

**ANCHORAGE, ALASKA**  
**AO No. 2019-\_\_\_\_\_**

1 **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY CLARIFYING THE TYPE**  
2 **OF DISCOUNTS NOT ALLOWED TO A SALES PRICE BEFORE THE RETAIL**  
3 **SALES TAX IS APPLIED TO THE PURCHASE OF MARIJUANA OR MARIJUANA**  
4 **PRODUCTS, BY AMENDING CERTAIN SECTIONS OF ANCHORAGE**  
5 **MUNICIPAL CODE CHAPTER 12.50.**  
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8 **WHEREAS**, the Municipality approved, through a Charter amendment approved by  
9 the voters at the 2016 election, a retail sales tax on marijuana and marijuana  
10 products; and

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12 **WHEREAS**, the Anchorage Assembly adopted Chapter 12.50 of the Anchorage  
13 Municipal Code to implement and administer the retail sales tax on marijuana and  
14 marijuana products, by passing AO 2016-49(S); and

15  
16 **WHEREAS**, this tax is “in an amount equal to five percent of the sales price paid”  
17 per AMC section 12.50.030A.; and

18  
19 **WHEREAS**, some marijuana businesses have expressed confusion over the  
20 definition of “sale(s) price” and how it may apply when the business offers employee  
21 discounts, or a loyalty program to its customers **for frequenting their establishment**  
22 **or** for a membership fee with benefits that include a discount on purchases; and

23  
24 **WHEREAS**, businesses and Municipal administrators benefit from having clear  
25 Code language, and the Assembly desires to clarify the sales price deductions that  
26 are not allowed when calculating the amount of the tax on a retail sale of marijuana  
27 or marijuana product; now, therefore,

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29 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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31 **Section 1.** Anchorage Municipal Code section 12.50.010 is hereby amended to  
32 read as follows (*the remainder of the section is not affected and therefore not set*  
33 *out*):

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35 **12.50.010 Definitions**

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37 Any words, terms and phrases not defined in this section shall, if defined  
38 therein, have the meaning given in AS 17.38.900 or regulations adopted by  
39 the Alaska Marijuana Control Board, or otherwise shall have their ordinary  
40 and common meaning. The following words, terms, and phrases, when used  
41 in this chapter, shall have the meanings ascribed to them in this section,  
42 except where the context clearly indicates a different meaning:  
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44 \*\*\*                      \*\*\*                      \*\*\*

1 *Consideration* means something of value given by each party to a contract  
2 that induces that party to enter into the agreement to exchange mutual  
3 performances. Consideration must have a value that can be objectively  
4 determined.

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7 **OPTION 1:**

8 *Discount* means a reduction in the usual, advertised sales price or special  
9 offer based on an individual's status as a marijuana establishment employee,  
10 participation in a program offered by the retailer that requires dues or fees,  
11 offered by a third party to a closed group or class, or based on frequency of  
12 patronage or purchase. Discount does not include a temporary reduction in  
13 sales price of marijuana or marijuana product offered to any purchaser as a  
14 promotion, such as a holiday or anniversary sale discount,

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16 *Retail sale* means any exchange or barter, in any manner or by any means  
17 whatsoever, for consideration, of marijuana or marijuana products by a  
18 retailer to a consumer.

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20 **OPTION 2:**

21 *Sale(s) price* means the consideration, whether money, rights, credit or other  
22 property expressed in the terms of money paid or delivered by a consumer  
23 to a retailer, without deduction for the cost of property sold, materials used,  
24 labor cost, discounts to employees, discounts provided based on other paid  
25 consideration such as for membership dues, or based on frequency of  
26 patronage or purchase, delivery costs or any other expense whatsoever paid  
27 or accrued and without deduction on account of losses.

28 A. Sales price shall not include discounts, including cash, term or  
29 coupons that are not reimbursed by a third party that are allowed  
30 by a seller and taken by a purchaser on a sale;

31 B. Sales price shall include consideration received by the seller from  
32 third parties if:

33 1. the seller actually receives consideration from a party other  
34 than the purchaser and the consideration is directly related to  
35 a price reduction or discount on the sale;

36 2. the seller has an obligation to pass the price reduction or  
37 discount through to the purchaser;

38 3. the amount of consideration attributable to the sale is fixed and  
39 determinable by the seller at the time of the sale of the item to  
40 the purchaser; and

41 4. one of the following criteria is met:

42 a. the purchaser presents a coupon, certificate or other  
43 documentation to the seller to claim a price reduction or  
44 discount where the coupon, certificate or documentation is  
45 authorized, distributed or granted by a third party with the  
46 understanding that the third party will reimburse any seller  
47 to whom the coupon, certificate, or documentation is  
48 presented;

49 b. the purchaser identifies himself or herself to the seller as a  
50 member of a group or organization entitled to a price  
51 reduction or discount (a "preferred customer" card that is

1                   available to any patron does not constitute membership in  
 2                   such a group); or  
 3                   c. the price reduction or discount is identified as a third party  
 4                   price reduction or discount on the invoice received by the  
 5                   purchaser or on a coupon, certificate or other  
 6                   documentation presented by the purchaser.

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 8                   \*\*\*                   \*\*\*                   \*\*\*  
 9                   (AO No. 2016-49(S), § 1, 5-10-16)

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 11 **Section 2.** Anchorage Municipal Code section 12.50.220 is hereby amended to  
 12 read as follows (*the remainder of the section is not affected and therefore not set*  
 13 *out*):

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 15                   **12.50.220    Maintenance and inspection of documents and records**

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 17                   \*\*\*                   \*\*\*                   \*\*\*  
 18                   B.    It shall be the responsibility of the retailer to obtain and preserve  
 19                   evidence sufficient to support all acquisitions of marijuana and  
 20                   marijuana products and retail sale transactions and allowable  
 21                   deductions subject to this chapter, and all claimed exemptions from  
 22                   payment, collection, or remittance of the retail marijuana sales taxes  
 23                   under this chapter. Specification in this chapter of the records to be  
 24                   kept by a retailer shall not relieve the retailer of its responsibility to  
 25                   keep sufficient records. Unless a longer period is ordered by the chief  
 26                   financial officer under section 12.50.230 or a court of competent  
 27                   jurisdiction, a retailer shall keep and preserve all required records  
 28                   within the municipality for not less than three calendar years after the  
 29                   end of the calendar year in which such records are created and shall  
 30                   make available such records for inspections by the department upon  
 31                   request. Sufficient records shall include, but not necessarily be limited  
 32                   to:  
 33                   1.    Each retail sale of marijuana or marijuana products within the  
 34                   municipality shall be recorded by the retailer and the record  
 35                   shall include, at minimum: the date of sale, the type of  
 36                   marijuana or marijuana product sold, the quantity of marijuana  
 37                   or marijuana products sold, the sales price, the amount of retail  
 38                   sales taxes due on the sale, and the amount and method of  
 39                   payment received including an explanation for any disparity  
 40                   between the payment amount received and the price plus the  
 41                   tax. A comparable receipt of sale shall be offered to each  
 42                   consumer at the time of purchase;

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 44                   \*\*\*                   \*\*\*                   \*\*\*  
 45                   (AO No. 2016-49(S), § 1, 5-10-16 )

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 47 **Section 3.** This ordinance shall be effective immediately upon passage and  
 48 approval by the Assembly.

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 50                   PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day  
 51 of \_\_\_\_\_, 2019.

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\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Municipal Clerk

DRAFT