AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 12 TO
ENACT A SALES AND USE TAX ON THE SALE OF GOODS WITHIN THE
MUNICIPALITY FOR THE PURPOSE OF REDUCING PROPERTY TAXES
PROPORTIONATELY THROUGHOUT THE MUNICIPALITY, WITH CERTAIN
EXEMPTIONS, WITH A CAP AND WITH REIMBURSEMENT FOR COLLECTION,
ALL WITHIN THE TAX CAP, EXCEPT OF COSTS OF COLLECTION AS
PERMITTED BY CHARTER SECTION 14.03 (b) (2) & (3) SUBJECT TO A SUNSET
PROVISION, AND SUBMITTING THE QUESTION OF WHETHER OR NOT TO
APPROVE A SALES TAX TO THE QUALIFIED VOTERS OF THE MUNICIPALITY
AT ITS NEXT REGULAR ELECTION ON APRIL 4, 2006 WITH RE-APPROVAL
REQUIRED AT A SUBSEQUENT REGULAR ELECTION AS ESTABLISHED BY
ORDINANCE.

Section 1. Anchorage Municipal Code title 12 is amended by enacting a new chapter 12.50
to read as follows:

Chapter 12.50
Tax on the Sale and Use of Goods

12.50.010 Sales and use tax.
12.50.020 Purpose.
12.50.030 Definitions.
12.50.040 Non-taxable sales and exemptions.
12.50.050 Obligation for payment of tax; disposition of excess collections; liability
for uncollected taxes.
12.50.060 Presumption of taxability; sales price and value.
12.50.070 Certificate of registration.
12.50.080 Maintenance of records required.
12.50.090 Tax receipts segregated and held in trust.
12.50.100 Tax returns: remitting and reporting requirements.
12.50.110 Timely filing allowance.
12.50.120 Confidentiality of information.
12.50.130 Security for fiduciary performance.
12.50.140 Certificates of exemption.
12.50.150 Prohibited acts.
12.50.160 Penalties.
12.50.170 Collection of taxes.
12.50.180 Tax lien.
12.50.190 Remedies of person aggrieved.
12.50.200 Tax cap limitation.
12.50.210 Implementation and regulations.
12.50.220 Amendments.
12.50.230 Expiration and re-authorization.
12.50.010 Sales and use tax.

A. Sales Tax Imposed. A sales tax of three percent (3%) is hereby levied on the sales of all goods sold within the municipality, except as provided in this chapter.

B. Use Tax Imposed. A use tax at the same rate as the sales tax in subsection A., for the privilege of use within the municipality, is hereby levied on the person using the following goods acquired on or after January 1, 2007:

1. Goods manufactured in the municipality, only if the person manufacturing the good is not engaged in the business of manufacturing for resale to an end user; or

2. Goods acquired outside of the municipality and primarily used within the municipality, if the acquisition is the result of a transaction subject to the sales tax if it had occurred in the municipality.

C. Credit for taxes previously paid. The use tax levied under this section shall be adjusted in accordance with AS 29.45.650(c) if the person subject to the use tax provides proof, in the form required by the department, the person previously paid a sales tax on the goods.

D. To the fullest extent permitted under the law and constitutions of the United States and the State of Alaska, and under the Charter, a person who has nexus within the municipality and whose sales are not subject to the sales taxes shall collect the use tax from the purchaser and pay the tax collected to the municipality.

12.50.020 Purpose.

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

12.50.030 Definitions.

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

1. Certificate of Exemption shall mean a certificate issued by the municipality to a consumer qualifying as an “Exempt Consumer” of goods upon application by the consumer demonstrating its entitlement to such exemption. The consumer shall provide the certificate to a seller of goods at the time of purchase in order to obtain the permitted exemption.
2. **Charitable Non-profit Organization** shall mean an organization recognized by the Internal Revenue Service as organized for charitable purposes.

3. **Chief Fiscal Officer** shall mean the chief fiscal officer of the municipality or his designee.

4. **Church** shall mean a religious organization which has obtained a Certificate of Exemption from the municipality.

5. **Consumer** shall mean a person who purchases and takes title to goods in a transaction involving the payment of consideration by the consumer to the seller.

6. **Department** shall mean the finance department of the municipality.

7. **Exemption** shall mean a buyer is exempt under a provision of this chapter, or the sale itself is exempt under a provision of this chapter.

8. **Goods** shall mean all tangible personal property sold to a consumer either for cash or on credit or in an exchange of property or other consideration.

9. **Food** shall mean goods that may be lawfully purchased with food stamp program benefits issued under 7 U.S.C. 2011 – 2025 (Food Stamp Act) or purchased with food instruments, food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Nutrition Program for Women, Infants and Children).

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

11. **Prescription medicine** shall mean all medicine and any medical goods prescribed by a physician licensed to practice medicine in the State of Alaska.

12. **Retail sale** shall mean the sale of goods by a person with a business license issued by the State of Alaska or by a person with the required nexus to the municipality in the ordinary course of business within the municipality, to a consumer not exempt under the provisions of this chapter.

13. **Resale** shall mean the sale of goods by a seller of raw materials either
consumed in the manufacturing process or which become a component part of a product manufactured for sale, or a sale of goods sold to a licensed general or specialty building contractor when the goods sold becomes a component part of the residence or commercial structure being constructed by the licensed contractor.

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

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

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

### 12.50.040 Non-taxable sales and exemptions.

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

1. Purchases of food with a food stamp, coupon, or other type of certificate under 7 U.S.C. 2011 – 2025 (Food Stamp Act), or 42 U.S.C. 1786 (special supplemental nutrition program for women, infants, and children).

2. Sales to or uses by an agency of the United States government, an instrumentality of the State of Alaska as that term is defined in AS 39.52.960, a municipality or school district, including the Anchorage School District, or a Native entity or tribe included on the federal list published under 25 U.S.C. 479a-1.


5. Sales or use of goods related to an orbital space facility, pursuant to AS 29.45.650(h).

6. Other sales or uses the municipality is prohibited from taxing under the federal or state Constitutions or laws of the United States or the State of Alaska.
B. The municipality hereby declares the following exemptions from the tax imposed by this chapter:

1. Purchases of food.

2. Purchase of prescription medicine and/or medical goods prescribed by a physician licensed in the United States.

3. The tax on the sale or use of any one good shall not exceed $500 $200.00.

4. Sales by a church, a charitable non-profit organization, or a private or parochial school, provided the sale of goods is incidental and is not part of a business conducted for profit.

5. Isolated sales of goods by one individual to another when the seller is not engaged in the business of selling the goods.

6. Rental of personal property, unless the rental transaction for personal property provides a right of purchase at the end of the rental contract.

7. The sale or rental of real property.

8. The resale of goods not sold to the end user of the goods.

9. The sale of general circulation newspapers.

10. The sale of contracts of insurance.

11. The sale of internet, telephone or television services.

12. The sale of goods or services already subject to excise taxes imposed by the municipality, including but not limited to bed taxes, tobacco taxes and motor vehicles rental taxes.

13. **Sales from vending machines.**

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

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

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

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

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

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

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

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

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

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

G. The department may refuse to issue a certificate of registration if there is reasonable cause to believe the applicant:
1. Structured its business or sales transactions to avoid payment of delinquent taxes, penalties, interest, or costs due under this chapter;

2. Willfully withheld information requested to determine the applicant's eligibility to receive a certificate; or

3. There is reasonable cause to believe information submitted in the application is false or misleading.

**12.50.080** **Maintenance of records required.**

A. The collecting seller shall keep and preserve in the municipality for a period of three (3) calendar years after the year created, such records as are necessary and appropriate to permit the municipality to perform a meaningful audit of the seller’s collection and remittance of the sales tax. Such records shall contain at least the following:

1. All sales receipts specifying what goods were sold in the transaction, the sale price for each item, total sum for the transaction, and total tax for the transaction; and

2. Other records the Chief Fiscal Officer may require by regulation.

B. It shall be the responsibility of the seller to obtain and preserve evidence sufficient to support all claimed exemptions from payment, collection, or remittance of the tax for transactions subject to this chapter. Specification in this chapter of the records to be kept by a seller shall not relieve the seller of its responsibility to keep sufficient records.

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

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

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

A. A sales and use tax return is not complete unless it contains the information required by this section and is accompanied by the tax funds required. The sales and use tax return and tax monies shall be remitted by the collecting seller to the municipality quarterly, unless the seller qualifies or is required to remit and report as follows:

1. Sellers with less than $100 in annual tax collections may file a tax return and remit taxes on an annual basis.
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
stated on the involuntary tax return, in addition to penalties and interest provided for in this chapter.

1. The department shall notify the seller of determinations made under this subsection and include in such notice the basis of the department's calculations determining the seller's liability together with a notice of the seller's rights under section 12.50.190, that payment is due immediately and that taxes, interest, penalties and costs continue to accrue from the date taxes were due under this chapter for the period(s) covered by the determination.

2. Unless otherwise determined by the department, taxes due under this section shall be payable immediately.

3. Taxes determined under this section shall be due on the same date as if a tax return had been filed by the seller in accordance with this chapter and interest, penalties and administration costs thereon shall accrue from such due date.

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

12.50.110 Timely filing allowance.

A. A seller authorized to collect the sales and use tax under this chapter may retain four percent (4%) of the tax collected, up to a maximum of $5,000.00 in a calendar year, for purposes of offsetting a portion of the costs incurred by the seller in collecting the tax for the municipality, provided the seller's tax return and remittance is received by the department on or before the due date.

B. The seller shall report on each tax return the dollar amount retained under this section for that reporting period, and the total amount retained in the calendar year up to the last day of the reporting period.

12.50.120 Confidentiality of information.

A. The records of the seller or taxpayer retained pursuant to this chapter shall be considered proprietary and confidential, and shall not be disclosed to any person except employees and agents of the municipality acting in their official capacity.
and then only for purposes reasonably related to the collection and remittance of the sales tax.

B. Notwithstanding subsection A., the department may, at its discretion for the sole purpose of enforcing this chapter, share any and all sales and use tax returns, registration information or other data gathered under this chapter with other federal, state and municipal tax collection agencies and other government agencies only as necessary to enforce this chapter, collect tax monies, or perform an audit.

12.50.130 Security for fiduciary performance.

A. Guarantee required. To ensure a seller subject to this chapter performs its fiduciary responsibility to timely collect, account for, safeguard, report and remit taxes levied by this chapter, under section 12.50.070F. or for other good cause shown, the department may require a seller to provide a guarantee by one or more of the methods specified in this section. The amount of the guarantee shall be in an amount the chief fiscal officer determines to be three percent (3%) of the estimated average annual sales revenues for the applicant, or $5,000.00, whichever is greater. In the event the municipality exercises a claim against the guarantee, the seller shall provide an additional guarantee, in an amount equal to the amount of the paid claim, no later than thirty (30) days after the date such claim is paid or its certificate of registration shall be automatically revoked.

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

1. Surety bond. The seller may elect to grant a surety bond, in an amount defined in subsection A. of this section, from a company authorized to do such business in the state. The bond shall be in a form acceptable to the municipal attorney. The bond shall be payable to the municipality and shall be conditioned upon payment in full of the tax, including penalties and interest due and to become due and owing to the municipality by said seller during the effective period of the bond under the provisions of this chapter. The surety may terminate this bond, except as to any liability already incurred or accrued, and may do so upon giving the seller and the department written notice to that effect. The surety shall provide written notice to the chief fiscal officer not less than thirty (30) days before the expiration, non-renewal, lapse, termination, or other similar event affecting such surety bond. Thirty (30) days after receipt by the chief fiscal officer of such notice or upon a later date specified in the notice, or upon the filing and acceptance of a new bond, the existing bond shall terminate and be of no further force and effect, except as to any liabilities or indebtedness incurred or accrued thereunder as of the date of termination.
2. **Deposit in escrow.** The applicant seller may elect to deposit a cash sum, in an amount defined in subsection A. of this section, either with the municipality or in escrow with a responsible financial institution authorized to do such business in the state. In the case of an escrow account, the seller shall file with the municipality an escrow agreement which shall include the following terms:

a. Funds of the escrow account shall be held in trust until released by the municipality and may not be used or pledged by the seller as security in any matter during that period other than payment of the tax, penalties, and interest due and to become due and owing to the municipality under this chapter.

b. In the case of a failure on the part of a seller subject to this section to remit taxes due under this chapter by the required due date, the institution shall immediately make all funds in such account available to the municipality for use in satisfying those taxes due, along with any related penalties and interest as provided for in this chapter.

3. **Letter of credit.** The applicant seller may elect to produce, from a bank or other responsible financial institution authorized to do such business in the state, a letter of credit in a form acceptable to the department. Such letter shall be filed with the department and shall certify the following:

a. The financial institution irrevocably guarantees funds in an amount defined in subsection A. of this section.

b. In the case of failure on the part of the seller to remit taxes due under this chapter by the required due date, the financial institution shall pay to the municipality immediately and without further action such funds as are necessary to satisfy those taxes due, along with any related penalties and interest as provided for in this chapter, up to the limit of credit stated in the letter.

4. **Other forms of guarantee acceptable to the chief fiscal officer.**

C. When a seller subject to this section files a tax return and remits the full amount of taxes due under this chapter, by the due date prescribed by this chapter, for tax return periods equivalent to two (2) consecutive calendar years, the seller may submit a written request to the department for a waiver of the requirement to post a guarantee. Except as listed below, the department shall approve the request in writing, stating the date the requirement for a guarantee shall expire and any funds held by the municipality in satisfaction of the guarantee requirement returned.

1. The department shall not approve the request and the requirement for a guarantee shall not expire when the department has reasonable cause to believe the applicant seller is a related party or related entity to another
person or seller, still owing delinquent sales tax revenues for which the applicant is applying for a certificate of registration for purposes of avoiding payment of delinquencies, penalties or interest under this chapter.

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

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

12.50.140 Certificates of exemption.

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

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

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

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

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

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

12.50.150 Prohibited acts.

A. In addition to other acts and omissions prohibited by this chapter:
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.
A. The penalties provided for in this subsection shall be in addition to all other penalties and interest provided for under this chapter, notwithstanding language to the contrary.

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

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

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

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

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

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

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

12.50.170 Collection of taxes.

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

A. The taxes and the penalties provided for herein shall constitute a lien in favor of the municipality upon all property of the person owing the tax. This lien arises upon delinquency and continues until the liability is satisfied or the lien is foreclosed. When recorded, the lien shall have priority established by AS 29.45.650(e).

B. The department shall record a notice of lien when the taxes are delinquent for more than thirty (30) days. The department shall serve notice of the lien to all liable persons by certified mail or process server.

12.50.190 Remedies of person aggrieved.

A. Any person aggrieved by any action or determination of the department under this chapter may apply to the department and request a hearing before the chief fiscal officer on the department’s action or determination within thirty (30) days from the date the department mails notice of its action or determination.

1. An application for a hearing shall notify the department of the specific action or determination contested and the amount of tax, interest, cost or penalty contested, and the reason for such contest.

2. The uncontested portion of any tax due under this chapter shall be paid when due regardless of any application for a hearing. Payment of the total amount due may be made at any time before the hearing. If the department has reasonable cause to believe collection of the total amount due might be jeopardized by delay, immediate payment of the total amount may be demanded and the department may pursue any collection remedies provided by law. Payment in full does not affect a person’s right to a hearing.

B. Upon timely application for a hearing under this section, the chief fiscal officer, or an administrative hearing officer if designated by the chief fiscal officer, shall hold a hearing and render a decision or determination in accordance with chapter 3.60 to determine whether a correction or reversal of the department's action or determination is warranted.

1. If a person requesting a hearing fails to appear at the hearing, the hearing officer shall issue a decision without taking evidence from that person, unless the person shows reasonable cause for failure to appear within seven (7) days after the date scheduled for the hearing.

2. If the chief fiscal officer designates the administrative hearing officer to conduct the hearing, the administrative hearing officer shall hold the hearing and prepare recommended findings and conclusions. These findings and conclusions shall be forwarded to the chief fiscal officer for adoption, rejection, or modification and issuance of a final order or
decision by the chief fiscal officer.

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

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

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

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

12.50.200 Tax cap limitation.

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

12.50.210 Implementation and regulations.

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

12.50.220 Amendments.

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

12.50.230 Expiration and Re-authorization.

This chapter shall expire on June 30, 200___ unless it is re-approved by sixty percent (60%) of the voters at the regular election held on April _____, 200__.
Section 2. A ballot proposition containing substantially the following language, together with the full text of Section 1 available for review at every voting precinct, shall be submitted to the qualified voters of the Municipality of Anchorage at its next regular election on April 4, 2006:

**Proposition**

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

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

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

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

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

**Proposition**

RE-APPROVAL OF THE EXISTING SALES AND USE TAX ON TANGIBLE GOODS SUBJECT TO CERTAIN EXEMPTIONS AND A $500 $200 CAP, WITH PARTIAL REIMBURSEMENT OF COSTS TO SELLERS COLLECTING THE TAX AND WITH TAX RECEIPTS APPLIED ONE HUNDRED PERCENT (100%) OF TAX RECEIPTS, AFTER COSTS OF COLLECTION, APPLIED EQUALLY THROUGHOUT THE MUNICIPALITY TO FUND ESSENTIAL SERVICES IN SUBSTITUTION OF PROPERTY TAXES.
Shall Assembly Ordinance 2005-34 as amended, enacting a three percent (3%) sales and use tax on the retail sale or use of tangible goods within the Municipality of Anchorage, the receipts of which reduced property taxes and which provides for certain specified exemptions, with a cap of $500 $200 in tax on individual items and with partial reimbursement to sellers collecting the tax for their costs, all as provided in the Ordinance, be re-approved?

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

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

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

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

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

Anna J. Fai recoil A
Chair of the Assembly

ATTEST:

Municipal Clerk