided in this Charter, no sales tax ordinance is valid until ratified by three-fifths (3/5) of those voting on the question at a regular or special election, except the tax imposed by Charter § 14.05 **and Charter § 14.07** shall be effective if approved by a majority (50%+ one) of the qualified voters voting on the question.

If approved by the voters at the April 3, 2018 Regular Election, the amendments to the Charter above shall be effective **upon certification of the election [July 1, 2018]**.

Shall the Anchorage Municipal Charter be amended as set forth above, and the wholesale sales tax on alcoholic beverages be approved?

YES NO

Section 3. Section 1 of this ordinance shall become effective immediately upon passage and approval by two-thirds of the total membership of the Assembly as set forth in Charter Section 18.02.

Section 4. The proposition contained in Section 2 of this ordinance shall be incorporated into The Home Rule Charter for the Municipality of Anchorage, Alaska, and ~~[the wholesale sales tax on alcoholic beverages shall be]~~ effective **upon and [July 1, 2018, but]** only if the proposition is certified as approved by a majority of the qualified voters voting on said proposition at the regular municipal election of April 3, 2018. **The remainder of this ordinance is effective upon passage and approval.**

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2018.

Chair

ATTEST:

Municipal Clerk



MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 756-2017(A-1)

Meeting Date: January 23, 2018

1 **From:** ASSEMBLY CHAIR TRAINI
2

3 **Subject:** AO 2017-149(S)—AN ORDINANCE SUBMITTING TO THE
4 QUALIFIED VOTERS OF THE MUNICIPALITY OF ANCHORAGE
5 A BALLOT PROPOSITION AMENDING THE ANCHORAGE
6 MUNICIPAL CHARTER TO ADOPT A WHOLESALE SALES TAX
7 ON ALCOHOLIC BEVERAGES; TO ESTABLISH ~~[AN INITIAL~~
8 ~~RATE OF LEVY AND]~~ A “NOT TO EXCEED” MAXIMUM RATE;
9 TO AUTHORIZE THE ASSEMBLY TO SET THE INITIAL RATE
10 AND EFFECTIVE DATE, AND TO ADJUST THE TAX RATE OF
11 LEVY BY ORDINANCE WITHOUT ADDITIONAL VOTER
12 APPROVAL PROVIDED UPWARD ADJUSTMENTS ARE
13 ALLOWED ONLY ONCE EVERY TWO YEARS, AN ADJUSTMENT
14 DOES NOT INCREASE THE RATE MORE THAN TWO PERCENT
15 (2%), AND THE RATE OF LEVY NEVER EXCEEDS THE
16 MAXIMUM AUTHORIZED BY THE VOTERS; AND DEDICATING
17 THE NET RECEIPTS [REVENUE] FROM SAID TAX TO HEALTH
18 AND PUBLIC SAFETY USES RELATED TO CONSUMPTION OR
19 USE OF ALCOHOLIC BEVERAGES OR DRUGS; TO ALLOW USE
20 OF THE NET RECEIPTS TO SUPPORT PROGRAMS AND
21 PROJECTS OF THE MUNICIPALITY, INCLUDING THE PAYMENT
22 OF FINANCING OBLIGATIONS FOR SUCH PROJECTS; TO
23 AUTHORIZE THE ISSUANCE OF REVENUE BONDS FOR SUCH
24 PURPOSES; [REVENUE TO FINANCE BONDS FOR PROGRAMS
25 AND PROJECTS RELATED TO ALCOHOL AND/OR DRUG
26 TREATMENT AND REHABILITATION;] AND TO PROVIDE FOR
27 APPROVAL BY A MAJORITY (FIFTY PERCENT PLUS ONE) OF
28 QUALIFIED VOTERS VOTING ON THE QUESTION.
29

30 The S-version of the proposed ordinance makes several changes to improve the
31 language and ease of implementation, summarized as follows:

- 32 • change the maximum tax rate allowed to 10%;
- 33 • ensure the dedicated alcohol tax revenue may be utilized effectively for
34 a range of financing options available to municipalities;
- 35 • expressly allow the Assembly to authorize issuance of revenue bonds
36 when otherwise allowed by law;
- 37 • allow the revenues to first pay for costs of administration, collection and
38 audits, with the net receipts dedicated; and
- 39 • confer authority on the Anchorage Assembly by ordinance to set the

1 initial tax rate (not to exceed 5%) and actual effective date of the tax.
2

3 Assembly Counsel consulted with the Treasury Division, Public Finance and
4 Investments Division, Department of Law, bond counsel and other Administration
5 staff to ensure the proposed Charter language would, if approved by the voters,
6 effectively allow the dedicated revenue stream to be utilized for various financing
7 options for capital improvements and would allow the receipts to cover the costs
8 of administering the collection and enforcement of the tax. The revised language
9 will ensure the Municipality has a consistent, reliable revenue stream to provide
10 for alcohol and drug treatment programs and staffing, personnel and equipment to
11 address secondary effects such as assisting chronic public inebriates and cleaning
12 illegal campsites that are magnets for drug and alcohol abuse, finance construction
13 of facilities and improvements supporting such programs, and other purposes.
14

15 The current alcohol and drug treatment programs located within the Municipality
16 are, for the most part, funded by federal and state grants. The state's fiscal
17 situation casts doubt on the reliability of its continued contribution, in spite of the
18 significant state alcohol excise tax revenue collected from within the Municipality's
19 borders under AS 43.60. The state's alcohol excise tax revenue is not, and cannot
20 be dedicated.¹ Consequently, there is a legitimate concern the state does not and
21 will not return the excise tax revenue collected here to fund local alcohol and other
22 drug abuse treatment and prevention programs and facilities even though a
23 significant number of persons treated are from other parts of the state. For
24 example, 2015 data shows of 3,242 persons admitted at the Anchorage Safety
25 Center (ASC, aka: the "sleep-off center"), the 204 individuals most frequently
26 assisted cause 52% of the ASC intakes and of those only 36 were born in
27 Anchorage; 137 are from elsewhere in the state, and 31 from outside Alaska.²
28 Even though this statewide alcohol abuse problem is concentrated in Anchorage,
29 the State cannot be relied upon for stable funding for drug and alcohol treatment.
30 The Municipality can provide for the necessary stability to truly mitigate the alcohol
31 and drug abuse effects here. Through this wholesale sales tax and dedication of
32 its revenues, the Municipality could make a significant and much needed
33 contribution to the alcohol and drug abuse treatment and prevention facilities and
34 programs locally, and create a reliable income stream to sustain the needed
35 programs and facilities in the long-term. The potential is enormous.
36

37 **The potential revenue.** Based on estimates provided by the Treasury Division,
38 the wholesale sales tax if initially established at 2% could provide a revenue stream
39 of about \$1.6 million per year. The S-version allows a maximum of 10% and the
40 initial rate to be set by the Assembly. If the voters approve, then the Assembly has
41 the opportunity to evaluate concrete cost estimates to fund positions, programs,
42 and capital projects needed and establish the initial rate to provide for those needs.
43 The potential annual revenue at different rates is estimated in the following table:
44

¹ AS 43.60.050(c), regarding the state alcohol and other drug abuse treatment and prevention fund states: "Nothing in this section creates a dedicated fund." Additionally, Alaska Constitution Article IX, Sec. 7 prohibits the state (but not municipalities) from dedicating the proceeds from any state tax to any particular purpose.

² DHHS, Anchorage Safety Center and Safety Patrol 2015 Data Summary and Analysis, <http://www.muni.org/Departments/health/Documents/ASP%202015%20Data%20Summary.Analysis.pdf> (accessed January 10, 2018).

	<u>Tax rate</u>	<u>Estimated annual revenue range (millions)</u>
1		
2	4%	\$2.6 - \$3.6
3	5%	\$3.25 - \$4.5
4	6%	\$3.9 - \$5.4
5	8%	\$5.2 - \$7.2
6	10%	\$6.5 - \$9.0

7
8 **The potential program support.** The Municipality's Department of Health and
9 Human Services administers and facilitates various programs with excellent staff
10 who simply cannot handle the full volume of needs and demands of the alcohol
11 and drug abusers in the city. Dedicated tax revenue could assure coverage of
12 annual costs of additional positions such as:

13		
14	Social service coordinator	\$70,000
15	Mental health clinician	\$130,000
16	Housing First support staffing	\$600,000 per 50 clients

17
18 The social services coordinator position was created to accompany the APD CAP
19 team as they respond to illegal campsites for abatement and encounter intoxicated
20 persons and chronic inebriates. Through hard work and persistent contact they
21 assist some of the most frequent users of emergency services and the ASP to find
22 long term housing and reduce their dependence on alcohol and excessive use of
23 public services.³ A mental health clinician is, of course, key to developing effective
24 strategies and individual treatment and improvement plans. The Housing First
25 project in Anchorage, Karluk Manor, took 50 of the most frequent users of ASP
26 and other public emergency services off the streets and provided long-term
27 housing with astounding results. Karluk Manor's retention rate of housed clients
28 is 90% and exceeds the national average for similar programs. Additional housing
29 first projects could be built or acquired by financing secured by the dedicated
30 revenue stream, and the approximate \$600,000 annual staffing and operations
31 sustained by the tax in addition to other funding sources. Funding these positions
32 and programs for chronic inebriates would give significant relief to overextended
33 emergency police and medical care responders, and make them more available
34 for genuine emergencies.

35
36 DHHS over the past several years, with several partners, has studied and
37 assessed the current and future need for adult residential beds to deliver treatment
38 of Substance Use Disorders (SUD) in the Anchorage and Mat-Su area. In a draft
39 2017 reassessment and update, preliminary findings indicate there are currently
40 199 residential treatment beds (five fewer inpatient treatment beds for SUD than
41 in 2012) and 48 to 96 additional beds are needed now. The future needs will grow
42 and need to be considered. Currently there are 27 treatment beds unfunded that
43 could be utilized immediately if operational funding were available. Over time and
44 with population growth, it is estimated an additional 127 treatment beds for alcohol
45 and substance abuse will be needed by 2040. Dedicated alcohol tax revenue
46 could ensure the anticipated needs can be met.

47

³ "How some of Anchorage's most vulnerable homeless people are finally finding homes," D. Kelly, Anchorage Dispatch News, November 3, 2017 (<https://www.adn.com/alaska-news/anchorage/2017/11/03/how-some-of-anchorage-s-most-vulnerable-homeless-people-are-finally-finding-homes/> accessed January 10, 2018).

1 In addition to the above, several programs administered by DHHS and other
2 departments are inadequately funded to keep up with the need for services. Those
3 include transitional housing support, rental assistance for temporary housing,
4 grants for alcohol and drug treatment providers, cleanup of camps and parks
5 littered with bottles and debris from chronic inebriates

6
7 **The potential facilities and capital projects.** The Clitheroe Center has been a
8 key facility for residential treatment of SUDs and central to any local dialogue
9 regarding treatment beds. A rebuild of Clitheroe's deteriorating structure has been
10 planned and nearly underway, but it will only slightly increase the total number of
11 available beds for residential alcohol or substance abuse treatment. The
12 Municipality's proposed legislative program includes asking the state for \$52
13 million for this project. Alcohol tax revenue may provide a fallback funding source
14 if the state comes up short.

15
16 The land area around Clitheroe owned by the Municipality could support a campus
17 of additional housing units and accessory buildings. Prior proposals for a
18 Raspberry Court SUD treatment campus define capital project concepts
19 transferable to the Clitheroe campus. Two buildings providing 80 beds each over
20 the years will keep treatment bed capacity on track with expected growth in
21 demand, at a roughly estimated cost of \$35 million each. Additional buildings for
22 administration, dining, laundry, maintenance, conferences and activities would
23 enhance the overall capacity and effectiveness of the SUD treatment campus.

24
25 In addition to the Clitheroe area, the Municipality's Housing First project has been
26 at capacity and another one would benefit the city and emergency responders.
27 Karluk Manor cost over \$2 million to acquire and renovate. The alcohol tax could
28 easily fund a second project, and provide the annual operating budget of over
29 \$600,000.

30
31 **Financing options.** Financing for new facilities and capital improvements of this
32 type are difficult to identify and acquire. The Charter amendments for a dedicated
33 alcohol tax revenue stream are designed to provide flexibility for the Assembly to
34 later establish necessary framework to efficiently leverage to pay for projects of
35 the type described above. There are several potential ways to structure the
36 appropriate vehicle to leverage the alcohol tax for different types of financing
37 options, depending on the nature of the debt (taxable or tax-exempt) and financial
38 feasibility. The Charter language would allow the following structures:

- 39 • *Nonprofit public corporation.* This is tax-exempt financing of a facility. A
40 strong precedent exists: construction of the Dena'ina Convention Center
41 was funded by dedicating 4% of the bed tax to the project, and appropriating
42 the annual revenue to a nonprofit, CIVICVentures, with specific purposes
43 established by the Municipality. The organization issued revenue bonds for
44 the construction.
- 45 • *Public authority model.* Similar to the Anchorage Community Development
46 Authority, the Municipality could establish by ordinance a social services
47 and housing authority specifically for drug and alcohol treatment and to
48 manage the treatment and care facilities. The new Authority would contract
49 with the Municipality for receipt of the alcohol tax revenues, which in turn
50 would support the operations and payment of debt incurred for financing the
51 structures.

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- *Lease-back structure.* Property is leased to a trustee, and upon completion leased back to the Municipality which makes lease payments from the alcohol tax revenues. The future lease payments could be secured by certificates of participation.
- *Revenue bonds.* If financially feasible, revenue bonds could be issued by a public corporation or authority established as described above, and authorized by an Assembly ordinance. Alcohol tax revenues would guarantee the bonds and payment of debt service.

The alcohol tax solidifies Anchorage’s potential. The S-version modifies the language of the Charter amendment so it is flexible enough to legally allow the financing arrangements described above. As such, if approved by the voters, the Assembly would have the ability to determine by ordinance which projects and suitable financing structure to support and establish. With the dedicated revenue stream in place, additional positions, programs and capital projects realistically become within reach. Effective solutions to some of the more difficult societal problems in Anchorage are achievable with the alcohol tax, and the potentials described herein can become realities.

It’s clear that Anchorage needs more substance and alcohol abuse treatment and solutions to the city-wide effects. This alcohol tax is one key to improving our city.

I request your support for this ballot proposition and the alcohol tax.

Prepared by: Assembly Counsel
Respectfully submitted: Dick Traini, Assembly Chair
District 4—Midtown