

IMMEDIATE RECONSIDERATION ANCHORAGE, ALASKA
FAILED 2-14-06 AO No. 2006-34

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 12 TO
2 ENACT A SALES AND USE TAX ON THE SALE OF GOODS WITHIN THE
3 MUNICIPALITY FOR THE PURPOSE OF REDUCING PROPERTY TAXES
4 PROPORTIONATELY THROUGHOUT THE MUNICIPALITY, WITH CERTAIN
5 EXEMPTIONS, WITH A CAP AND WITH REIMBURSEMENT FOR COLLECTION,
6 ALL WITHIN THE TAX CAP, EXCEPT OF COSTS OF COLLECTION AS
7 PERMITTED BY CHARTER SECTION 14.03 (b) (2) & (3) SUBJECT TO A SUNSET
8 PROVISION, AND SUBMITTING THE QUESTION OF WHETHER OR NOT TO
9 APPROVE A SALES TAX TO THE QUALIFIED VOTERS OF THE MUNICIPALITY
10 AT ITS NEXT REGULAR ELECTION ON APRIL 4, 2006 WITH RE-APPROVAL
11 REQUIRED AT A SUBSEQUENT REGULAR ELECTION AS ESTABLISHED BY
12 ORDINANCE.
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14
15 **Section 1.** Anchorage Municipal Code title 12 is amended by enacting a new chapter 12.50
16 to read as follows:

17 **Chapter 12.50**
18 **Tax on the Sale and Use of Goods**
19

- 20 12.50.010 Sales and use tax.
21 12.50.020 Purpose.
22 12.50.030 Definitions.
23 12.50.040 Non-taxable sales and exemptions.
24 12.50.050 Obligation for payment of tax; disposition of excess collections; liability
25 for uncollected taxes.
26 12.50.060 Presumption of taxability; sales price and value.
27 12.50.070 Certificate of registration.
28 12.50.080 Maintenance of records required.
29 12.50.090 Tax receipts segregated and held in trust.
30 12.50.100 Tax returns: remitting and reporting requirements.
31 12.50.110 Timely filing allowance.
32 12.50.120 Confidentiality of information.
33 12.50.130 Security for fiduciary performance.
34 12.50.140 Certificates of exemption.
35 12.50.150 Prohibited acts.
36 12.50.160 Penalties.
37 12.50.170 Collection of taxes.
38 12.50.180 Tax lien.
39 12.50.190 Remedies of person aggrieved.
40 12.50.200 Tax cap limitation.
41 12.50.210 Implementation and regulations.
42 12.50.220 Amendments.
43 12.50.230 Expiration and re-authorization.
44

1 **12.50.010** **Sales and use tax.**
2

- 3 A. *Sales Tax Imposed.* A sales tax of three percent (3%) is hereby levied on the sales
4 of all goods sold within the municipality, except as provided in this chapter.
5
6 B. *Use Tax Imposed.* A use tax at the same rate as the sales tax in subsection A., for
7 the privilege of use within the municipality, is hereby levied on the person using
8 the following goods acquired on or after January 1, 2007:
9
10 1. Goods manufactured in the municipality, only if the person manufacturing
11 the good is not engaged in the business of manufacturing for resale to an
12 end user; or
13
14 2. Goods acquired outside of the municipality and primarily used within the
15 municipality, if the acquisition is the result of a transaction subject to the
16 sales tax if it had occurred in the municipality.
17
18 C. *Credit for taxes previously paid.* The use tax levied under this section shall be
19 adjusted in accordance with AS 29.45.650(c) if the person subject to the use tax
20 provides proof, in the form required by the department, the person previously paid
21 a sales tax on the goods.
22
23 D. To the fullest extent permitted under the law and constitutions of the United
24 States and the State of Alaska, and under the Charter, a person who has nexus
25 within the municipality and whose sales are not subject to the sales taxes shall
26 collect the use tax from the purchaser and pay the tax collected to the
27 municipality.
28

29 **12.50.020** **Purpose.**
30

31 *Property Tax Relief.* The purpose of this chapter is to provide real property tax relief to
32 the property owners of the municipality. The net receipts from the sales tax, after
33 payment of the costs of administration, collection and audit to the municipality, shall be
34 applied to reduction of real property taxes equally throughout the municipality so the
35 benefits of the reduction in property taxes are shared throughout the municipality.
36

37 **12.50.030** **Definitions.**
38

39 The following words, terms and phrases, when used in this chapter, shall have the
40 meanings ascribed to them in this section, except where the context clearly indicates a
41 different meaning:
42

- 43 1. *Certificate of Exemption* shall mean a certificate issued by the
44 municipality to a consumer qualifying as an "Exempt Consumer" of goods
45 upon application by the consumer demonstrating its entitlement to such
46 exemption. The consumer shall provide the certificate to a seller of goods
47 at the time of purchase in order to obtain the permitted exemption.
48

- 1 2. **Charitable Non-profit Organization** shall mean an organization
2 recognized by the Internal Revenue Service as organized for charitable
3 purposes.
- 4
- 5 3. **Chief Fiscal Officer** shall mean the chief fiscal officer of the municipality
6 or his designee.
- 7
- 8 4. **Church** shall mean a religious organization which has obtained a
9 Certificate of Exemption from the municipality.
- 10
- 11 5. **Consumer** shall mean a person who purchases and takes title to goods in a
12 transaction involving the payment of consideration by the consumer to the
13 seller.
- 14
- 15 6. **Department** shall mean the finance department of the municipality.
- 16
- 17 7. **Exemption** shall mean a buyer is exempt under a provision of this chapter,
18 or the sale itself is exempt under a provision of this chapter.
- 19
- 20 8. **Goods** shall mean all tangible personal property sold to a consumer either
21 for cash or on credit or in an exchange of property or other consideration.
- 22
- 23 9. **Food** shall mean goods that may be lawfully purchased with food stamp
24 program benefits issued under 7 U.S.C. 2011 – 2025 (Food Stamp Act) or
25 purchased with food instruments, food vouchers or other type of certificate
26 issued under 42 U.S.C. 1786 (Special Supplemental Nutrition Program for
27 Women, Infants and Children).
- 28
- 29 10. **Person** shall mean an individual, company, partnership, joint venture,
30 joint agreement, association (mutual or otherwise), corporation, estate,
31 trust, business trust, receiver or trustee, syndicate, or political subdivision
32 of this state, or combination acting as a unit including individuals who are
33 employees or officers of any of the such entities who are under a duty to
34 perform an act concerning which a violation of this chapter could occur. It
35 is the intent of this chapter that such persons be personally liable for
36 unremitted taxes.
- 37
- 38 11. **Prescription medicine** shall mean all medicine and any medical goods
39 prescribed by a physician licensed to practice medicine in the State of
40 Alaska.
- 41
- 42 12. **Retail sale** shall mean the sale of goods by a person with a business
43 license issued by the State of Alaska or by a person with the required
44 nexus to the municipality in the ordinary course of business within the
45 municipality, to a consumer not exempt under the provisions of this
46 chapter.
- 47
- 48 13. **Resale** shall mean the sale of goods by a seller of raw materials either

1 consumed in the manufacturing process or which become a component
2 part of a product manufactured for sale, or a sale of goods sold to a
3 licensed general or specialty building contractor when the goods sold
4 becomes a component part of the residence or commercial structure being
5 constructed by the licensed contractor.
6

7 14. *Services* shall mean all services of every manner and description
8 performed or furnished for compensation as required to install, construct,
9 repair or complete specified results or end products and includes, but is
10 not limited to, professional services, services in which a product or sale of
11 property may be involved, repair, transportation, advertising, recreation,
12 amusement, craftsmen's services, and services wherein labor and materials
13 are provided to accomplish a specific result.
14

15 15. *Seller* shall mean every person, whether acting as principal, agent or
16 employee, who makes a retail sale subject to this tax.
17

18 16. *Selling price* shall mean consideration paid, whether by money, credit,
19 exchange, or expressed in terms of money paid, by the consumer to the
20 seller.
21

22 **12.50.040 Non-taxable sales and exemptions.**
23

24 A. The following sales are not taxable under this chapter:
25

- 26 1. Purchases of food with a food stamp, coupon, or other type of certificate
27 under 7 U.S.C. 2011 – 2025 (Food Stamp Act), or 42 U.S.C. 1786 (special
28 supplemental nutrition program for women, infants, and children).
29
- 30 2. Sales to or uses by an agency of the United States government, an
31 instrumentality of the State of Alaska as that term is defined in AS
32 39.52.960, a municipality or school district, including the Anchorage
33 School District, or a Native entity or tribe included on the federal list
34 published under 25 U.S.C. 479a-1.
35
- 36 3. Sales to foreign diplomats under the Foreign Missions Act (22 U.S.C. §
37 4301 *et seq.*).
38
- 39 4. Purchases by the Alaska Life and Health Insurance Guaranty Association,
40 under AS 21.79.130.
41
- 42 5. Sales or use of goods related to an orbital space facility, pursuant to AS
43 29.45.650(h).
44
- 45 6. Other sales or uses the municipality is prohibited from taxing under the
46 federal or state Constitutions or laws of the United States or the State of
47 Alaska.
48

1 B. The municipality hereby declares the following exemptions from the tax imposed
2 by this chapter:

- 3
- 4 1. Purchases of food.
- 5
- 6 2. Purchase of prescription medicine and/or medical goods prescribed by a
7 physician licensed in the United States.
- 8
- 9 3. The tax on the sale or use of any one good shall not exceed ~~\$500~~ \$200.00.
- 10
- 11 4. Sales by a church, a charitable non-profit organization, or a private or
12 parochial school, provided the sale of goods is incidental and is not part of
13 a business conducted for profit.
- 14
- 15 5. Isolated sales of goods by one individual to another when the seller is not
16 engaged in the business of selling the goods.
- 17
- 18 6. Rental of personal property, unless the rental transaction for personal
19 property provides a right of purchase at the end of the rental contract.
- 20
- 21 7. The sale or rental of real property.
- 22
- 23 8. The resale of goods not sold to the end user of the goods.
- 24
- 25 9. The sale of general circulation newspapers.
- 26
- 27 10. The sale of contracts of insurance.
- 28
- 29 11. The sale of internet, telephone or television services.
- 30
- 31 12. The sale of goods or services already subject to excise taxes imposed by
32 the municipality, including but not limited to bed taxes, tobacco taxes and
33 motor vehicles rental taxes.
- 34

35 **13. Sales from vending machines.**

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37 **12.50.050 Obligation for payment of tax; disposition of excess collections;**
38 **liability for uncollected taxes.**

39

40 A. The consumer is obligated to pay sales and use tax under this chapter and it shall
41 be collected by the seller at the time of the sale transaction or acquisition. The tax
42 rate is applied to the selling price.

- 43
- 44 1. If a consumer produces a certificate of exemption issued by the
45 municipality pursuant to section 12.50.140 at the time of the sale
46 transaction, the seller shall not collect the tax. The seller shall retain
47 verification of the exempt status of the transaction in its records. If no
48 verification is retained, the seller is liable for the uncollected taxes.

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2. If the consumer to a sales transaction does not produce an exemption certificate issued by the municipality, but the transaction is in fact exempt under federal, state, local or other law, the seller is not liable for the uncollected tax, provided verification of the purchaser's exemption is retained in the seller's records or otherwise readily available and reported to the department.
3. Any uncollected sales and use tax under this subsection, which should have been collected, is a liability of the seller.
4. If the selling price cannot be determined for purposes of calculating the amount of sales and use tax, the fair market value of the goods at the time of sale or acquisition shall be subject to the sales and use tax.

B. All sales and use taxes collected pursuant to this chapter are municipal funds for which the seller is at all times liable to the municipality. The seller is liable for all monies collected from the purchaser as sales and use tax in excess of the tax imposed by section 12.50.010. The seller shall make reasonable efforts to return excess tax collected to the purchaser. If the seller is unable to return it, the excess tax collected shall be reported and remitted to the municipality with the regular tax return.

C. Any person acquiring an ownership interest in the accounts receivable of a business, whether by purchase, foreclosure, or otherwise, shall also be liable for the payment of taxes, penalties, interest, fees and costs accruing and unpaid to the municipality from those accounts receivable.

D. Any person acquiring an ownership interest in an ongoing business, whether by purchase, foreclosure or otherwise, shall also be liable for the payment of any taxes, penalties, interests, fee or costs owed to the municipality for taxes collected by the former owner or seller of the business.

E. The president and any officer, member, manager or agent of a corporation or limited liability company with control of, supervision of, or charged with the responsibility of filing sales and use tax returns or remitting sales and use taxes is personally liable for any unpaid taxes, penalties, interest, fees and costs accruing and unpaid to the municipality. Dissolution of, or sale of, or other change in the form of the corporation or company does not discharge this personal liability.

F. The municipality may pursue collection of unpaid and unremitted taxes as provided in this chapter.

12.50.060 Presumption of taxability; sales price and value.

A. To prevent evasion of the sales and use tax and to aid in its administration, it is presumed:

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1. All sales of goods by a person engaging in business in the municipality are subject to the tax, unless exempt by this chapter; and
 2. All goods purchased or sold by any person for delivery into the municipality are purchased or sold for a taxable use in the municipality.
- B. In a sale where the selling price does not represent the value of the goods purchased, the sales and use tax shall be imposed on the value of the goods purchased or acquired.
- C. For purposes of this section, the sales price or value of property shall be determined as of the time of acquisition, introduction into the municipality, or conversion to use, whichever is latest.
- D. If the department has reasonable cause to believe a seller structured a transaction to avoid collecting or remitting the tax levied under this chapter, the department may declare there is a rebuttable presumption that the substance of the transaction is a taxable retail sale under this chapter and proceed to establish, levy and collect the tax together with costs, penalties and interest as provided for in this chapter.

12.50.070 Certificate of registration.

- A. *Required; display.* Except as otherwise provided in this chapter, every seller operating within the municipality shall obtain a certificate of registration from the department. The seller shall obtain a certificate of registration prior to conducting business in the municipality and shall prominently display the certificate at the registered place of business.
1. A business with multiple sales locations may obtain one certificate of registration, provided the application lists every place of business located within the municipality. Each location shall prominently display a copy of the certificate of registration, except:
 - a. A vending machine seller is not required to display the certificate or to list each vending machine location.
 - b. A roving business vendor, as defined in chapter 10.60, shall list as its business location the physical address or location where it conducts business a majority of the time, and include a valid mailing address.
 - c. The department may direct a business with multiple or mobile locations to display or make available the certificate in a reasonable location and manner.
- B. *Application.* Each seller shall apply for a certificate of registration on a form provided by the department containing information the department may require. There shall be no charge for the application or issuance of a certificate of

1 registration.

2
3 C. *Contents.* A certificate of registration shall bear the name of the seller, the
4 address of the primary place of business, the address or physical location of each
5 and every location where the applicant sells goods in the municipality, the seller's
6 form of business organization, the seller's method of accounting, and state
7 whether the seller is exempt from collecting the sales and use tax under sections
8 12.50.040 or 12.50.140.

9
10 D. It is the responsibility of the seller named on an issued certificate to inform the
11 department of any changes to the information contained in the application and
12 certificate of registration.

13
14 E. *Expiration.* If the holder of a certificate of registration ceases to engage in
15 business, changes its name, changes its form of business organization, changes
16 ownership, or ceases to be exempt from collecting the tax under sections
17 12.50.040 or 12.50.140, its certificate of registration automatically expires.
18 Expiration is effective on the date of the change in circumstances resulting in
19 expiration by operation of law. Within ten (10) days of the expiration, the seller
20 shall:

21
22 1. Surrender an expired certificate of registration to the department for
23 cancellation.

24
25 2. Notify the department in writing of the date and the name, telephone and
26 address of any person to whom the seller's business or accounts receivable
27 of the business described in the returned certificate of registration is
28 leased, conveyed or otherwise relinquished or transferred together with a
29 brief description of the circumstances causing the expiration of the seller's
30 certificate and the date it expired; and

31
32 3. File a final tax return for the period subsequent to the seller's last tax
33 return together with all taxes collected and other payments due in the
34 manner required for filing tax returns, remitting taxes collected and
35 payment of other sums due under this chapter.

36
37 F. The department may require an applicant applying for a certificate of registration
38 who has previously been fined or subject to penalties under this chapter, or had a
39 certificate of registration under this chapter revoked, suspended, or cancelled as a
40 penalty, to obtain and submit a guarantee for its performance under this chapter in
41 accordance with section 12.50.130. Proof of the security shall be submitted to the
42 department with the application. The department shall not issue the certificate of
43 registration until receipt of valid security is confirmed.

44
45 G. The department may refuse to issue a certificate of registration if there is
46 reasonable cause to believe the applicant:
47

- 1 1. Structured its business or sales transactions to avoid payment of
2 delinquent taxes, penalties, interest, or costs due under this chapter;
- 3
- 4 2. Willfully withheld information requested to determine the applicant's
5 eligibility to receive a certificate; or
- 6
- 7 3. There is reasonable cause to believe information submitted in the
8 application is false or misleading.
- 9

10 **12.50.080 Maintenance of records required.**

- 11
- 12 A. The collecting seller shall keep and preserve in the municipality for a period of
13 three (3) calendar years after the year created, such records as are necessary and
14 appropriate to permit the municipality to perform a meaningful audit of the
15 seller's collection and remittance of the sales tax. Such records shall contain at
16 least the following:
- 17
 - 18 1. All sales receipts specifying what goods were sold in the transaction, the
19 sale price for each item, total sum for the transaction, and total tax for the
20 transaction; and
 - 21
 - 22 2. Other records the Chief Fiscal Officer may require by regulation.
 - 23
- 24 B. It shall be the responsibility of the seller to obtain and preserve evidence
25 sufficient to support all claimed exemptions from payment, collection, or
26 remittance of the tax for transactions subject to this chapter. Specification in this
27 chapter of the records to be kept by a seller shall not relieve the seller of its
28 responsibility to keep sufficient records.

29

30 **12.50.090 Tax receipts segregated and held in trust.**

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32 Title to taxes collected pursuant to this chapter shall vest in the municipality upon
33 collection. The seller, and its employees and agents authorized to collect tax, have a
34 fiduciary duty to the municipality with respect to tax receipts. The taxes shall be
35 segregated from the seller's funds and held in trust for the exclusive benefit of the
36 municipality until remitted to the municipality.

37

38 **12.50.100 Tax returns: Remitting and reporting requirements.**

- 39
- 40 A. A sales and use tax return is not complete unless it contains the information
41 required by this section and is accompanied by the tax funds required. The sales
42 and use tax return and tax monies shall be remitted by the collecting seller to the
43 municipality quarterly, unless the seller qualifies or is required to remit and report
44 as follows:
- 45
 - 46 1. Sellers with less than \$100 in annual tax collections may file a tax return
47 and remit taxes on an annual basis.
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2. Sellers with \$150,000 or more in quarterly tax collections shall file a tax return and remit taxes each month.
 3. The department may require monthly tax returns and remittances from any seller delinquent in remittance of sales and use taxes to the municipality, or any other tax or fee to the municipality.
- B. The department may require any seller assigned to monthly returns due to a delinquency to submit timely returns and remittances for twelve (12) consecutive months before the department grants a request to restore the privilege of filing quarterly returns. The department may deny a request to return to filing quarterly for good cause.
- C. Sellers operating more than one (1) location within the municipality may file separate tax returns for each location but are allowed a single timely filing allowance under section 12.50.110, regardless of the multiple locations.
- D. Tax returns are due and payment in full shall be received by the last work day of the month following the end of the quarter, the month or the calendar year for which the tax return is filed. If this day falls on a Saturday, Sunday, or holiday observed by the municipality, the tax return and remittance payment shall be due the following business day.
- E. Tax returns shall be submitted on a form provided by the department and shall include information as the department may require. A seller shall report and remit the sales and use tax using the same method of accounting the seller uses for federal tax purposes.
- F. Sellers may claim a deduction on their tax return for the amount of taxes due to the municipality in a transaction where the total amount of the sales or use is uncollected and recognized as bad debt. If the seller later collects on such bad debt, the seller shall remit and report the portion of the collection attributable to the sales and use tax to the municipality.
- G. Sellers may claim a deduction on their tax returns for sales and use taxes previously remitted to the municipality if such taxes were collected in error and refunded to the consumer, or if the sales or use transaction was reversed for the customer in accordance with the seller's established and written refund policy.
- H. *Involuntary return.* If a seller fails to file a complete tax return as required by this section or if the department finds a tax return is not supported by the records required to be maintained under this chapter by the seller filing the tax return, the department may prepare and file a tax return on behalf of the seller. Taxes estimated on a tax return filed on behalf of a seller under this subsection may be premised upon any information available to the department including, but not limited to, comparative data for similar businesses. A seller for whom an involuntary tax return is filed under this subsection shall be liable for the taxes

1 stated on the involuntary tax return, in addition to penalties and interest provided
2 for in this chapter.

- 3
4 1. The department shall notify the seller of determinations made under this
5 subsection and include in such notice the basis of the department's
6 calculations determining the seller's liability together with a notice of the
7 seller's rights under section 12.50.190, that payment is due immediately
8 and that taxes, interest, penalties and costs continue to accrue from the
9 date taxes were due under this chapter for the period(s) covered by the
10 determination.
11
12 2. Unless otherwise determined by the department, taxes due under this
13 section shall be payable immediately.
14
15 3. Taxes determined under this section shall be due on the same date as if a
16 tax return had been filed by the seller in accordance with this chapter and
17 interest, penalties and administration costs thereon shall accrue from such
18 due date.

- 19
20 I. *Responsibility of corporate officers and directors, or members of a limited*
21 *liability company.* The director and/or corporate officer of a corporation, member
22 of a limited liability company, or other person charged with the responsibility to
23 report and remit a seller's taxes collected pursuant to this chapter has a fiduciary
24 duty to ensure timely, proper, and complete tax returns are filed and the related
25 taxes due under this chapter are remitted to the department on behalf of the seller.
26 A director, corporate officer, member, agent, employee, or person with significant
27 control over a corporation's or limited liability company's finances may be held
28 personally liable for failing to timely file a complete and proper tax return under
29 this chapter.
30

31 **12.50.110 Timely filing allowance.**

- 32
33 A. A seller authorized to collect the sales and use tax under this chapter may retain
34 four percent (4%) of the tax collected, up to a maximum of \$5,000.00 in a
35 calendar year, for purposes of offsetting a portion of the costs incurred by the
36 seller in collecting the tax for the municipality, provided the seller's tax return and
37 remittance is received by the department on or before the due date.
38
39 B. The seller shall report on each tax return the dollar amount retained under this
40 section for that reporting period, and the total amount retained in the calendar year
41 up to the last day of the reporting period.
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43 **12.50.120 Confidentiality of information.**

- 44
45 A. The records of the seller or taxpayer retained pursuant to this chapter shall be
46 considered proprietary and confidential, and shall not be disclosed to any person
47 except employees and agents of the municipality acting in their official capacity

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1 and then only for purposes reasonably related to the collection and remittance of
2 the sales tax.
3

- 4 B. Notwithstanding subsection A., the department may, at its discretion for the sole
5 purpose of enforcing this chapter, share any and all sales and use tax returns,
6 registration information or other data gathered under this chapter with other
7 federal, state and municipal tax collection agencies and other government
8 agencies only as necessary to enforce this chapter, collect tax monies, or perform
9 an audit.
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11 **12.50.130 Security for fiduciary performance.**
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- 13 A. *Guarantee required.* To ensure a seller subject to this chapter performs its
14 fiduciary responsibility to timely collect, account for, safeguard, report and remit
15 taxes levied by this chapter, under section 12.50.070F. or for other good cause
16 shown, the department may require a seller to provide a guarantee by one or more
17 of the methods specified in this section. The amount of the guarantee shall be in
18 an amount the chief fiscal officer determines to be three percent (3%) of the
19 estimated average annual sales revenues for the applicant, or \$5,000.00,
20 whichever is greater. In the event the municipality exercises a claim against the
21 guarantee, the seller shall provide an additional guarantee, in an amount equal to
22 the amount of the paid claim, no later than thirty (30) days after the date such
23 claim is paid or its certificate of registration shall be automatically revoked.
24

- 25 B. *Methods.* The applicant seller shall include one or more of the following methods
26 to guarantee performance of its fiduciary responsibilities at the time of application
27 for a certificate of registration:
28

- 29 1. *Surety bond.* The seller may elect to grant a surety bond, in an amount
30 defined in subsection A. of this section, from a company authorized to do
31 such business in the state. The bond shall be in a form acceptable to the
32 municipal attorney. The bond shall be payable to the municipality and
33 shall be conditioned upon payment in full of the tax, including penalties
34 and interest due and to become due and owing to the municipality by said
35 seller during the effective period of the bond under the provisions of this
36 chapter. The surety may terminate this bond, except as to any liability
37 already incurred or accrued, and may do so upon giving the seller and the
38 department written notice to that effect. The surety shall provide written
39 notice to the chief fiscal officer not less than thirty (30) days before the
40 expiration, non-renewal, lapse, termination, or other similar event
41 affecting such surety bond. Thirty (30) days after receipt by the chief
42 fiscal officer of such notice or upon a later date specified in the notice, or
43 upon the filing and acceptance of a new bond, the existing bond shall
44 terminate and be of no further force and effect, except as to any liabilities
45 or indebtedness incurred or accrued thereunder as of the date of
46 termination.
47

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- 1 2. *Deposit in escrow.* The applicant seller may elect to deposit a cash sum, in
2 an amount defined in subsection A. of this section, either with the
3 municipality or in escrow with a responsible financial institution
4 authorized to do such business in the state. In the case of an escrow
5 account, the seller shall file with the municipality an escrow agreement
6 which shall include the following terms:
7
8 a. Funds of the escrow account shall be held in trust until released by
9 the municipality and may not be used or pledged by the seller as
10 security in any matter during that period other than payment of the
11 tax, penalties, and interest due and to become due and owing to the
12 municipality under this chapter.
13
14 b. In the case of a failure on the part of a seller subject to this section
15 to remit taxes due under this chapter by the required due date, the
16 institution shall immediately make all funds in such account
17 available to the municipality for use in satisfying those taxes due,
18 along with any related penalties and interest as provided for in this
19 chapter.
20
21 3. *Letter of credit.* The applicant seller may elect to produce, from a bank or
22 other responsible financial institution authorized to do such business in the
23 state, a letter of credit in a form acceptable to the department. Such letter
24 shall be filed with the department and shall certify the following:
25
26 a. The financial institution irrevocably guarantees funds in an amount
27 defined in subsection A. of this section.
28
29 b. In the case of failure on the part of the seller to remit taxes due
30 under this chapter by the required due date, the financial institution
31 shall pay to the municipality immediately and without further
32 action such funds as are necessary to satisfy those taxes due, along
33 with any related penalties and interest as provided for in this
34 chapter, up to the limit of credit stated in the letter.
35
36 4. Other forms of guarantee acceptable to the chief fiscal officer.
37
38 C. When a seller subject to this section files a tax return and remits the full amount
39 of taxes due under this chapter, by the due date prescribed by this chapter, for tax
40 return periods equivalent to two (2) consecutive calendar years, the seller may
41 submit a written request to the department for a waiver of the requirement to post
42 a guarantee. Except as listed below, the department shall approve the request in
43 writing, stating the date the requirement for a guarantee shall expire and any funds
44 held by the municipality in satisfaction of the guarantee requirement returned.
45
46 1. The department shall not approve the request and the requirement for a
47 guarantee shall not expire when the department has reasonable cause to
48 believe the applicant seller is a related party or related entity to another

1 person or seller, still owing delinquent sales tax revenues for which the
2 applicant is applying for a certificate of registration for purposes of
3 avoiding payment of delinquencies, penalties or interest under this
4 chapter.
5

6 D. The agreement or contract, and other evidence of a guarantee under this section, is
7 subject to inspection by the department. The department may require production
8 of the agreement or contract providing the guarantee for inspection prior to
9 issuing a certificate of registration.
10

11 E. Security for fiduciary performance under this section may be waived for an
12 applicant seller with less than \$25,000 in annual revenues on average for the past
13 three (3) consecutive years.
14

15 **12.50.140 Certificates of exemption.**
16

17 A. The department shall provide a certificate of exemption to eligible persons upon
18 successful application by such persons. The municipality shall charge a fee for
19 the application or issuance of the certificate of exemption, in a reasonable amount
20 determined by the Chief Fiscal Officer.
21

22 1. A person regularly purchasing goods in a sale exempt from the tax under
23 section 12.50.040 may use a certificate of exemption when those goods
24 are purchased from a seller. The purchaser shall use the certificate only
25 when purchasing goods in exempt transactions. Use of the certificate by
26 any person or entity other than the purchaser to whom the certificate is
27 issued, or for sales not exempt under section 12.50.040, is prohibited.
28

29 2. Application for a certificate of exemption shall be made to the department
30 on a form provided by the department containing, in addition to such
31 information as the department may require, the following:
32

33 a. The name, address and phone number of purchaser, including, but
34 not limited to, its corporate or other ownership structure and its
35 federal tax status;
36

37 b. A description of the general character of the goods to be purchased
38 in the regular course of business, for which the goods purchased
39 using the exemption certificate are obtained; and
40

41 c. The signature or electronic signature of an authorized
42 representative of the purchaser.
43

44 **12.50.150 Prohibited acts.**
45

46 A. In addition to other acts and omissions prohibited by this chapter:
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1. A person shall not fail or refuse to pay the tax imposed by this chapter when it is due and payable to a seller authorized to collect the tax.
2. A person may not advertise, hold out, or state to the public or to any purchaser or person directly or indirectly the sales and use tax or any part of it is assumed or absorbed by the seller, or the tax is not be added to the sales price, or the tax is to be refunded, except as provided in this chapter.
3. A seller shall not absorb, fail to add, or refund the sales or use tax or any part of it, unless the tax is refunded with a full or partial return or exchange of the purchased goods under the seller's usual return or exchange policy.
4. A seller shall not fail to state the amount of the tax separately from the sales price to the purchaser.
 - a. This subsection shall not apply to sales from coin-operated, currency-operated, or credit-card operated machines, sales from street vending carts and other sales where it is not feasible to require calculation of the sales tax at the time of sale under the circumstances as determined by the chief fiscal officer by regulation.
5. No person may engage in business selling goods in the municipality without first obtaining a certificate of registration under this chapter.
6. No person, whether or not a seller covered by a certificate of registration, shall deny the chief fiscal officer, or his agent(s), subsequent to identification during business hours or at a reasonable time, access to records of sales transactions and other accounting records for purposes of inspection under this chapter.
7. No person shall charge or collect in excess of the proper amount of tax due under this chapter. Money collected as sales tax in excess of the actual sales tax owed becomes a liability of the seller under section 12.50.050.
8. No person shall misuse an exemption certificate. For purposes of this subparagraph, *misuse* shall mean:
 - a. For a purpose other than an allowed exempt purpose under this chapter; or
 - b. Copying or distribution of the exemption certificate to any person(s) or entity(s) other than the person or business to whom it is issued, whether or not a person uses or attempts to use such duplicated certificates in a sales transaction.

12.50.160 **Penalties.**

1
2 A. The penalties provided for in this subsection shall be in addition to all other
3 penalties and interest provided for under this chapter, notwithstanding language to
4 the contrary.

5
6 1. A seller who fails to file a complete tax return, in accordance with
7 section 12.50.100, within thirty (30) calendar days following its due date
8 shall automatically incur a civil penalty for each incomplete tax return, or
9 tax return not filed, equal to five percent (5%) of the taxes due to the
10 municipality with that tax return as determined by the department. Such
11 penalty shall be automatically increased by an additional five percent (5%)
12 of the taxes due for each calendar month the return is delinquent, up to a
13 maximum of twenty-five percent (25%) of the taxes owed. Interest shall
14 accrue daily on the delinquent taxes at the rate of twelve percent (12%)
15 per annum, or the maximum interest rate allowed by law, whichever is
16 greater.

17
18 2. A seller who fails to collect the tax levied by this chapter shall incur a civil
19 penalty equal to twice the amount of the tax which should have been
20 collected.

21
22 B. Except for subsection A., unless a different penalty is provided in this chapter,
23 any person who violates any provision of this chapter shall be liable for a civil
24 penalty not to exceed \$1,000 for each separate violation. Where the same
25 violation occurs multiple times, each occurrence shall constitute a separate
26 violation. Violations of other requirements listed below subject the violator to a
27 civil penalty not to exceed the specified amount:

28
29 1. Failure to notify department of expired certificate of registration
30 (section 12.05.040E.2.): \$500.00.

31
32 2. Engaging in the business of retail sales without a certificate of registration:
33 \$1,000.00.

34
35 C. The department may revoke, suspend, or cancel a certificate of registration issued
36 under this chapter for any violation of this chapter.

37
38 D. The department may seek an abatement order or injunctive relief to address
39 violations of this chapter.

40
41 **12.50.170 Collection of taxes.**

42
43 Taxes, interest, penalties, and administration costs due under this chapter and unpaid may
44 be collected by referral to a collection agency, commencing a civil action for the
45 collection of a debt, by executing a claim against security provided under section
46 12.50.100, by foreclosure of the tax lien in accordance with AS 09.45.170 through
47 09.45.220, by any method permitted by law, or any combination of the above.
48

12.50.180 **Tax lien.**

- 1
2
3 A. The taxes and the penalties provided for herein shall constitute a lien in favor of
4 the municipality upon all property of the person owing the tax. This lien arises
5 upon delinquency and continues until the liability is satisfied or the lien is
6 foreclosed. When recorded, the lien shall have priority established by
7 AS 29.45.650(e).
8
9 B. The department shall record a notice of lien when the taxes are delinquent for
10 more than thirty (30) days. The department shall serve notice of the lien to all
11 liable persons by certified mail or process server.

12.50.190 **Remedies of person aggrieved.**

- 12
13
14
15 A. Any person aggrieved by any action or determination of the department under this
16 chapter may apply to the department and request a hearing before the chief fiscal
17 officer on the department's action or determination within thirty (30) days from
18 the date the department mails notice of its action or determination.
19
20 1. An application for a hearing shall notify the department of the specific
21 action or determination contested and the amount of tax, interest, cost or
22 penalty contested, and the reason for such contest.
23
24 2. The uncontested portion of any tax due under this chapter shall be paid
25 when due regardless of any application for a hearing. Payment of the total
26 amount due may be made at any time before the hearing. If the
27 department has reasonable cause to believe collection of the total amount
28 due might be jeopardized by delay, immediate payment of the total
29 amount may be demanded and the department may pursue any collection
30 remedies provided by law. Payment in full does not affect a person's right
31 to a hearing.
32
33 B. Upon timely application for a hearing under this section, the chief fiscal officer,
34 or an administrative hearing officer if designated by the chief fiscal officer, shall
35 hold a hearing and render a decision or determination in accordance with chapter
36 3.60 to determine whether a correction or reversal of the department's action or
37 determination is warranted.
38
39 1. If a person requesting a hearing fails to appear at the hearing, the hearing
40 officer shall issue a decision without taking evidence from that person,
41 unless the person shows reasonable cause for failure to appear within
42 seven (7) days after the date scheduled for the hearing.
43
44 2. If the chief fiscal officer designates the administrative hearing officer to
45 conduct the hearing, the administrative hearing officer shall hold the
46 hearing and prepare recommended findings and conclusions. These
47 findings and conclusions shall be forwarded to the chief fiscal officer for
48 adoption, rejection, or modification and issuance of a final order or

1 decision by the chief fiscal officer.
2

3 C. Within thirty (30) days after receipt of a written final decision by the chief fiscal
4 officer, a person aggrieved by the decision as a matter of right may file an
5 administrative appeal of the decision with the Superior Court of the Third Judicial
6 District, State of Alaska.
7

8 1. The person aggrieved shall be given access to the department's file in the
9 matter for preparation of such appeal.
10

11 2. Taxes, costs, penalties, and interest declared to be due in the decision of
12 the chief fiscal officer shall be paid within thirty (30) days after the date of
13 the decision or a supersedeas bond guaranteeing payment shall be filed
14 with the court in accordance with Alaska Court Rules. Amounts paid shall
15 be held in trust by the municipality pending resolution of the appeal.
16

17 D. If the Superior Court determines the department's action or determination or the
18 chief fiscal officer's decision was incorrect, the court may determine the proper
19 action, determination or decision. If the person aggrieved is entitled to recover all
20 or part, of any tax due or paid, the court shall order the repayment and the
21 department shall pay such amount within fourteen (14) days and attach a certified
22 copy of the judgment to the payment.
23

24 **12.50.200 Tax cap limitation.**
25

26 The sales tax levied on the retail sale of goods pursuant to this chapter shall be subject to
27 the tax increase limit of Charter section 14.03 (Tax Cap). Except for the cost of
28 collection which shall be applied in accordance with Charter sections 14.03 (b) (2) & (3),
29 the sales tax shall be included immediately in the base amount referred to in section
30 14.03(c) in order for the tax collected to be in substitution of other taxes.
31

32 **12.50.210 Implementation and regulations.**
33

34 The chief fiscal officer shall implement and administer this chapter, may make
35 administrative decisions with regard to its implementation, and may adopt such
36 regulations as may be required to implement this chapter, in accordance with the
37 procedures of chapter 3.40.
38

39 **12.50.220 Amendments.**
40

41 Any amendment to this chapter to increase the amount of the tax or to apply the receipts
42 from the tax to any other purpose besides property tax relief shall require the approval of
43 sixty percent (60%) of the voters.
44

45 **12.50.230 Expiration and Re-authorization.**
46

47 This chapter shall expire on June 30, 200____ unless it is re-approved by sixty percent
48 (60%) of the voters at the regular election held on April _____, 200_____.

1
2 **Section 2.** A ballot proposition containing substantially the following language, together
3 with the full text of Section 1 available for review at every voting precinct, shall be submitted to
4 the qualified voters of the Municipality of Anchorage at its next regular election on April 4,
5 2006:
6

7 **Proposition**

8 **SALES & USE TAX ON TANGIBLE GOODS SUBJECT TO CERTAIN**
9 **EXEMPTIONS AND A \$500 \$200 CAP, A PROVISION FOR PARTIAL**
10 **COST REIMBURSEMENT TO SELLERS COLLECTING THE TAX, AND**
11 **A SUNSET PROVISION, WITH ONE HUNDRED PERCENT (100%) OF**
12 **THE TAX RECEIPTS AFTER COSTS OF COLLECTION, APPLIED**
13 **EQUALLY THROUGHOUT THE MUNICIPALITY TO FUND**
14 **ESSENTIAL SERVICES IN SUBSTITUTION OF PROPERTY TAXES.**
15

16 Shall Assembly Ordinance 2006-34 as amended enacting a three percent (3%)
17 sales and use tax on the retail sale or use of tangible goods within the
18 Municipality of Anchorage, the receipts of which shall reduce property taxes and
19 which provides for certain specified exemptions, with a cap of \$500 \$200 in tax
20 on individual items, with a partial reimbursement provision for sellers collecting
21 the tax, and with a sunset clause, all as provided in the Ordinance, be ratified?
22

23 This sales and use tax is subject to (under) the tax increase limitation of the
24 Anchorage Municipal Charter section 14.03 (Tax Cap). Except for the cost of
25 collection and pursuant to Charter sections 14.03 (b) (2) & (3), the tax shall not
26 raise additional revenue beyond that allowed by the Tax Cap.
27

28 Imposition of this tax by this ordinance shall reduce property taxes throughout the
29 Municipality of Anchorage on an equal basis by application of One Hundred
30 Percent (100%) of the receipts from the sales and use tax, after costs of collection,
31 being applied to reduce property taxes.
32

33 **Section 3.** A ballot proposition containing substantially the following language, together
34 with the full text of Section 1 available for review at every voting precinct, shall be submitted to
35 the qualified voters of the Municipality of Anchorage at its regular election on April _____,
36 200__:
37

38
39 **Proposition**

40 **RE-APPROVAL OF THE EXISTING SALES AND USE TAX ON**
41 **TANGIBLE GOODS SUBJECT TO CERTAIN EXEMPTIONS AND A**
42 **\$500 \$200 CAP, WITH PARTIAL REIMBURSEMENT OF COSTS TO**
43 **SELLERS COLLECTING THE TAX AND WITH TAX RECEIPTS**
44 **APPLIED ONE HUNDRED PERCENT (100%) OF TAX RECEIPTS,**
45 **AFTER COSTS OF COLLECTION, APPLIED EQUALLY**
46 **THROUGHOUT THE MUNICIPALITY TO FUND ESSENTIAL**
47 **SERVICES IN SUBSTITUTION OF PROPERTY TAXES.**
48

Tax on Sale and Use of Goods

1 Shall Assembly Ordinance 2005-34 as amended, enacting a three percent (3%)
2 sales and use tax on the retail sale or use of tangible goods within the
3 Municipality of Anchorage, the receipts of which reduced property taxes and
4 which provides for certain specified exemptions, with a cap of \$500 \$200 in tax
5 on individual items and with partial reimbursement to sellers collecting the tax for
6 their costs, all as provided in the Ordinance, be re-approved?
7

8 The sales and use tax shall continue to be subject to (under) the tax increase
9 limitation of the Anchorage Municipal Charter section 14.03 (Tax Cap). The tax
10 shall not raise additional revenue beyond that allowed by the Tax Cap.
11

12 The sales and use tax shall continue to be applied exclusively to the reduction of
13 property taxes throughout the Municipality of Anchorage on an equal basis.
14

15 **Section 4.** Section 1 of this ordinance shall become effective on January 1, 2007, if and only
16 if, the proposition contained in Section 2 of this ordinance is approved by sixty percent (60%) of
17 the qualified voters of the Municipality voting on the proposition at the regular Municipal
18 election April 4, 2006.
19

20 **Section 5.** Section 1 of this ordinance shall expire on June 30, 200___, unless and only
21 unless, the proposition contained in Section 3 of the ordinance is approved by sixty percent
22 (60%) of the qualified voters of the Municipality voting on the proposition at the regular
23 Municipal election April _____, 200___.
24

25 PASSED AND APPROVED by the Anchorage Assembly this 14th day of February,
26 2006.
27

28 Anna J. Fairclough
29 Chair of the Assembly
30

31 ATTEST:
32

33 Bala S. [Signature]
34 Municipal Clerk
35