

Municipal Clerks' Office
Amended and Approved
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Submitted by: Assembly Chair Traini and
Mayor Berkowitz
Prepared by: Finance and Law Departments,
and Assembly Counsel
For reading: October 24, 2017

ANCHORAGE, ALASKA
AO No. 2017-141, As Amended

1
2 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**
3 **TITLE 12 OF THE ANCHORAGE MUNICIPAL CODE BY ADDING CHAPTER**
4 **12.55 TO ADOPT AND LEVY AN EXCISE TAX ON MOTOR FUEL, ESTABLISH**
5 **THE REQUIREMENTS AND PROCEDURES FOR ITS ADMINISTRATION,**
6 **COLLECTION AND ENFORCEMENT INCLUDING, BUT NOT LIMITED TO:**
7 **DEFINITIONS; TAX RATE; DEALER REGISTRATION; TAX CREDITS; TAX**
8 **RETURNS; PROHIBITED ACTS; PENALTIES AND INTEREST; APPLICATION**
9 **OF PAYMENTS; RECORDS RETENTION, INSPECTION AND**
10 **CONFIDENTIALITY; TAX REFUNDS; AND TAXPAYER REMEDIES; AND**
11 **RELATED MATTERS.**
12

13
14 **WHEREAS**, the State of Alaska currently levies an \$0.08 per gallon excise tax on
15 motor fuel, which excludes aviation gasoline, jet fuel and marine motor fuel, and is
16 sometimes referred to as the “highway tax,” in Title 43, Chapter 40 of the Alaska
17 Statutes; and
18

19 **WHEREAS**, the Municipality of Anchorage, as a home rule municipality with all
20 legislative powers not prohibited by law or charter, including the power to tax, may
21 by ordinance legally enact an excise tax on motor fuel, similar to the State’s, that is
22 fully below the tax increase limitation established by Section 14.03(a) of the
23 Anchorage Municipal Charter, without voter approval; and
24

25 **WHEREAS**, the Municipality’s tax revenue base is primarily from real and personal
26 property taxes; and
27

28 **WHEREAS**, the diversification of the tax base has historically been an important
29 objective for the long-term financial stability of the Municipality, and it serves to
30 spread the burden of funding public services more equitably among citizens and
31 visitors; and
32

33 **WHEREAS**, the Municipal Budget Advisory Commission passed a resolution on
34 August 3, 2017, recommending the Assembly establish, as part of the 2018 budget
35 development process, an excise motor fuel tax of \$0.10 per gallon on gasoline and
36 diesel fuel, estimated to raise \$14 million in revenue, to be used 100% for property
37 tax relief to stay inside the tax increase limitation (“Tax Cap”); now, therefore,
38

39 **THE ANCHORAGE ASSEMBLY ORDAINS:**

Section 1. Anchorage Municipal Code Title 12 is hereby amended by adding a new Chapter 12.55 to read as follows:

Chapter 12.55
Excise Tax on Motor Fuel

Sections

- 12.55.010 Definitions.
- 12.55.020 Applicability of chapter.
- 12.55.030 Excise tax on motor fuel.
- 12.55.040 Tax exemptions; no deferral for mixed purchases.
- 12.55.050 Intent and purpose of chapter and taxpayer.
- 12.55.060 Certificate of registration: eligibility.
- 12.55.070 Certificate of registration: required.
- 12.55.080 Certificate of registration: application.
- 12.55.090 Certificate of registration: denial.
- 12.55.100 Certificate of registration: fee, renewal.
- 12.55.110 Certificate of registration: expiration.
- 12.55.120 Certificate of registration: surrender, suspension, or revocation.
- 12.55.130 Certificate of registration: non-transferable.
- 12.55.140 Tax return and remittance.
- 12.55.150 Amended tax returns.
- 12.55.160 Application of payments.
- 12.55.170 Tax refunds to dealer.
- 12.55.180 Tax refunds to purchaser.
- 12.55.190 Confidentiality of records.
- 12.55.200 Maintenance and inspection of documents and records.
- 12.55.210 Tax avoidance, civil fraud.
- 12.55.220 Tax lien.
- 12.55.230 Collection of taxes, interest, penalties and costs.
- 12.55.240 Prohibited acts.
- 12.55.250 Interest.
- 12.55.260 Penalties.
- 12.55.270 Remedies for a person aggrieved.

12.55.010 Definitions.

Any words, terms and phrases not defined in this section shall, if defined therein, have the meaning given in AS 43.40.100 or regulations adopted by the state to implement its motor fuel tax pursuant to AS Ch. 43.40, or otherwise shall have their ordinary and common meaning. 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 registration or Certificate* means a license issued by the
2 department authorizing a specified dealer to assess, collect, and timely remit
3 to the department the excise tax on motor fuel levied by this chapter.
4

5 *Certificate of use* means the certificate provided to the State of Alaska
6 Department of Revenue – Tax Division that is obtained by the dealer from a
7 motor fuel purchaser at the time of the first sale or transfer of the motor fuel
8 to that purchaser stating the motor fuel that has been or will be purchased or
9 received is not intended for use as taxable motor fuel.
10

11 *Chief fiscal officer* means the chief fiscal officer of the municipality or
12 designee.
13

14 *Common storage tank* means a storage tank serving taxable and
15 exempt uses, or multiple taxable uses to which various tax rates apply.
16

17 *Consideration* means something of value given by both parties to a
18 contract that induces them to enter into the agreement to exchange mutual
19 performances. Consideration must have a value that can be objectively
20 determined.
21

22 *Dealer* means a person who sells or otherwise transfers in the
23 municipality motor fuel upon which the taxes imposed by this chapter have
24 not been paid. The term includes qualified dealers.
25

26 *Department* means the finance department of the municipality.
27

28 *Export* means the transport of motor fuel as cargo out of the
29 municipality by or for the seller or purchaser and intended for use or resale
30 outside of the municipality.
31

32 *Funds* means money, assets or intangible assets that can be
33 converted to United States currency and/or coin.
34

35 *Issue date* means the date the department has completed the review
36 of the application and has generated and is prepared to release the certificate
37 of registration to the applicant.
38

39 *Motor Fuel or Motor Fuel* means all liquid substances refined,
40 compounded or produced primarily for the purpose of use in an engine for
41 the propulsion of a motor vehicle that is required to be licensed or registered
42 to be driven on a public road or highway. This does not include aviation fuel.
43

44 *Municipality* means the Municipality of Anchorage.
45

46 *Official use* means use by a federal, state or local government agency,
47 but does not include the following: (A) consumption by a contractor who
48 purchases motor fuel either for its own account or as the agent of a

1 government agency for use in the performance of a contract with that agency;
2 (B) use in a private vehicle; or (C) sales of motor fuel.

3
4 *Person* includes an individual, company, partnership, limited liability
5 partnership, joint venture, joint agreement, limited liability company,
6 association (mutual or otherwise), corporation, estate, trust, business trust,
7 receiver, trustee, syndicate, or any combination acting as a unit.

8
9 *Qualified dealer* has the meaning established in state statute and
10 regulation, AS 43.40.100(3) and 15 AAC 40.600, and a person with a
11 qualified dealer license from the state.

12
13 *Reseller* means a person who sells or otherwise transfers in the
14 municipality motor fuel upon which the taxes imposed by this chapter have
15 been paid.

16
17 *Responsible party* means a person who has a level of control over, or
18 entitlement to, the funds or assets of a dealer that, as a practical matter,
19 enables the individual, directly or indirectly, to control, manage, or direct the
20 dealer or the dealer's operations.

21
22 *User* means a person consuming, using, or purchasing motor fuel that
23 is the subject of this chapter.

24
25 *Tax return* means the monthly report to be submitted to the
26 department as required by 12.55.140.

27
28 **12.55.020 Applicability of chapter.**

- 29
30 A. Unless provided otherwise, this chapter shall apply to the taxation of
31 all motor fuel sales or transfers, or consumption of previously untaxed
32 motor fuel by users, within the municipality.
33
34 B. The tax imposed under this chapter does not apply if the United States
35 Constitution, Alaska Constitution, or other federal or state laws prohibit
36 the municipality from levying this tax on motor fuel.

37
38 **12.55.030 Excise tax on motor fuel.**

- 39
40 **A.** An excise tax in the amount of ten cents (\$0.10) per gallon, **adjusted**
41 **every five years as provided in subsection B.**, is hereby levied on
42 all motor fuel sold, transferred, brought into or consumed in the
43 municipality. The tax is imposed only once, upon the first taxable
44 event. Motor fuel upon which the tax was imposed is not again subject
45 to the tax in a subsequent sale, transfer or use. The tax is to be paid
46 by the dealer or user to the municipality on the volume of motor fuel
47 sold, transferred, or used.
48

1 **B. The five-year adjustment to the motor fuel tax rate shall be based**
2 **on the cumulative percent change in the Anchorage Consumer**
3 **Price Index for All Urban Consumers (CPI-U) over the prior five**
4 **years. The adjustment is the percent change in the Anchorage**
5 **Consumer Price Index beginning from the August CPI-U report**
6 **for the Municipality from the U.S. Department of Labor, Bureau of**
7 **Labor Statistics released five years prior, up to the Anchorage**
8 **Consumer Price Index in the report released in August of the fifth**
9 **year after the last adjustment. The adjustment to the tax rate may**
10 **be rounded to the nearest whole cent as determined by the**
11 **department. The adjustment shall become effective January 1**
12 **following the August release date in the fifth year since the last**
13 **adjustment. The first such adjustment date shall be effective**
14 **January 1, 2023.**

15
16 **12.55.040 Tax exemptions; no deferral for mixed purchases.**

17
18 A. The following transactions are exempt from the tax levied by section
19 12.55.030:

- 20
21 1. motor fuel that is sold or transferred between qualified dealers;
22 2. motor fuel that is sold or transferred to a person obtaining motor
23 fuel with a valid certificate of use;
24 3. motor fuel that is sold or transferred to a qualified dealer or
25 persons to whom motor fuel may be transferred without
26 collecting tax under AS 43.40;
27 4. motor fuel that is exported;
28 5. motor fuel that is purchased for use by federal, state, or local
29 government agencies, unless the motor fuel is purchased for
30 the purpose of resale; and
31 6. loss of volume of motor fuel that occurs during handling,
32 transportation, and storage, including loss of volume due to
33 temperature changes of motor fuel.

34
35 B. The election to defer payment of motor fuel tax provided by the state
36 to certain persons pursuant to 15 AAC 40.320 for sales or transfers
37 for mixed uses is not provided by the municipality. A sale or transfer
38 of motor fuel for mixed use purposes to a common storage tank shall
39 be fully taxed, and after resale or use for an exempt purpose the
40 purchaser may apply for a refund with appropriate documentation in
41 accordance with Section 12.55.180.

42
43 **12.55.050 Intent and purpose of chapter; taxpayer.**

44
45 A. It is the intent and purpose of this chapter to collect the tax from

- 46
47 1. the person who sells or transfers motor fuel to a reseller or
48 user within the municipality, and

1 2. a user who purchases or acquires motor fuel outside of the
2 municipality and ships it into the municipality for personal use,
3 or purchases or receives motor fuel in the municipality that was
4 not taxed at the time of purchase or receipt and is used or
5 consumed for a purpose that is not exempt. **Motor fuel**
6 **purchased or acquired outside of the municipality and**
7 **brought into the municipality in the following**
8 **circumstances are not subject to the tax:**

9
10 **a. in a fuel tank built in a motor vehicle and that**
11 **supplies fuel directly to that motor vehicle's**
12 **combustion engine so long as that motor fuel is not**
13 **off-loaded to a large storage tank, transport tank or**
14 **container, or to another motor vehicle; or**

15
16 **b. in a small, personal use size container 10 gallons or**
17 **less in volume, so long as that motor fuel is not off-**
18 **loaded to a storage tank, transport tank or container**
19 **larger than 10 gallons in volume.**

20
21 B. Notwithstanding anything to the contrary contained in this chapter, the
22 taxpayer shall be those persons described in this section and no
23 others.

24
25 **12.55.060 Certificate of registration: eligibility.**

26
27 To be eligible for a certificate of registration, a person applying to
28 conduct business as a dealer shall:

29
30 A. Possess a current business license as required by AS 43.70. A copy
31 of the license must be provided to the municipality before a certificate
32 of registration will be issued.

33
34 B. Provide verification and affirmation that all responsible parties for the
35 dealer:

36
37 1. have not at any time in the most recent five-year period been
38 convicted of a crime related to theft of tax dollars, attempted
39 theft of tax dollars, failure to remit taxes due, embezzlement,
40 theft, or similar financial crimes;

41
42 2. have not at any time during the most recent five-year period
43 had a certificate of registration under this chapter revoked;

44
45 3. not have delinquent tax obligations to the municipality or have
46 substantially unpaid delinquent financial obligations to the
47 municipality; and
48

- 1 4. not have any unresolved issues regarding a prior certificate of
2 registration issued under this chapter.
3

4 **12.55.070 Certificate of registration: required.**
5

- 6 A. Except as otherwise provided in this chapter, every dealer shall obtain
7 a certificate of registration, prior to selling or transferring motor fuel to
8 a reseller, user or other dealer.
9
10 B. Dealers shall display their certificate of registration in a conspicuous
11 place where it can be readily viewed at the registered place of
12 business.
13
14 C. A certificate of registration issued under this chapter shall state the
15 following:
16 1. business name and business address of the dealer;
17 2. name of the person(s) owning the dealer business;
18 3. dealer's form of business organization; and
19 4. issue date of the certificate.
20
21 D. A certificate issued under this chapter is valid from the issue date
22 through the following July 31.
23
24 E. A person whose certificate is lost, stolen or defaced shall
25 immediately file an application with the department for reissuance
26 of the certificate for the balance of the unexpired term.
27
28 F. A certificate issued by this chapter is in addition to any other license
29 required by law.
30
31 G. A certificate issued under this section **provides**~~[is a privilege for a~~
32 ~~dealer to have and there is]~~ no right, entitlement or property interest
33 created by the issuance of a certificate to a dealer.
34

35 **12.55.080 Certificate of registration: application.**
36

- 37 A. Application for registration to operate as a dealer within the
38 municipality shall be made to the chief fiscal officer on a form provided
39 by the department, containing such information as the department
40 requires, including:
41
42 1. The applicant dealer's name and mailing address;
43
44 2. Names and addresses of all owners of the applicant dealer
45 and all responsible parties for the applicant dealer;
46
47 3. A copy of the applicant dealer's current State of Alaska
48 business license;

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4. A copy of the applicant dealer's current State of Alaska dealer license and, if applicable, qualified dealer license;
5. The name under which the applicant dealer will conduct business operations;
6. The location of each of the applicant dealer's business operations within the municipality;
7. The signature of the applicant, firmly binding the applicant dealer, its owners, and all responsible parties to the following:
 - a. an agreement that any contemporaneous or future complaints filed by the department in the Alaska Court System related to responsibilities, duties, consequences, or disputes associated with this chapter shall at all times be within the venue of the Anchorage District or Superior courts located in Anchorage, Third Judicial District;
 - b. an obligation, in the event that an owner, partner, managing member, responsible party, or employee of the applicant dealer subsequently commits civil fraud, as defined by this chapter and demonstrated by a preponderance of the evidence to have occurred, to remit to the municipality an amount that equals the taxes that would have been paid to the municipality if all the motor fuel excise taxes due had been remitted, pursuant to this chapter; and
 - c. an agreement that the applicant dealer and any person involved in a civil fraud, as defined by this chapter and demonstrated by a preponderance of evidence to have occurred, will become ineligible to register under this section for a period of five (5) years, beginning with the date of conviction of fraud or the date of revocation of the applicant dealer's registration in accordance with section 12.55.120.
8. In addition to other requirements in this section, a corporation that applies for a certificate of registration shall provide the following information:
 - a. Corporation: names and addresses of the principal officers including president, vice-president, secretary,

1 managing officer, and all stockholders who own 10
2 percent (10%) or more of the stock in the corporation;

3
4 b. Partnership, including a limited partnership: names
5 and addresses of all general partners and all partners
6 with an interest of 10 percent (10%) or more; or

7
8 c. Limited Liability Organization: names and addresses
9 of all members with an ownership interest of 10
10 percent (10%) or more and the names and addresses
11 of all managers;

12
13 9. Such other information as the department may require.

14
15 B. An applicant dealer having more than one location within the
16 municipality shall apply with the department to register each separate
17 location, including:

18
19 1. the applicant's signature confirming that the applicant fully
20 understands the relevant compliance requirements of this
21 chapter; and

22 2. each signature shall be by a person or agent having such
23 authority to sign and bind the applicant and shall be under
24 penalty of prosecution for unsworn falsification.

25
26 C. All persons registered under this chapter shall maintain compliance
27 with all relevant Municipal and State of Alaska laws and
28 administrative requirements related to the registered business,
29 including but not necessarily limited to: business license, and any
30 related required periodic reporting.

31
32 D. All persons applying for registration under this chapter shall affirm
33 that the applicant dealer is current with all financial obligations due
34 to the municipality.

35
36 E. A person's application for and acceptance of the certificate issued
37 under this chapter constitutes confirmation of the person's
38 acknowledgement on behalf of the applicant and dealer of the duties
39 pursuant to this chapter.

40
41 **12.55.090 Certificate of registration: denial.**

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43 A. The department may deny an application for registration if:

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45 1. there is reasonable cause to believe that the applicant has
46 willfully withheld information requested to determine the

- 1 applicant dealer's eligibility to receive a certificate of
2 registration;
- 3
- 4 2. there is reasonable cause to believe that information
5 submitted in the application is false or misleading and is not
6 made in good faith;
- 7
- 8 3. there is reasonable cause to believe that the applicant
9 dealer's business organization has been structured to avoid
10 payment of taxes, penalties, interest, or costs due under this
11 chapter;
- 12
- 13 4. the applicant dealer has an unpaid financial obligation due to
14 the municipality;
- 15
- 16 5. the applicant dealer, or any owner, partner, member,
17 responsible party, or employee had a certificate under this
18 chapter revoked by the department within the previous five
19 (5) years;
- 20
- 21 6. the applicant dealer, or any owner, partner, member,
22 responsible party, or employee has been convicted of a
23 felony or misdemeanor theft of money within the previous five
24 (5) years; or
- 25
- 26 7. the application is not complete.
- 27
- 28 B. The department shall provide the reasons for a denial in writing to
29 the applicant.
- 30
- 31 C. The department shall deny an application if the applicant dealer
32 does not currently possess all other licenses required by law.
- 33

34 **12.55.100 Certificate of registration: fee, renewal.**

- 35
- 36 A. **There shall be no charge or fee for issuing a certificate of**
37 **registration for an original or renewal application, or for a new**
38 **location for a dealer who relocates the business.**~~[Except for an~~
39 ~~applicant having more than one dealer business location within the~~
40 ~~municipality, each application for registration shall be accompanied~~
41 ~~by a fee of \$75.00. For an applicant having more than one dealer~~
42 ~~business location within the municipality, the fee for registration~~
43 ~~shall be \$75.00 for the first dealer location being registered and~~
44 ~~\$10.00 for each additional dealer location being registered.~~
- 45 B. ~~A fee of \$25.00 shall be charged for issuing a replacement~~
46 ~~certificate to a dealer whose certificate of registration has~~
47 ~~automatically expired because the dealer moves the business to~~

~~another location within the municipality and applies for a certificate for the new location for the remaining balance of the term.]~~

B[**C**]. A fee of \$25.00 shall be charged for reissuing a certificate that has been lost, stolen or defaced.

C[**D**]. A dealer may apply for renewal of its certificate up to two (2) months prior to expiration of the current certificate.

12.55.110 Certificate of registration: expiration.

A. A certificate of registration issued under this chapter shall automatically expire as follows:

1. Immediately after the following July 31;
2. If the dealer moves the business to another location within the municipality the dealer shall immediately file an application with the department for issuance of a replacement certificate for the new location for the remaining balance of the term; or
3. If a dealer ceases to engage in business as a dealer, ceases to engage in business at its registered place(s) of business, changes its name, or changes the name by which the registered dealer's business operation is advertised or marketed by the dealer.

B. A dealer must submit an updated application, as prescribed by the chief fiscal officer, upon any change in form of ownership or business name, or if the dealer is owned by a business entity, upon any change in the owners of the entity who owns the dealer. The chief fiscal officer will review the updated application, pursuant to this chapter. A new certificate of registration will not be issued until the department has received the expired certificate.

12.55.120 Certificate of registration: surrender, suspension, or revocation.

A. A dealer shall surrender its certificate of registration to the department as follows:

1. within ten (10) days after its certificate expires;
2. immediately, upon suspension or revocation by the department.

B. The department may suspend or revoke a certificate issued under this chapter for any violation of this chapter.

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2 C. The department shall revoke a certificate of registration if:
3
4 1. a dealer fails to remit substantially all (at least ninety-five
5 percent) of the taxes due under this chapter within forty-five
6 (45) calendar days of the due date;
7
8 2. subsequent to the issuance of the certificate the department
9 discovers that the dealer has willfully withheld information
10 requested to determine the applicant's eligibility to receive a
11 certificate, or there is reasonable cause to believe that
12 information submitted in the application was false or misleading
13 and was not made in good faith; or
14
15 3. when the dealer's circumstances change to a point where it no
16 longer meets eligibility requirements set forth in section
17 12.55.060.
18
19 D. If the department decides to revoke a certificate issued under this
20 chapter, based on any violation of this chapter, the department shall
21 notify the dealer of the date it intends to enforce such revocation. A
22 dealer may apply to the department to request a hearing before the
23 chief fiscal officer on the department's action or determination, as set
24 forth in section 12.55.270.
25

26 **12.55.130 Certificate of registration: non-transferable.**
27

28 *Non-transferable.* The certificate of registration issued under this
29 section is not assignable or transferable, except that in the case of death,
30 bankruptcy, receivership, or incompetency of the dealer (or its principals if the
31 dealer is an entity), or if the certificate is transferred to another by operation
32 of law, the department may extend the certificate for a limited time to the
33 executor, administrator, trustee, receiver, or the transferee.
34

35 **12.55.140 Tax return and remittance.**
36

- 37 A. On or before the last day of each calendar month, every dealer shall
38 submit to the department a tax return upon a form provided by the
39 department and shall remit therewith all taxes required to be paid by
40 this chapter on motor fuel sales or transfers during the immediately
41 preceding calendar month. A tax return shall be filed even if there are
42 no taxes due for the period being reported. Tax returns and taxes to
43 be remitted under this chapter must be actually received by the
44 department within the time required by this section.
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46 1. The tax return shall be signed under penalty of perjury by an
47 officer of the dealer and shall include the following:
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- a. the name and mailing address of the dealer;
 - b. the name and title of the person filing the tax return;
 - c. the aggregate amount of all motor fuel sold or transferred by the dealer within the municipality during the month, including exempt sales;
 - d. the net taxable gallons of all motor fuel sold or transferred by the dealer during the month, as reported to the State of Alaska;
 - e. the aggregate amount of any allowable exemptions, as set forth in section 12.55.040, and supporting documentation for said exemptions;
 - f. the amount of motor fuel excise tax due;
 - g. motor fuel inventory reconciliation data, such as:
 - i. motor fuel receipt data in whole gallons, with gallons received for taxable purposes reported separately from gallons received for exempt purposes;
 - ii. motor fuel disbursement data in whole gallons, with gallons delivered for taxable purposes reported separately from gallons delivered for exempt purposes;
 - iii. breakdown of motor fuel delivered for exempt purposes (e.g., to qualified dealers, U.S. government agencies for official use, etc.);
 - iv. losses of volume of motor fuel that occur during handling, transportation, and storage, including losses for volume due to temperature changes of motor fuel.
 - h. schedules detailing motor fuel receipt and disbursement data; and
 - i. such other relevant information and supporting documentation as the department may require.
2. If a dealer fails to file a tax return under this section or when the chief fiscal officer finds that a tax return filed by a dealer is not

1 supported by the records required to be maintained under this
2 chapter, the chief fiscal officer may prepare and file an
3 involuntary tax return on behalf of the dealer. Taxes due on an
4 involuntary tax return may be premised upon any information
5 that is available to the chief fiscal officer, including comparative
6 data for similar businesses. A dealer shall be liable for the taxes
7 stated on an involuntary tax return, together with the penalties
8 and interest provided in this chapter.

- 9
- 10 3. The department shall notify the dealer of an involuntary tax
11 return, the basis of the department's calculations, the dealer's
12 rights under Section 12.55.270, and provide written notice that
13 payment of the taxes, penalties, and interest is due
14 immediately.
- 15
- 16 4. Unless otherwise determined by the chief fiscal officer in a
17 decision under Section 12.55.270, taxes due under this section
18 shall be due on the same date as if a tax return had been filed
19 by the dealer in accordance with this chapter, and interest,
20 penalties, and costs thereon shall accrue from such date.
- 21
- 22 5. A tax return prepared by the chief fiscal officer is prima facie
23 evidence of taxes due, and the penalties and interest accruing
24 from said tax liability. In an application under section 12.55.270,
25 it is the dealer's burden to rebut the presumed sufficiency of a
26 tax return prepared by the department.
- 27
- 28 6. A dealer with multiple locations must either file a separate tax
29 return for each location or use a supporting schedule that
30 clearly identifies the balances associated with each separate
31 location.
- 32

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34 **12.55.150 Amended tax returns.**

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36 Any tax return filed under section 12.55.140 may be amended by the
37 dealer.

38

39 **12.55.160 Application of payments.**

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41 Any payment submitted to the department for taxes, interest, penalties
42 or costs due under any tax return, provision of this chapter, or any finding or
43 determination by the department under this chapter shall be credited to the
44 tax period for which remitted, but shall be credited first to the payment of
45 costs and then to the payment of penalties, interest, and taxes due, in that
46 order.

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48 **12.55.170 Tax refunds to dealer.**

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- A. If the department determines after audit that a dealer's tax remittance exceeds the actual amount due, the department shall, upon written request of the dealer, refund the excess to the dealer without interest.
 - B. The dealer shall apply for a refund in writing on a form acceptable to the department no later than two (2) years from the date the excess payment was transmitted to the department. Any claim for a refund filed more than two (2) years after the date of the excess payment is forever barred. For purposes of this section, a "refund" means payment by the municipality to the dealer or book entry by the municipality to offset other current or future amounts due from the dealer.
 - C. If a dealer discovers that it has miscalculated the motor fuel excise tax, and a reseller or other purchaser of the motor fuel paid more tax than should have been collected, the dealer shall refund to the reseller or purchaser the excess amount collected. If the dealer has not located the reseller or purchaser and refunded the excess tax collected within 30 days, the excess tax shall be remitted to the municipality pursuant to section 12.55.140.

23 **12.55.180 Tax refunds to purchaser.**

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- A. If a person obtains motor fuel on which the tax levied by this chapter has been paid, such as motor fuel delivered to a common storage tank, and uses the motor fuel in a manner that makes the motor fuel exempt from the tax, the person may apply to the department for a refund of the tax levied.
 - B. The application for refund must be made on a form prescribed by the department within ninety (90) days from the end of the month in which the purchase was made of the motor fuel, as indicated on the invoice or receipt.
 - C. Failure to apply for a refund within the ninety (90) day period is a waiver of the right to the refund. A claim is considered to be filed when it is mailed or personally presented to the department.
 - D. Except as provided in subsection E. of this section, the claim must include a copy of the invoice(s) of each purchase of motor fuel for which a refund is being claimed. The invoices must show the type of motor fuel purchased, the number of gallons of motor fuel purchased, and the amount of tax paid under this chapter.
 - E. An agency of the federal, state or local government whose employees make purchases of motor fuel exclusively for official use and use a credit card issued to that agency may submit a claim for refund

1 containing a schedule of invoices of purchases of motor fuel, in lieu of
2 providing original invoices for the motor fuel purchases, as long as:

- 3
- 4 1. Charges on the credit card are billed directly to the
5 governmental agency;
- 6
- 7 2. The schedule of invoices complies with generally accepted
8 internal accounting controls, is capable of verification by audit,
9 and details the following information for each purchase of motor
10 fuel:
- 11
- 12 a. the transaction date;
- 13 b. the invoice number;
- 14 c. the type of motor fuel purchased;
- 15 d. the name of the reseller and physical location of the
16 pump;
- 17 e. the name of the governmental agency purchasing the
18 motor fuel;
- 19 f. the price per gallon of motor fuel paid;
- 20 g. the number of gallons of motor fuel purchased;
- 21 h. the tax paid on each gallon of motor fuel purchased; and
- 22 i. any other information required by the department in
23 order to evaluate if the claim for refund meets the
24 requirements of this chapter.
- 25

26 **12.55.190 Confidentiality of records.**

27

- 28 A. All tax returns filed under this chapter, all data obtained from such tax
29 returns, and all financial information obtained from an inspection of
30 records in accordance with this chapter are confidential and may not
31 be released except upon court order, pursuant to an information-
32 sharing agreement with the State of Alaska Department of Revenue,
33 when necessary to enforce the provisions of or to collect the taxes due
34 under this chapter, and except for inspection by the mayor, the chief
35 fiscal officer, the municipal attorney, the internal auditor and municipal
36 assessor or the assembly in the performance of their official duties.
- 37
- 38 B. Except when necessary to the performance of their official duties to
39 enforce the provisions of or to collect taxes due under this chapter, no
40 person may divulge, without express written permission by the dealer,
41 to another any information, data or financial information of a dealer, a
42 dealer's records or a tax return filed under this chapter unless the
43 person receiving such information, data or financial information is a
44 person authorized by this chapter to inspect the tax return,
45 information, data or financial information.
- 46
- 47 C. It is the duty of the chief fiscal officer to safely keep tax returns, all data
48 taken therefrom, and all financial information obtained from an

1 inspection of the dealer's records secure from public and private
2 inspection, except as provided by this chapter.

- 3
4 D. This section does not prohibit the municipality from compiling and
5 publishing statistical information concerning the data submitted,
6 provided no identification of particular tax returns or dealer
7 information, data or financial information is made.

8
9 **12.55.200 Maintenance and inspection of documents and records.**

- 10
11 A. Every person subject to this chapter shall keep records to make a
12 complete accounting for the information required on the motor fuel
13 excise tax return or claim for a refund under this chapter, including
14 motor fuel purchases, sales and transfers. The records must include
15 an accounting for inventories of motor fuel on the first and last days of
16 the month, or in the case of a claim for a refund, inventories on the
17 first and last days of the claim period.

- 18
19 B. Specification in this chapter of the records to be kept by a dealer shall
20 not relieve the dealer of its responsibility to keep sufficient records.
21 Unless a longer period is ordered by the chief financial officer under
22 section 12.55.210 or a court of competent jurisdiction, a dealer shall
23 keep and preserve all required records within the municipality for not
24 less than three (3) calendar years after the end of the calendar year in
25 which such records are created and shall make available such records
26 for inspections by the department upon request. Sufficient records
27 shall include, but not necessarily be limited to:

- 28
29 1. Each sale or transfer of motor fuel within the municipality shall
30 be recorded by the dealer and the record shall include, at
31 minimum: the date of sale, the type of motor fuel sold or
32 transferred, the quantity of motor fuel sold, the sales price, and
33 the amount of excise taxes due on the sale or transfer.
34
35 2. Books of account, journals, ledgers, and other compilations of
36 source documents that reconcile to total sales and transfers, as
37 listed on the tax returns filed with the department under the
38 authority of this chapter;
39
40 3. Detailed inventory records;
41
42 4. Motor fuel acquisition data; and
43
44 5. Sufficient documentation confirming eligibility under section
45 12.55.060.

- 46
47 C. Persons subject to this chapter shall keep such other documents and
48 records as the department prescribes.

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- D. All records and documents required by this chapter to be kept or retained are subject to inspection within the municipality upon demand by the department.

- E. The chief fiscal officer or a designee, upon presentation of proper identification, may inspect the records which a person is required to maintain under this section, whether on-site or at an off-site location, or inspect the records of a person whom the chief fiscal officer has probable cause to believe is a dealer or a person subject to this chapter in order to determine whether that person is a dealer or is subject to this chapter.
 - 1. Upon notice of the department's intent to inspect records, a person or dealer subject to this chapter shall retain such records and preserve their availability to the department until released by the department in writing, regardless of whether such retention and preservation continues beyond the three-year period specified in this section.
 - 2. The chief fiscal officer's authority to inspect records shall not be limited to records within the three calendar year retention period. If a person subject to this chapter has possession or control of records described in this section that are older than the three-year period specified in this section, the person subject to this chapter shall make such records available for inspection upon request.

- F. The chief fiscal officer may enter the business premises of a dealer, so far as it may be necessary for the purpose of examining business records required to this chapter.

- G. The department may inspect records required by this chapter of all responsible parties who had control of, or access to, the dealer's records, and such persons shall be subject to the requirements of this section.

- H. Where the Constitution of the United States or of the State of Alaska so requires, the chief fiscal officer shall obtain an administrative search warrant authorizing an inspection and shall exhibit the warrant to the person in charge of the premises before conducting the inspection. The chief fiscal officer shall apply to the trial courts of the State of Alaska to obtain an administrative search warrant, stating in the application the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned to the court by which issued within ten (10) days after the date issued.

1
2 **12.55.210 Tax avoidance, civil fraud**
3

4 A. If the department has reasonable cause to believe that a dealer has
5 structured a motor fuel sale or transfer to avoid being subject to the
6 motor fuel excise tax levied under this chapter, or has wrongfully
7 deceived resellers, users, or the department, the department may take
8 one or both of the following actions:
9

- 10 1. declare there is a rebuttable presumption that the substance of
11 a specific motor fuel sale or transfer is a taxable transaction
12 under this chapter and proceed to establish, levy and collect
13 the tax together with costs, penalties and interest as provided
14 for in this chapter; or
15
16 2. prepare and file an involuntary return(s) on behalf of the dealer,
17 as provided in section 12.55.140.
18

19 B. *Civil fraud.* If the department finds a tax deficiency or part of a tax
20 deficiency is due to fraud, then a penalty shall be assessed against
21 the person committing the fraud. A civil fraud penalty may be assessed
22 against a person in addition to a penalty for failure to file or failure to
23 pay.
24

- 25 1. Fraud is the intentional misrepresentation of a material fact with
26 the intent to evade payment of tax which the person believed
27 to be owing. The person must have had knowledge of its falsity
28 and intended that it be acted upon or accepted as the truth. The
29 department must prove fraud by a preponderance of the
30 evidence.
31
32 2. An intent to evade tax may be demonstrated by any relevant
33 evidence, including but not limited to the following:
34
35 a. The person provided false explanations regarding
36 understated or omitted acquisitions of motor fuel;
37
38 b. The person provided falsified or incomplete source
39 documents;
40
41 c. The person has not justified an omission or
42 understatement of a significant amount of acquisitions of
43 motor fuel;
44
45 d. The person substantially overstated a deduction and has
46 failed to justify the overstatement;
47
48 e. The person knowingly provided false statements,

1 falsified documents, or falsified evidence to acquire a
2 significant amount of motor fuel in a manner that results
3 in the evasion of payment for taxes due under this
4 chapter; or

- 5
6 f. The person, without possessing the proper State and
7 Municipal licenses or certificates, exchanged or bartered
8 taxable motor fuel, in any manner or by any means
9 whatsoever, for consideration.

10
11 **12.55.220 Tax lien.**

12
13 A. Taxes due and not paid on the date required by this chapter, together
14 with all interest, penalties and costs accruing thereafter, shall
15 immediately become a lien in favor of the municipality upon all of the
16 dealer's real and personal property, including rights to such property.
17 Such lien shall continue until all taxes, penalties, interest and costs
18 due the municipality have been paid, or the lien released in whole or
19 in part.

20
21 1. A separate notice of such lien shall be given to each dealer
22 liable for the taxes by mail, and shall be recorded in the
23 Anchorage Recording District, Third Judicial District, State of
24 Alaska and any other recording district the department may
25 choose.

26
27 2. Notice of the lien shall specify the person(s) liable for payment
28 of the tax, the amount of taxes and the date they were due, a
29 statement of the interest, penalties and costs accrued and
30 which may thereafter accrue, the tax period for which the taxes
31 were due and such other information as the department may
32 determine or as may be required by law.

33
34 B. No failure or defect in the notice of lien, except as to the amount if
35 different than the recording thereof, shall adversely affect the
36 existence or priority of the lien created under this section to the extent
37 of the correct amount which is the same or less than that stated in the
38 recorded lien.

39
40 **12.55.230 Collection of taxes, interest, penalties, and costs.**

41
42 Taxes, interest, penalties, and costs due under this chapter and
43 unpaid may be collected by any lawful means, including a civil action for the
44 collection of a debt, by foreclosure of the tax lien in accordance with AS
45 09.45.170 through 09.45.220 or similar statutes in substitution thereof, or by
46 any combination of the above.
47

12.55.240 Prohibited acts.

In addition to other acts and omissions prohibited by this chapter:

- A. No person shall engage in business as a dealer or conduct any exchange or barter for consideration, in any manner or by any means whatsoever, of taxable motor fuel in the municipality without a proper and current registration under this chapter.
- B. No person shall fail or refuse to pay the tax imposed by this chapter.
- C. No dealer or responsible party shall deny the chief fiscal officer, subsequent to proper identification, access to the dealer's motor fuel records required by this chapter, for purposes of inspection under this chapter.
- D. A person shall not prepare and submit to the department a false tax return with the intent to fail to remit taxes due pursuant to this chapter.
- E. No person whose certificate is suspended or revoked shall acquire, sell or transfer, or offer to sell or transfer motor fuel during the period of the suspension or revocation on any premises occupied or controlled by that person.
- F. A person shall not knowingly use, allow or permit the use of real property in the municipality by a dealer for use in conducting its business as a dealer, unless the dealer is properly registered with the department under this chapter. Providing such real property after notice from the department that such provision of real property violates this subsection is prima facie evidence of the violation.
- G. A person shall not knowingly provide advertising, web hosting, or other marketing services to a dealer in the municipality that is not properly registered under this chapter. Providing such services after notice from the department that such provision of services violates this subsection is prima facie evidence of the violation.

12.55.250 Interest.

In addition to any penalties imposed by this chapter, interest at the rate of 12 percent per annum shall accrue daily and be due from the dealer on the unremitted balance of taxes after the date on which their remittance was due.

12.55.260 Penalties.

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- A. A dealer who fails to file a tax return within seven (7) calendar days following its due date shall automatically incur a civil penalty for each tax return not filed equal to ten percent of the taxes actually due the municipality. A dealer who fails to remit the full amount of any tax due within seven (7) calendar days following its due date shall incur and pay a civil penalty of ten percent of the actual amount of taxes due but remaining unpaid after such date. If a person fails to pay the full amount of the tax due or file a tax return or report required under this chapter within sixteen (16) calendar days after its due date, each of the aforementioned civil penalties shall be increased from ten percent (10%) to twenty-five percent (25%).
 - 1. The penalty shall be computed on the unpaid balance of the tax liability as determined by the department.
 - 2. Notice of the penalties incurred and to be incurred shall be given to the person responsible for payment of the taxes or filing the tax return or report when such tax payment or tax return or report is delinquent for seven (7) calendar days after its due date.
 - 3. The penalties provided for in this subsection shall be in addition to all other penalties and interest provided for under this chapter.
- B. The department may revoke a certificate of registration issued under this chapter for any violation of this chapter.
- C. If a dealer fails to remit at least ninety-five percent (95%) of the taxes due under this chapter within forty-five (45) calendar days of the due date, the department shall revoke the dealer's certificate of registration issued under this chapter and the dealer shall incur a civil penalty up to and including an amount equal to the unpaid delinquent taxes.
- D. A managing member, officer, director, owner or responsible party of an enterprise engaged in business as a dealer without a certificate of registration issued under this chapter is personally liable for all taxes which should have been remitted to the municipality, plus a penalty equal to twenty-five percent (25%) of the tax which should have been remitted, in addition to all costs, taxes, interest and other penalties due under this chapter.
- E. The municipal attorney may petition the court for injunctive relief against a person engaged in business as a dealer without a certificate of registration issued under this chapter.
- F. In addition to any other remedy or penalty provided by this chapter, a dealer, responsible party or any person who violates or threatens to

1 violate a provision of this chapter or a valid order of the department or
2 chief fiscal officer authorized under this chapter, shall be subject to a
3 civil penalty as described in this section, or injunctive relief to restrain
4 the person from continuing the violation or threat of violation, or both
5 such civil penalty and injunctive relief. Upon application by the
6 municipality for injunctive relief and a finding that a person is violating
7 or threatening to violate a provision of this chapter or a valid order of
8 the department or chief fiscal officer authorized under this chapter, the
9 Superior Court shall grant injunctive relief to restrain the violation.

10
11 G. Any person who violates any provision of this chapter shall be liable
12 for a civil penalty of up to \$1,000.00 for each separate violation. Where
13 multiple instances of the same violation occur, each instance shall
14 constitute a separate violation.

15
16 H. Civil and criminal penalties shall be cumulative remedies and shall not
17 relieve a dealer, responsible party, or person conducting sales or
18 transfers of motor fuel of the duties imposed under this chapter.

19
20 I. A person who owns or controls the real property where an
21 unregistered dealer is operating and who, after being notified by the
22 department that the continued operation of the unregistered dealer is
23 in violation of this chapter, allows the unregistered dealer to continue
24 to **sell taxable motor fuel**~~operate~~ on the property **and fails to take**
25 **reasonable action to prevent prohibited sales of taxable motor**
26 **fuel from the real property** is complicit in a prohibited act under
27 section 12.55.240 and shall be subject to penalties set forth in this
28 section.

29
30 J. A person who provides advertising, web hosting, or other marketing
31 services to a dealer in the municipality not having a certificate of
32 registration under this chapter after receiving notice from the
33 department to cease **providing advertising, hosting or marketing**
34 **for taxable motor fuel sale by this dealer**~~such services~~ is complicit
35 in a prohibited act under section 12.55.240 and shall be subject to
36 penalties set forth in this section.

37
38 K. A person who commits an act prohibited by this chapter is subject to
39 prosecution pursuant to Title 8 of this Code.

40
41 **12.55.270 Remedies for a person aggrieved.**

42
43 A. Any person aggrieved by any action or determination of the
44 department under this chapter may apply to the department and
45 request a hearing before the chief fiscal officer on the department's
46 action or determination within thirty (30) days from the date the
47 department mails notice of the department's action or determination.
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1. An application for a hearing must notify the department of the specific action or determination complained of 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 that 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 subsection A of this section, 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 chief fiscal officer may issue a decision without taking evidence from that person, unless the person shows reasonable cause for failure to appear within seven days after the date scheduled for the hearing.

C. Within thirty (30) days after receipt of a written decision by the chief fiscal officer, a person aggrieved by the decision may appeal the decision to the Superior Court of the Third Judicial District.

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 must be paid within thirty (30) days after the date of the decision or a supersedeas bond guaranteeing their payment must be filed with the court in accordance with Alaska Court Rules of Appellate Procedures.

D. If after the appeal to the Superior Court is heard it appears that the action or determination of the department and/or the decision of the chief fiscal officer was correct, the court shall confirm such action, determination or decision, as the case may be. If the department's action or determination or the decision of 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

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and the department shall pay such amount within fourteen (14) days and attach a certified copy of the judgment to the payment.


E. Hearings before the chief fiscal officer under this chapter may, at the option of the chief fiscal officer, be conducted by an administrative hearing officer designated by the chief fiscal officer. If the chief fiscal officer refers such matter to an administrative hearing officer, the administrative hearing officer shall conduct the hearing and prepare 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.

Section 2. This ordinance shall become effective March 1, 2018.

PASSED AND APPROVED by the Anchorage Assembly this 7th day of November, 2017.



Chair

ATTEST:


Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2017-141

Title: AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING TITLE 12 OF THE ANCHORAGE MUNICIPAL CODE BY ADDING CHAPTER 12.55 TO ADOPT AND LEVY AN EXCISE TAX ON MOTOR FUEL, ESTABLISH THE REQUIREMENTS AND PROCEDURES FOR ITS ADMINISTRATION, COLLECTION AND ENFORCEMENT INCLUDING, BUT NOT LIMITED TO: DEFINITIONS; TAX RATE; DEALER REGISTRATION; TAX CREDITS; TAX RETURNS; PROHIBITED ACTS; PENALTIES AND INTEREST; APPLICATION OF PAYMENTS; RECORDS RETENTION, INSPECTION AND CONFIDENTIALITY; TAX REFUNDS; AND TAXPAYER REMEDIES; AND RELATED MATTERS.

Sponsor: **Mayor and Chair Traini**
 Preparing Agency: Finance and Law Departments
 Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:	(In Thousands of Dollars)				
	FY18	FY19	FY20	FY21	FY22
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others	\$ -	\$ -	\$ -	\$ -	\$ -
Less: 7000 Charges to Others	-	-	-	-	-
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:	\$ 11,700	\$ 14,100	\$ 14,100	\$ 14,100	\$ 14,100
CAPITAL:	\$ -	\$ -	\$ -	\$ -	\$ -
POSITIONS: FT/PT and Temp	0	0	0	0	0

PUBLIC SECTOR ECONOMIC EFFECTS:

The proposed tax would take effect on March 1, 2018 and generate revenues for ten months in FY 2018. Total estimated revenues for March 2018 through December 2018 would be about \$11.7M. During the first full year of implementation in FY 2019, total annual revenues from all twelve months would be about \$14.1M.

The assumption is that enforcement costs will be streamlined by following the existing State of Alaska model regarding filing requirements for excise motor fuel tax. Initially, new costs to administer the Municipality's excise fuel tax are planned to be absorbed due to an assumed limited number and variety of monthly filed returns and minimal exemption/refund requests.

PRIVATE SECTOR ECONOMIC EFFECTS:

When consumers dispense gasoline or diesel fuel primarily from pumps at gas stations located in Anchorage into vehicles licensed for use on public highways or roads, or other engines that use that same type of fuel, they can expect to pay 10 cents more per gallon. For a passenger vehicle that is driven 10,000 miles a year and gets about 23 miles per gallon, the annual cost of the new local motor fuel tax for that vehicle would be about \$43 during the first full year of implementation. The costs for a particular vehicle would vary with the number of miles driven and the miles per gallon of the vehicle.

Consumers who are exempt from the tax (12.55.040) or dispense fuel that does not fit the definition of "motor fuel" (12.55.010) would be eligible for a refund of taxes paid, as specified in 12.55.180.

Tax return filers will need to report fuel information consistent with State of Alaska reporting requirements, except filtered to cover the Municipality's geographic jurisdiction area.

Prepared by: *Daniel Moore, Municipal Treasurer*

Telephone: 343-4092



MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 734-2017

Meeting Date: October 24, 2017

1 **From: ASSEMBLY CHAIR TRAINI AND MAYOR BERKOWITZ**
2

3 **Subject: AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY**
4 **AMENDING TITLE 12 OF THE ANCHORAGE MUNICIPAL CODE**
5 **BY ADDING CHAPTER 12.55 TO ADOPT AND LEVY AN EXCISE**
6 **TAX ON MOTOR FUEL, ESTABLISH THE REQUIREMENTS AND**
7 **PROCEDURES FOR ITS ADMINISTRATION, COLLECTION AND**
8 **ENFORCEMENT INCLUDING, BUT NOT LIMITED TO:**
9 **DEFINITIONS; TAX RATE; DEALER REGISTRATION; TAX**
10 **CREDITS; TAX RETURNS; PROHIBITED ACTS; PENALTIES**
11 **AND INTEREST; APPLICATION OF PAYMENTS; RECORDS**
12 **RETENTION, INSPECTION AND CONFIDENTIALITY; TAX**
13 **REFUNDS; AND TAXPAYER REMEDIES; AND RELATED**
14 **MATTERS.**
15

16 This proposed ordinance establishes a new excise tax of ten cents (\$0.10) per
17 gallon on motor fuel purchased, sold, or transferred within the Municipality of
18 Anchorage. This excise tax covers gasoline and diesel fuel that is primarily for the
19 purpose of use in the engines of vehicles that are required to be licensed or
20 registered to be driven on a public road or highway.
21

22 The State of Alaska has a similar motor fuel tax, set out in AS Chapter 43.40, but
23 also taxes aviation fuel and marine fuel, which Anchorage will not with this
24 ordinance. For the motor fuel taxable by the Municipality, the taxpayers will be the
25 same wholesale dealers and users of motor fuel that currently pay the State's tax.
26 The same exemptions in state law will apply. These similarities in the state and
27 proposed Municipal motor fuel tax will make it efficient for the taxpayers to collect,
28 report and remit both taxes contemporaneously.
29

30 The provisions related to obtaining and retaining a certificate of registration for
31 dealers in motor fuel are very similar to the Municipality's other program taxes:
32 excise tax on cigarettes and other tobacco products, room tax, motor vehicle rental
33 tax and retail sales tax on marijuana and marijuana products. The process for
34 filing a motor fuel tax return, remitting taxes, maintaining records, and collection by
35 Treasury are similar to the more recent revisions to those other tax codes. The
36 prohibited acts, penalties, enforcement and taxpayer remedies are also based on
37 existing provisions for the other taxes. Overall, the new motor fuel tax ordinance
38 is written in a way to simplify implementation by the Treasury Division as much as
39 possible, and reduce the burden to administer the new motor fuel tax code. The
40 Treasury Division expects to absorb the additional work with current staffing levels,
41 no new positions are needed.

1
2 As a new revenue source, the new motor fuel excise tax will help to more broadly
3 diversify the City’s revenue sources, and it will provide immediate property tax
4 relief. The tax revenue collected under this ordinance is subject to the tax increase
5 limitation of Anchorage Municipal Charter section 14.03—also known as the “tax
6 cap.” Thus, the revenue collected will immediately be included in the base amount
7 referred to in section 14.03(c) of the Charter. Revenue generated by the new fuel
8 excise tax will provide direct and proportional property tax relief to all types of
9 property tax payers.

10
11 Additionally, this ordinance captures tax revenue from non-municipal residents,
12 such as commuters from outside of the Municipality and tourists, to help cover the
13 cost of municipal services that non-residents utilize during their time spent within
14 the Municipality.

15
16 **THE ADMINISTRATION AND CHAIR TRAINI RECOMMEND APPROVAL.**

17
18 Prepared by: Daniel Moore, Municipal Treasurer, and
19 Assembly Counsel
20 Approved by: Robert E. Harris, CFO
21 Concur: Lance Wilber, OMB Director
22 Concur: William D. Falsey, Municipal Attorney
23 Concur: Michael K. Abbott, Municipal Manager
24 Respectfully submitted: Ethan A. Berkowitz, Mayor, and
25 Dick Traini, Assembly Chair, District 4 - Midtown