

Submitted by: Assembly Member Dyson

Prepared by: Assembly Counsel

For reading: January 14, 2020

**ANCHORAGE, ALASKA
AO No. 2019-156(S)**

1 **AN ORDINANCE PROPOSING TO PROVIDE RESOURCES TO COMBAT**
2 **CRIME AND REDUCE PROPERTY TAXES BY ENACTING A 3% SALES TAX**
3 **FOR A MAXIMUM OF SIX YEARS, [A PUBLIC SAFETY TAX MEASURE TO**
4 **PROVIDE PROPERTY TAX RELIEF AND TO COMBAT CRIME BY ENACTING A**
5 **SALES AND USE TAX ON THE SALE OF GOODS AND SERVICES WITHIN THE**
6 **MUNICIPALITY OF ANCHORAGE WITH HALF THE NET REVENUES UNDER**
7 **THE "TAX CAP" DEDICATED TO REDUCING PROPERTY TAXES, AND HALF**
8 **ABOVE THE TAX CAP DEDICATED TO PUBLIC SAFETY PURPOSES TO**
9 **COMBAT CRIME, WITH THIS PORTION]** EXPIRING IN 2028 ABSENT VOTER
10 REAUTHORIZATION; AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER
11 12.25 REGARDING THE TAX INCREASE LIMITATION TO CONFORM TO THIS
12 ENACTMENT; SUBMITTING THIS CRIME FIGHTING [PUBLIC SAFETY] TAX
13 MEASURE TO THE QUALIFIED VOTERS OF THE MUNICIPALITY; AND
14 PROVIDING FOR TRANSITION PROCEDURES AND EFFECTIVE DATES.
15

16
17 **Section 1.** A ballot proposition containing substantially the following language shall
18 be submitted to the qualified voters of the Municipality of Anchorage at the April 7,
19 2020 regular election:
20

21 PROPOSITION NO. _____
22 **CRIME FIGHTING [PUBLIC SAFETY] TAX MEASURE:**
23 **CHARTER AMENDMENT TO ADOPT A TEMPORARY 3% SALES [AND**
24 **USE] TAX: [HALF TO REDUCE PROPERTY TAXES AND]**
25 **HALF DEDICATED TO PROVIDE RESOURCES [PUBLIC SAFETY] TO**
26 **COMBAT CRIME AND**
27 **HALF TO REDUCE PROPERTY TAXES**
28

29 The proposed Charter Amendment and Assembly Ordinance 2019-__ would
30 enact a three percent (3%) sales **[and use]** tax on the sale of certain goods
31 and services within the Municipality of Anchorage, with specified exemptions
32 (such as food, medicine, medical services, legal services, utilities, education
33 services, and many others more fully set forth **in the ordinance [below]**).
34 One-half **[the net revenues will be limited to purposes of reducing**
35 **property taxes, and one-half]** of the net revenues will be dedicated to public
36 safety purposes to combat crime **and one-half dedicated to reducing**
37 **property taxes,** for a limited period **expiring at the end of [(2022-] 2028[);]**
38 unless reauthorized by the voters. **Expenditures of this temporary sales**
39 **tax revenues will be audited by an independent auditor.**
40

41 The ordinance includes a cap of \$200 in tax per good or service contract, or
42 per transaction, if multiple items and goods are purchased as part of a single

1 transaction taking place during a single day. It also provides for a partial
2 reimbursement to sellers that incur costs to collect the tax.

3
4 Except for the costs to the Municipality of administration, collection, and audit,
5 one-half of this sales ~~[and use]~~ tax is subject to (e.g. “under”) the tax increase
6 limitation of the Anchorage Municipal Charter § 14.03 (commonly referred to
7 as the “Tax Cap”) in order to reduce property taxes dollar for dollar. To
8 provide an accurate dollar amount for property tax reduction, rather than
9 projections based on estimates, the sales ~~[and use]~~ tax net proceeds from
10 one fiscal year will be applied to reduce the property tax for the following
11 fiscal year.

12
13 If approved by more than 3/5 of the qualified voters voting on the question,
14 the Charter amendments **will become effective upon certification of the**
15 **election**, and the **crime fighting sales ~~[and use]~~ tax** will become effective
16 on **a date established by the Assembly by ordinance. The tax [July 1,**
17 **2022, and one-half of the tax]** will expire, unless reauthorized by the voters,
18 at the end of December 31, 2028.

19
20 Shall the Charter be amended as shown below, and Assembly Ordinance
21 2019-__ become law?
22

23 YES NO

24
25 This **Crime Fighting [Public Safety]** Tax Measure proposes to amend
26 Anchorage Municipal Charter by adding a new section 14.07 to read as
27 follows:
28

29 **Section 14.07. - Sales ~~[and Use]~~ Tax Dedicated to Providing**
30 **Resources to Combat Crime and Property Tax**
31 **Relief ~~[and Public Safety]~~.**
32

- 33 (a) **The assembly is authorized to levy [There is hereby**
34 **levied]** a three percent (3%) tax on the sale ~~[and use]~~ of
35 goods and services within the municipality, with exemptions
36 as approved by the voters. **The assembly by ordinance**
37 **shall establish the first date of levy.**
- 38 (b) The assembly may prescribe additional exemptions to the
39 tax imposed by this section by ordinance, and shall enact
40 such additional provisions as necessary or reasonable to
41 implement this section, including for the expiration of ~~[one-~~
42 **half]** the tax. **The expenditure of the tax shall be audited**
43 **annually by an independent auditor.**

- 1 (c) Net receipts from the sales ~~[and use]~~ tax, after payment of
 2 the costs of administration, collection, and audit to the
 3 municipality, in one fiscal year are dedicated as follows:
 4 (1) one-half to property-tax reduction in the following
 5 year, in order for the tax collected to be in substitution
 6 of other taxes.
 7 (2) one-half to public safety purposes to combat crime,
 8 specifically:
 9 (A) compensation for additional police officers, 9-
 10 1-1 emergency dispatch, and forensic
 11 evidence technician positions,
 12 (B) prosecutors and staff support for them,
 13 (C) mental and behavioral health services for
 14 inmates and convicts, and
 15 (D) municipal support or programs for criminal
 16 courts and parole supervision.
- 17 (d) ~~[[One-half of t]~~his tax ~~[dedicated in (c)(2)]~~ shall expire and
 18 lapse at the end of December 31, 2028, unless reauthorized
 19 by the voters.
- 20 (e) Receipts covering the costs of administration, collection, and
 21 audit are taxes required to fund additional services within the
 22 meaning of Charter § 14.03(b)(2).
- 23 (f[e]) To accomplish the dedication, and notwithstanding any other
 24 provision of this Charter to the contrary, for the first and
 25 second fiscal years the tax is levied [2022 and 2023] only,
 26 the levy and collection of the sales ~~[and use]~~ taxes collected
 27 pursuant to this section may cause total tax levies to exceed
 28 the limits otherwise required by the tax increase limitation of
 29 Charter § 14.03, provided that ~~[one-half of]~~ the total levy of
 30 property [all other] taxes is correspondingly reduced in the
 31 second and third fiscal years the tax is levied [2022 and
 32 2023] in a manner that ensures that the total amount of
 33 municipal taxes that can be levied in future years, exclusive
 34 of one-half of this tax dedicated to public safety purposes
 35 pursuant to (c)(2), does not exceed that which could be have
 36 been levied under Charter § 14.03, had this section not been
 37 enacted. Procedures to effectuate this subsection may be
 38 adopted by ordinance.

39
 40 And by amending Anchorage Municipal Charter § 14.03 as follows (new
 41 language proposed is shown in **bold and underlined**; language to be deleted
 42 is shown with **~~strikeout and bold~~**):
 43
 44

Section 14.03. - Tax increase limitation.

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(a) Except as provided in this section, the total amount of municipal tax that can be levied during a fiscal year shall not exceed the total amount approved by the assembly for the preceding year by more than a percentage determined by adding the average percentage increase in the Federal Consumer Price Index for Anchorage from the preceding five fiscal years plus the average percentage growth or loss in the Anchorage municipal population over the preceding five fiscal years as determined by the state department of community and regional affairs.

*** *** ***

(2) In order for the sales ~~[and-use]~~ tax levied pursuant to Charter § 14.07 to be in substitution of other taxes, and to promote greater fiscal stability, “the total amount of municipal tax that can be levied during a fiscal year” shall include the gross ~~[net]~~ receipts of the levy and collection of sales ~~[and-use]~~ tax collected pursuant to Charter § 14.07 for the preceding year. The “total amount approved by the assembly for the preceding year” shall be the total amount of the taxes and payments in-lieu of taxes approved by the assembly for collection in the preceding year together with the gross ~~[net]~~ receipts of the levy and collection of the sales ~~[and-use]~~ tax collected pursuant to Charter § 14.07 for the year immediately prior to the preceding year.

(3) If the sales tax is not reauthorized by the voters pursuant to § 14.07(d) then the total amount of municipal tax that can be levied in 2029 shall be calculated with the total amount approved by the assembly for the preceding year as defined in (2), minus half the gross receipts of the levy and collection of the sales tax.

Section 2. Anchorage Municipal Code Title 12 is hereby amended to add a new chapter 12.65 to read as follows:

Chapter 12.65
Tax on the Sale ~~[or-Use]~~ of Goods and Services

- 12.65.010 Sales ~~[and-use]~~ tax.
- 12.65.020 Purpose and dedication of revenue.

1	12.65.025	E[One-half for public safety dedication e] xpires
2		December 31, 2028.
3	12.65.030	Definitions.
4	12.65.040	Non-taxable sales and exemptions.
5	12.65.050	Obligation for payment of tax; disposition of excess
6		collections; liability for uncollected taxes.
7	12.65.060	Presumption of taxability; sales price and value.
8	12.65.070	Certificate of registration.
9	12.65.080	Maintenance of records required.
10	12.65.090	Tax receipts segregated and held in trust.
11	12.65.100	<u>Reserved [Direct pay permit]</u>
12	12.65.110	Sales [and Use] tax returns; remitting and reporting
13		requirements.
14	12.65.120	Timely filing allowance.
15	12.65.130	Confidentiality of information.
16	12.65.140	Security for fiduciary performance.
17	12.65.150	Certificates of exemption.
18	12.65.160	Prohibited acts.
19	12.65.170	Penalties.
20	12.65.180	Collection of taxes.
21	12.65.190	Tax lien.
22	12.65.200	Remedies of person aggrieved.
23	12.65.210	Dedication of net receipts (not revenues); tax cap
24		limitation.
25	12.65.220	Implementation and processes and procedures.
26	12.65.230	Amendments.

27

28 **12.65.10 Sales ~~[and use]~~ tax.**

29

30 A. *Sales Tax Imposed.* A sales tax of three percent (3%) is hereby levied

31 on the sales of all goods and services sold within the municipality ~~[on~~

32 ~~or after July 1, 2022]~~, except as provided in this chapter. **The**

33 **assembly shall establish the date this tax is first levied by**

34 **ordinance amending this section. This ~~[One-half of this]~~ tax shall**

35 **expire pursuant to section 12.65.025.**

36

37 **~~[B. Use Tax Imposed. A use tax at the same rate as the sales tax in~~**

38 **~~subsection A., for the privilege of use within the municipality, is~~**

39 **~~hereby levied on the person using the following goods acquired~~**

40 **~~on or after July 1, 2022:~~**

41

42 **~~1. Goods manufactured in the municipality, only if the person~~**

43 **~~manufacturing the good is not engaged in the business of~~**

44 **~~manufacturing for resale to an end user; or~~**

45

46 **~~2. Goods acquired outside of the municipality and primarily~~**

1 ~~used within the municipality, if the acquisition is the result~~
 2 ~~of a transaction subject to the sales tax if it had occurred~~
 3 ~~in the municipality.~~

4
 5 ~~3. The first one thousand dollars (\$1,000) of goods~~
 6 ~~manufactured in the municipality or goods acquired~~
 7 ~~outside of the municipality and primarily used within the~~
 8 ~~municipality, as described in subparagraphs 1 and 2~~
 9 ~~above, are exempted from the use tax on an annual basis.~~

10
 11 ~~C. Credit for taxes previously paid. The use tax levied under this~~
 12 ~~section shall be adjusted in accordance with AS 29.45.650(c) if~~
 13 ~~the person subject to the use tax provides proof, in the form~~
 14 ~~required by the department, the person previously paid a sales~~
 15 ~~tax imposed by any jurisdiction on the goods.~~

16
 17 ~~D. To the fullest extent permitted under the law and constitutions of~~
 18 ~~the United States and the State of Alaska, and under the Charter,~~
 19 ~~a person who has nexus within the state and whose sales are not~~
 20 ~~subject to the sales taxes shall collect the use tax from the~~
 21 ~~purchaser and pay the tax collected to the municipality.]~~

22
 23 **12.65.020 Purpose and dedication of revenue.**

24
 25 A. *Property tax relief and public safety dedication.* The purpose of this
 26 chapter is to provide **resources to combat crime and to provide**
 27 property tax relief to the property owners of the municipality ~~[and to~~
 28 **combat crime]. The net receipts from the sales ~~[and use]~~ tax, after
 29 payment of the costs of administration, collection and audit to the
 30 municipality, shall be applied so that:**

- 31 1. one-half will reduce property taxes equally and uniformly
- 32 throughout the municipality so the benefits of the reduction in
- 33 property taxes are shared throughout the municipality.
- 34 2. one-half to combat crime by providing funding for police
- 35 officers, 911 dispatch, forensic evidence technicians,
- 36 prosecutors and their support staff, mental and behavioral
- 37 health services for inmates and convicts, and development and
- 38 implementation of programs for Municipal involvement in parole
- 39 supervision and support for criminal court services.

40 B. The net receipts of sales ~~[and use]~~ tax obtained by the municipality
 41 in one fiscal year shall be restricted to application to the following fiscal
 42 year's budget by appropriations. The amount of **half the gross [net]**
 43 receipts of sales ~~[and use]~~ tax obtained by the municipality in **the first**
 44 **[one]** fiscal year **this tax is levied and collected** shall be included in
 45 the tax increase limitation computation for the next fiscal year as an
 46 offset amount of the real and personal property taxes to be collected

1 for that fiscal year. The other half of the gross receipts of sales tax
 2 obtained by the municipality in the first fiscal year shall be above
 3 the tax increase limitation for the next fiscal year, and shall be
 4 added to the base amount for the subsequent year tax increase
 5 limit in accordance with the Charter and transition rules in
 6 section 12.25.040.

7
 8 **12.65.025 Tax** ~~[One-half for public safety dedication]~~ expires
 9 December 31, 2028.

10
 11 ~~The [One-half of the] tax levied under this chapter [and dedicated for~~
 12 ~~public safety purposes in subsection 12.65.020A.2.] shall expire and~~
 13 ~~lapse at the end of December 31, 2028, unless reauthorized by the voters.~~
 14 ~~[If not reauthorized prior to that time, the tax rate shall thereafter be one~~
 15 ~~and one-half percent (1.5%).]~~

16
 17 **12.65.030 Definitions.**

18
 19 The following words, terms and phrases, when used in this chapter, shall
 20 have the meanings ascribed to them in this section, except where the context
 21 clearly indicates a different meaning:

22
 23 ***Certificate of Exemption*** shall mean a certificate issued by the
 24 municipality to a person qualifying as an "Exempt Purchaser" of goods
 25 upon application by the purchaser demonstrating its entitlement to
 26 such exemption. The purchaser shall provide the certificate to a seller
 27 of goods at the time of purchase in order to obtain the permitted
 28 exemption.

29
 30 ***Charitable Organization*** shall mean an organization exempt from
 31 taxation under 26 U.S.C. 501(c)(3)

32
 33 ***Chief Fiscal Officer*** shall mean the chief fiscal officer of the
 34 municipality, or designee.

35
 36 ***Coins*** shall mean monetized bullion or other forms of money
 37 manufactured from gold, silver, platinum, palladium, or other such
 38 metals now, in the future, or heretofore designated as a medium of
 39 exchange under the laws of this state, the United States, or any foreign
 40 nation.

41
 42 ***Counseling Services*** shall mean all services provided to an
 43 individual taxpayer by a psychologist or psychological associate,
 44 psychiatrist, clinical social worker, substance abuse counselor, or a
 45 marital and/or family therapist, licensed or certified to provide such
 46 services by the state of Alaska.

1
2 **Department** shall mean the finance department of the municipality.

3
4 **Exemption** shall mean a buyer or seller is exempt under a provision
5 of this chapter, or the sale itself is exempt under a provision of this
6 chapter.

7
8 **Food** shall mean goods that may be lawfully purchased with food
9 stamp program benefits issued under 7 U.S.C. 2011 – **2036 [2025]**
10 (Food Stamp Act, Supplemental Nutrition Assistance Program) or
11 purchased with food instruments, food vouchers or other type of
12 certificate issued under 42 U.S.C. 1786 (Special Supplemental
13 Nutrition Program for Women, Infants and Children or WIC).

14
15 **Goods** shall mean all tangible personal property that can be seen,
16 weighed, measured, felt, or touched, or that is in any other manner
17 perceptible to the senses. “Tangible personal property” includes
18 electricity, water, gas, steam, and prewritten computer software.

19
20 **Legal Services** shall mean all services provided to an individual
21 taxpayer by a lawyer or paralegal or any other individual licensed or
22 certified by the State of Alaska to provide legal services.

23
24 **Medical Services** shall mean all services provided to an individual
25 taxpayer by a physician, osteopath, chiropractor, dentist, registered or
26 practical nurse, physician’s assistant, certified nurse’s aide,
27 paramedic, emergency medical technician, naturopath, optometrist,
28 audiologist, hospital, midwife, birth center, occupational therapist,
29 physical therapist, or any other person certified or licensed by the state
30 of Alaska to provide health care services.

31
32 **Person** shall mean those who are under a duty to perform an act
33 concerning which a violation of this chapter could occur, such as an
34 individual, company, partnership, joint venture, joint agreement,
35 association (mutual or otherwise), corporation, estate, trust, business
36 trust, receiver or trustee, syndicate, or political subdivision of this state,
37 or combination acting as a unit including officers or members of any
38 such entities. It is the intent of this chapter that such persons be
39 personally liable for unremitted taxes.

40
41 **Precious metal bullion** shall mean any precious metal, including but
42 not limited to, gold, silver, platinum and palladium, that has been put
43 through a process of refining and is in such a state or condition that its
44 value depends upon its precious metal content and not its form.

45

1 **Prescription medicine** shall mean all medicine and any medical
2 goods prescribed by a physician, ~~[or]~~ psychiatrist, **or other person**
3 licensed to practice medicine **or prescribe medication** in the United
4 States.

5
6 **Purchaser** shall mean a person to whom a sale is made.

7
8 **Real Property** shall mean land, whether subdivided or not, all
9 buildings, structures, improvements and fixtures of any kind thereon,
10 and all possessory rights and privileges belonging and pertaining
11 thereto.

12
13 **Resale** shall mean the sale of goods by a seller of raw materials, or
14 wholesaler, either consumed in the manufacturing process or which
15 become a component part of a product manufactured for sale; a sale
16 of goods sold to a licensed general or specialty building contractor
17 when the goods sold becomes permanently affixed to the residence
18 or commercial structure being constructed by the licensed contractor;
19 or a sale of goods by a manufacturer, or wholesaler, to a retail vendor.

20
21 **Services** shall mean all services of every manner and description
22 performed or furnished for compensation within the municipality as
23 required to install, construct, repair or complete specified results or
24 end products and professional services, services in which a product
25 or sale of property may be involved, repair, transportation, advertising,
26 recreation, amusement, craftsmen's services, and services wherein
27 labor and materials are provided to accomplish a specific result.

28
29 **Seller** shall mean every person, whether acting as principal, agent or
30 employee, who makes a sale subject to this tax.

31
32 **Selling price** applies to the measure subject to sales tax and means
33 the total amount of consideration, including cash, credit, property, and
34 services, for which personal property or services are sold, leased, or
35 rented, valued in money, whether received in money or otherwise,
36 without any deduction for the following:

- 37
38 a. The cost of materials used, labor or service cost,
39 interest, losses, all costs of transportation to the seller,
40 all taxes imposed on the seller, and any other expense
41 of the seller;
42 b. Charges by the seller for any services necessary to
43 complete the sale, other than delivery and installation
44 charges;
45 c. Delivery charges;
46 d. Installation charges; and

1 e. Credit for any trade-in, as determined by state law.
2

3 **Tax Payer** shall mean any person responsible for the payment of any
4 ~~[Use or]~~ Sales tax as required by this chapter.
5

6 **12.65.040 Non-taxable sales and exemptions.**
7

8 A. The following sales are not taxable under this chapter:
9

- 10 1. Sales to ~~[or uses by]~~ an agency of the United States
11 government, an instrumentality of the State of Alaska as that
12 term is defined in AS 39.52.960, a municipality or school
13 district, including the Anchorage School District, or a Native
14 entity or tribe included on the federal list published under 25
15 U.S.C. 5131.
16
17 2. Sales to ~~[or uses by]~~ foreign diplomats under the Foreign
18 Missions Act (22 U.S.C. 4301 *et seq.*).
19
20 3. Sales to ~~[or uses by]~~ the Alaska Life and Health Insurance
21 Guaranty Association, under AS 21.79.130.
22
23 4. Sales ~~[or use]~~ of goods related to an orbital space facility,
24 pursuant to AS 29.45.650(h).
25
26 6. Other sales ~~[or uses]~~ the municipality is prohibited from taxing
27 under the federal or state Constitutions or laws of the United
28 States or the State of Alaska.
29

30 B. The municipality hereby declares the following exemptions and
31 limitations to the tax imposed by this chapter:
32

- 33 1. Sales of ~~[prepared]~~ food.
34
35 2. Sale of prescription medicine or medical goods prescribed by a
36 physician, psychiatrist or other person licensed in the United
37 States to lawfully authorize such prescription.
38
39 3. The provision of medical services or counseling services.
40
41 4. The provision of legal services.
42
43 5. Education services provided by government schools and
44 programs, non-profit institutions and religious organizations.
45

- 1 6. The tax shall not exceed \$200.00 on the purchase ~~[or use]~~ of
2 any single item or good.
3
- 4 7. The tax shall not exceed \$200.00 on the entire purchase of
5 multiple items and goods when purchased as part of one
6 transaction taking place during a single day.
7
- 8 8. The tax shall not exceed \$200.00 per year on the provision of
9 any single service provided to an individual taxpayer for
10 services which are of an on-going nature, may be comprised of
11 interrelated and interdependent functions necessary to perform
12 a specified action, and which may be reflected in multiple or
13 periodic invoices or contracts.
14
- 15 9. Sales of utilities including water, sewer, electricity, #2 diesel
16 heating fuel, natural gas, refuse service, cellular phone service,
17 telephone service, internet, and cable television.
18
- 19 10. The sale of gasoline, motor fuel, or diesel fuel.
20
- 21 11. Financial service transactions. For purposes of this chapter,
22 financial service transactions are limited to: deposit account
23 services, loan transaction fees, transactions relating to the sale
24 or exchange of currency or securities, transactions for
25 conversion of negotiable instruments, safe deposit
26 services, escrow collection services, late fees, overdraft fees,
27 and interest charged on past due accounts.
28
- 29 12. ~~[The use by an individual of personal or household effects
30 brought into the municipality for the establishment by the
31 individual of an initial residence in the municipality is
32 exempt from the use tax.]~~
33
- 34 ~~[13.]~~ Licensed child and adult care services.
35
- 36 13[14]. Isolated sales by one individual to another when the
37 seller is not generally engaged in the business of selling the
38 same or similar property.
39
- 40 14[15]. Rental, unless the rental transaction for personal
41 property provides a right of purchase at the end of the rental
42 contract.
43
- 44 15[16]. The sale or rental of real property (including all
45 necessary or customary services provided in order to legally
46 accomplish a sale or rental of real property).

1
2 **16[17].** The sale of contracts of insurance.

3
4 **17[18].** The sale of goods or services already subject to excise
5 **or sales** taxes **levied [imposed]** by the municipality, including
6 but not limited to **room rental (“bed”) [hotel-overnight**
7 **accommodation]** taxes, **cigarettes and other** tobacco
8 **products** taxes, and motor vehicles rental taxes.

9
10 **18. The sale of alcoholic beverages, so long as there is a**
11 **separate sales tax levied by the municipality on alcoholic**
12 **beverages.**

13
14 19. The sale of marijuana and marijuana products, **so long as**
15 **there is a separate sales tax levied by the municipality on**
16 **marijuana and marijuana products.**

17
18 20. The sale of coins and precious metal bullion.

19
20 C. The following sales are not taxable, provided the seller is in
21 possession of a valid certificate of exemption:

22
23 1. Sales by a charitable organization, or a private or parochial
24 school, provided the sale of goods is incidental and all of the
25 proceeds of the sale go to the organization and its mission.

26
27 2. The sale of goods not sold to the end user of the goods

28
29 D. The application of the exemptions provided for in subsections A-C of
30 this section to specific goods and services shall be determined by the
31 Department. The **department shall report quarterly for the first**
32 **two years the sales tax is levied, and annually thereafter, to the**
33 **Assembly by an information memorandum [Assembly may alter**
34 **or modify a determination]** of the Department's **determinations**
35 concerning the application of any exemption provided for in subsection
36 A-C of this section to any specific goods or services.

37
38 ~~**[E. Any additions or deletions of any exemption provided for in**~~
39 ~~**subsections A-C of this section must be by ordinance.]**~~
40

1 **12.65.050 Obligation for payment of tax; disposition of excess**
2 **collections; liability for uncollected taxes.**
3

4 A. The purchaser is obligated to pay sales ~~[and use]~~ tax under this
5 chapter and it shall be collected by the seller at the time of the sale
6 transaction or acquisition. The tax rate is applied to the selling price.
7

8 1. If a purchaser produces a certificate of exemption issued by the
9 municipality pursuant to section 12.65.140 at the time of the
10 sale transaction, the seller shall not collect the tax. The seller
11 shall retain verification of the exempt status of the transaction
12 in its records. If no verification is retained, the seller is liable for
13 the uncollected taxes.
14

15 2. If the purchaser does not produce an exemption certificate
16 issued by the municipality, but the transaction is in fact exempt
17 under federal, state, local or other law, the seller is not liable for
18 the uncollected tax, provided verification of the purchaser's
19 exemption is retained in the seller's records or otherwise readily
20 available and reported to the department.
21

22 3. Any uncollected sales tax under this subsection, which should
23 have been collected, is a liability of the seller.
24

25 4. If the selling price cannot be determined for purposes of
26 calculating the amount of sales ~~[and use]~~ tax, the fair market
27 value at the time of sale shall be subject to the sales ~~[and use]~~
28 tax.
29

30 B. All sales ~~[and use]~~ taxes collected pursuant to this chapter are
31 municipal funds for which the seller is liable to the municipality. The
32 seller is liable for all monies collected from the purchaser as sales
33 ~~[and use]~~ tax in excess of the tax imposed by section 12.65.010. The
34 seller shall make reasonable efforts to return excess tax collected to
35 the purchaser. If the seller is unable to return it, the excess tax
36 collected shall be reported and remitted to the municipality with the
37 regular tax return.
38

39 C. Any person acquiring an ownership interest in the accounts receivable
40 of a business, whether by purchase, foreclosure, or otherwise, shall
41 also be liable for the payment of taxes, penalties, interest, fees and
42 costs accruing and unpaid to the municipality from those accounts
43 receivable.
44

45 D. Any person acquiring an ownership interest in an ongoing business,
46 whether by purchase, foreclosure or otherwise, shall also be liable for

1 the payment of any taxes, penalties, interests, fee or costs owed to
2 the municipality for taxes collected by the former owner or seller of the
3 business.

4
5 E. The president and any officer, member, manager or agent of a
6 corporation or limited liability company with control of, supervision of,
7 or charged with the responsibility of filing sales ~~[and use]~~ tax returns
8 or remitting sales ~~[and use]~~ taxes is personally liable for any unpaid
9 taxes, penalties, interest, fees and costs accruing and unpaid to the
10 municipality. Dissolution of, or sale of, or other change in the form of
11 the corporation or company does not discharge this personal liability.

12
13 F. The municipality may pursue collection of unpaid and unremitted taxes
14 as provided in this chapter.

15
16 **12.65.60 Presumption of taxability; sales price and value.**

17
18 A. To prevent evasion of the sales ~~[and use]~~ tax and to aid in its
19 administration, it is presumed that all ~~[-~~

20
21 ~~1. All] sales of goods or services by a person engaging in~~
22 ~~business in the municipality are subject to the tax, unless~~
23 ~~exempt by this chapter[-; and~~

24
25 ~~2. All goods or services purchased or sold by any person for~~
26 ~~delivery into the municipality are purchased or sold for a~~
27 ~~taxable use in the municipality].~~

28
29 B. For purposes of this section, the sales price or value of property,
30 goods or services shall be determined as of the time of acquisition~~[-~~
31 ~~introduction into the municipality, or conversion to use,~~
32 ~~whichever is latest].~~

33
34 C. If the department has reasonable cause to believe a seller structured
35 a transaction to avoid collecting or remitting the tax levied under this
36 chapter, there is a rebuttable presumption that the substance of the
37 transaction is a taxable sale under this chapter.

38
39 **12.65.070 Certificate of registration.**

40
41 A. *Required display.* Except as otherwise provided in this chapter, every
42 seller operating within the municipality shall obtain a certificate of
43 registration from the department prior to transacting any sales after
44 the effective date of levy of the sales tax ~~[- The seller shall obtain~~
45 ~~a certificate of registration prior to conducting business]~~ in the

1 municipality and shall prominently display the certificate at **each [the**
2 **registered]** place of business.

3
4 1. A business with multiple sales locations may obtain one
5 certificate of registration, provided the application lists every
6 place of business located within the municipality. Each location
7 shall prominently display a copy of the certificate of registration,
8 except:

9
10 a. A vending machine seller is not required to display the
11 certificate or to list each vending machine location.

12
13 b. The department may direct a seller with multiple or
14 mobile locations to display or make available the
15 certificate in a reasonable location and manner.

16
17 B. *Application.* Each seller shall apply for a certificate of registration on
18 a form or in a format prescribed by the department containing
19 information the department may require. There shall be no charge for
20 the application or issuance of a certificate of registration.

21
22 C. *Contents.* A certificate of registration shall bear the name of the seller,
23 the address of the primary place of business, the address or physical
24 location where the seller sells goods or services in the municipality,
25 the seller's form of business organization, the seller's method of
26 accounting, and state whether the seller is exempt from collecting the
27 sales tax under section 12.65.040.C.

28
29 D. The seller named on an issued certificate is responsible to inform the
30 department of any changes to the information contained in the
31 application and certificate of registration.

32
33 E. *Expiration.* If the holder of a certificate of registration ceases to
34 engage in business, changes its name, changes its form of business
35 organization, changes ownership, or ceases to be exempt from
36 collecting the tax under section 12.65.040, its certificate of registration
37 automatically expires. Expiration is effective on the date of the change
38 in circumstances resulting in expiration by operation of law. Within ten
39 (10) days of the expiration, the seller shall:

40
41 1. Surrender the expired certificate of registration to the
42 department for cancellation.

43
44 2. Notify the department in writing of the date and the name,
45 telephone and address of any person to whom the seller's
46 business or accounts receivable of the business described in

1 the returned certificate of registration is leased, conveyed or
2 otherwise relinquished or transferred with a brief description of
3 the circumstances causing the expiration of the seller's
4 certificate and the date it expired; and
5

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

10
11 F. The department may require an applicant applying for a certificate of
12 registration who has previously been fined or subject to penalties
13 under this chapter, or had a certificate of registration under this
14 chapter revoked, suspended, or cancelled as a penalty, to obtain and
15 submit a guarantee for its performance under this chapter in
16 accordance with section 12.65.140[130]. Proof of the security shall
17 be submitted to the department with the application. The department
18 shall not issue the certificate of registration until receipt of valid
19 security is confirmed.
20

21 G. The department may refuse to issue a certificate of registration if there
22 is reasonable cause to believe the applicant:

- 23
24 1. structured its business or sales transactions to avoid payment
25 of delinquent taxes, penalties, interest, or costs due under this
26 chapter;
27
28 2. Willfully withheld information requested to determine the
29 applicant's eligibility to receive a certificate; or
30
31 3. There is reasonable cause to believe information submitted in
32 the application is false or misleading.
33

34 **12.65.080 Maintenance of records required.**
35

36 A. The seller shall keep available in the municipality for a period of three
37 (3) calendar years after the year created, such records as are
38 necessary to permit the municipality to perform an audit of the seller's
39 collection and remittance of the sales tax. Such records shall contain
40 at least the following:

- 41
42 1. All sales receipts specifying what goods or services were sold
43 in the transaction, the sale price for each item, total sum for the
44 transaction, and total tax for the transaction; and
45
46 2. Other records the department may require.

- 1
2 B. The seller shall be responsible to obtain and preserve evidence
3 sufficient to support all claimed exemptions from the tax for
4 transactions subject to this chapter. Specification in this chapter of the
5 records to be kept by a seller shall not relieve the seller of its
6 responsibility to keep sufficient records.
7

8 **12.65.090 Tax receipts segregated and held in trust.**
9

10 Title to taxes collected pursuant to this chapter shall vest in the municipality
11 upon collection. Persons authorized to collect tax have a fiduciary duty to
12 the municipality with respect to tax receipts.
13

14 **12.65.100 Reserved. [Direct Pay Permit.]**
15

16 ~~[A direct pay permit authorizes its holder to purchase tangible personal~~
17 ~~property and services without paying tax to the seller and authorizes~~
18 ~~the seller to not collect any tax on a sale to the permit holder. A person~~
19 ~~who purchases tangible personal property or services under a direct~~
20 ~~pay permit issued under this section is liable for any sales and use tax~~
21 ~~due. The tax due must be paid by the permit holder on a quarterly basis~~
22 ~~on a schedule established by the department. To obtain a direct pay~~
23 ~~permit, a person must apply to the department and satisfy criteria for~~
24 ~~direct pay permit holders established by the department.]~~
25

26 **12.65.110 Sales [and Use] Tax returns: Remitting and reporting**
27 **requirements.**
28

- 29 A. A sales ~~[and use]~~ tax return is not complete unless it contains the
30 information required by this section and is accompanied by the tax
31 payment required. The sales ~~[and use]~~ tax return shall be filed and
32 tax monies shall be remitted by the seller to the municipality quarterly,
33 unless the seller qualifies or is required to remit and report as follows:
34

- 35 1. A seller with less than \$100 in annual tax collections may file a
36 tax return and remit taxes on an annual basis.
37
38 2. A seller with \$150,000 or more in quarterly tax collections shall
39 file a tax return and remit taxes each month.
40
41 3. ~~[A taxpayer liable for use tax on tangible personal property~~
42 ~~or services is entitled to a full credit for the amount of sales~~
43 ~~or use tax paid on the same tangible personal property or~~
44 ~~same service to another jurisdiction.]~~
45

1 **4.]** The department may require monthly tax returns and
2 remittances from any seller delinquent in remittance of sales
3 taxes to the municipality, or any other tax or fee to the
4 municipality.

5
6 B. The department may require any seller required to file monthly returns
7 due to a delinquency to submit timely returns and remittances for
8 twelve (12) consecutive months before the department grants a
9 request to restore the privilege of filing quarterly returns. The
10 department may deny a request to return to filing quarterly for good
11 cause.

12
13 C. A seller operating more than one (1) location within the municipality
14 may file separate tax returns for each location but is allowed a single
15 timely filing allowance under section 12.65.110, regardless of the
16 multiple locations.

17
18 D. A tax return is due and payment in full shall be received by the last
19 day of the month following the end of the quarter, the month or the
20 calendar year for which the tax return is filed. If this day falls on a
21 Saturday, Sunday, or holiday observed by the municipality, the tax
22 return and remittance payment shall be due the following business
23 day.

24
25 E. A tax return shall be submitted on a form or in a format prescribed by
26 the department and shall include information as the department may
27 require. A seller shall report and remit the sales **[and use]** tax using
28 the same method of accounting the seller uses for federal tax
29 purposes.

30
31 F. A seller may claim a deduction on its tax return for the amount of taxes
32 due to the municipality in a transaction where the total amount of the
33 sales is uncollected and deducted on a federal tax return as bad debt.
34 If the seller later collects on such bad debt, the seller shall remit and
35 report the portion of the collection attributable to the sales **[and use]**
36 tax to the municipality.

37
38 G. A seller may claim a deduction on its tax return for sales **[and use]**
39 taxes previously remitted to the municipality if such taxes were
40 collected in error and refunded to the purchaser, or if the sales
41 transaction was reversed for the customer in accordance with the
42 seller's established and written refund policy.

43
44 H. If a seller fails to file a complete tax return as required by this section
45 or if the department finds a tax return is not supported by the records
46 required to be maintained under this chapter by the seller filing the tax

1 return, the department may prepare and file a tax return on behalf of
2 the seller. Taxes estimated on a tax return filed on behalf of a seller
3 under this subsection may be premised upon any information
4 available to the department including comparative data for similar
5 businesses. A seller for whom an involuntary tax return is filed under
6 this subsection shall be liable for the taxes stated on the involuntary
7 tax return, in addition to penalties and interest provided for in this
8 chapter.

9
10 1. The department shall notify the seller of a determination made
11 under this subsection and include in such notice the basis of
12 the department's calculations determining the seller's liability
13 with a notice of the seller's rights under section 12.65.190, that
14 payment is due immediately and that taxes, interest, penalties
15 and costs continue to accrue from the date taxes were due
16 under this chapter for the period(s) covered by the
17 determination.

18
19 2. Unless otherwise determined by the department, taxes due
20 under this section shall be payable immediately.

21
22 3. Taxes determined under this section shall be due on the same
23 date as if a tax return had been filed by the seller in accordance
24 with this chapter and interest, penalties and administration
25 costs shall accrue from the due date.

26
27 I. The director or corporate officer of a corporation, member of a limited
28 liability company, or other person charged with the responsibility to
29 report and remit a seller's taxes collected pursuant to this chapter has
30 a fiduciary duty to ensure timely, proper, and complete tax returns are
31 filed and the related taxes due under this chapter are remitted to the
32 department on behalf of the seller. A person with significant control
33 over a corporation's or limited liability company's finances may be held
34 personally liable for failing to timely file a complete and proper tax
35 return under this chapter.

36
37 **12.65.120 Timely filing allowance.**

38
39 A. A seller authorized to collect the sales ~~[and use]~~ tax under this
40 chapter and who is in otherwise full compliance with this chapter may
41 retain three percent (3%) of the tax collected, up to a maximum of
42 \$3,000 in a calendar year, for purposes of offsetting a portion of the
43 costs incurred by the seller in collecting the tax for the municipality,
44 provided the seller's tax return and full remittance is received by the
45 department on or before the due date.

46

- 1 B. If the seller is not in full compliance with this chapter, the seller is not
2 eligible for and may not retain the three percent (3%) credit.
3
- 4 C. A seller is not in full compliance if the seller:
5 1. has an account with a past-due balance, or
6 2. has a missing or incomplete return outstanding, ~~or~~
7 ~~3. is in any manner not in compliance with a municipally-~~
8 ~~approved payment plan.]~~
9
- 10 D. The seller shall report on each tax return the amount retained under
11 this section for that reporting period, and the total amount retained in
12 the calendar year up to the last day of the reporting period.
13

14 **12.65.130 Confidentiality of information.**
15

- 16 A. The records of the seller retained pursuant to this chapter shall be
17 considered proprietary and confidential, and shall not be disclosed to
18 any person except employees and agents of the municipality acting in
19 their official capacity and then only for purposes reasonably related to
20 the collection and remittance of the sales ~~[and use]~~ tax.
21
- 22 B. Notwithstanding subsection A., the department may, at its discretion
23 for the sole purpose of enforcing this chapter, share any and all sales
24 ~~[and use]~~ tax returns, registration information or other data gathered
25 under this chapter with other federal, state and municipal tax collection
26 agencies and other government agencies only as necessary to
27 enforce this chapter, collect tax monies, or perform an audit.
28

29 **12.65.140 Security for fiduciary performance.**
30

- 31 A. *Guarantee required.* To ensure a seller subject to this chapter
32 performs its fiduciary responsibility to timely collect, account for,
33 safeguard, report and remit taxes levied by this chapter, under section
34 12.65.070F, or for other good cause shown, the department may
35 require a seller to provide a guarantee by one or more of the methods
36 specified in this section. The amount of the guarantee shall be in an
37 amount the department determines to be five percent (5%) of the
38 estimated average annual sales revenues for the applicant, or
39 \$5,000.00, whichever is greater. In the event the municipality
40 exercises a claim against the guarantee, the seller shall provide an
41 additional guarantee, in an amount equal to the amount of the paid
42 claim, no later than thirty (30) days after the date such claim is paid or
43 its certificate of registration shall be automatically revoked.
44

1 B. *Methods.* The applicant seller shall include one or more of the
2 following methods to guarantee performance of its fiduciary
3 responsibilities at the time of application for a certificate of registration:
4

5 1. *Surety bond.* The seller may elect to grant a surety bond, in an
6 amount defined in subsection A. of this section, from a
7 company authorized to do such business in the state. The bond
8 shall be in a form acceptable to the municipal attorney. The
9 bond shall be payable to the municipality and shall be
10 conditioned upon payment in full of the tax, including penalties
11 and interest due and to become due and owing to the
12 municipality by said seller during the effective period of the
13 bond under the provisions of this chapter. The surety may
14 terminate this bond, except as to any liability already incurred
15 or accrued, and may do so upon giving the seller and the
16 department written notice to that effect. The surety shall provide
17 written notice to the department not less than thirty (30) days
18 before the expiration, non-renewal, lapse, termination, or other
19 similar event affecting such surety bond. Thirty (30) days after
20 receipt by the department of such notice or upon a later date
21 specified in the notice, or upon the filing and acceptance of a
22 new bond, the existing bond shall terminate and be of no further
23 force and effect, except as to any liabilities or indebtedness
24 incurred or accrued thereunder as of the date of termination.
25

26 2. *Deposit in escrow.* The applicant seller may elect to deposit a
27 cash sum, in an amount defined in subsection A. of this section,
28 either with the municipality or in escrow with a responsible
29 financial institution authorized to do such business in the state.
30 In the case of an escrow account, the seller shall file with the
31 municipality an escrow agreement which shall include the
32 following terms:
33

34 a. Funds of the escrow account shall be held in trust until
35 released by the municipality and may not be used or
36 pledged by the seller as security in any matter during
37 that period other than payment of the tax, penalties, and
38 interest due and to become due and owing to the
39 municipality under this chapter.
40

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

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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 department.
- 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 provided in this section, 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. The department shall not, however, 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.

1
2 **12.65.150 Certificates of exemption.**
3

4 A. The department shall provide a certificate of exemption to an eligible
5 person upon successful application by that person. The municipality
6 shall charge a fee for the application or issuance of the certificate of
7 exemption, in a reasonable amount determined by the department.
8 Once issued, the certificate of exemption shall be valid for five (5)
9 years unless earlier revoked by the municipality due to the ineligibility
10 of the person receiving the certificate of exemption or due to misuse
11 of the certificate of exemption.
12

13 1. A person regularly purchasing goods or services in a sale
14 exempt from the tax under section 12.65.040 may use a
15 certificate of exemption when those goods or services are
16 purchased from a seller. The purchaser shall use the certificate
17 only when purchasing goods or services in exempt
18 transactions. Use of the certificate by any person other than the
19 purchaser to whom the certificate is issued, or for sales not
20 exempt under section 12.65.040, is prohibited.
21

22 2. Application for a certificate of exemption shall be made to the
23 department on a form or in a format prescribed by the
24 department containing, in addition to such information as the
25 department may require, the following:
26

27 a. The name, address and phone number of purchaser,
28 including its corporate or other ownership structure and
29 its federal tax status (federal tax status is only required
30 if claiming exemption as a 501(c)(3) entity);
31

32 b. A description of the general character of the goods or
33 services to be purchased in the regular course of
34 business, for which the goods or services purchased
35 using the exemption certificate are obtained; and
36

37 c. The signature or electronic signature of an authorized
38 representative of the purchaser.
39

40 **12.65.160 Prohibited acts.**
41

42 A. In addition to other acts and omissions prohibited by this chapter:
43

44 1. A person may not advertise, hold out, or state to the public or
45 to any purchaser or person directly or indirectly the sales tax or
46 any part of it is assumed or absorbed by the seller, or the tax is

- 1 not be added to the sales price, or the tax is to be refunded,
2 except as provided in this chapter.
3
- 4 2. A seller shall not absorb, fail to add, or refund the sales tax or
5 any part of it, unless the tax is refunded with a full or partial
6 return or exchange of the purchased goods under the seller's
7 usual return or exchange policy.
8
- 9 3. A seller shall not fail to state the amount of the tax separately
10 from the sales price to the purchaser. The seller remains
11 responsible for the tax amount even if the seller fails to state
12 the amount of the tax separately. This subsection shall not
13 apply to sales from coin-operated, currency-operated, or credit-
14 card operated machines, bartering, sales of transportation for
15 hire, games of chance and contests of skill, sales from street
16 vending carts and sales where it is not feasible to require
17 calculation of the sales tax at the time of sale under the
18 circumstances as determined by the department.
19
- 20 4. No person may engage in business selling **taxable** goods or
21 services in the municipality without first obtaining a certificate
22 of registration under this chapter.
23
- 24 5. No person, whether or not a seller covered by a certificate of
25 registration, shall deny the department, or agent(s),
26 subsequent to identification during business hours or at a
27 reasonable time, access to records of sales transactions and
28 other accounting records for purposes of inspection under this
29 chapter.
30
- 31 6. No person shall charge or collect in excess of the proper
32 amount of tax due under this chapter. Money collected as sales
33 tax in excess of the actual sales tax owed becomes a liability of
34 the seller under section 12.65.050.
35
- 36 7. No person shall misuse an exemption certificate. For purposes
37 of this subparagraph, *misuse* shall mean:
38
- 39 a. For a purpose other than an allowed exempt purpose
40 under this chapter; or
41
- 42 b. Copying or distribution of the exemption certificate to
43 any person(s) other than the person to whom it is issued,
44 whether or not a person uses or attempts to use such
45 duplicated certificates in a purchase transaction.
46

12.65.170 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 12.65.~~110~~**110**, 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 30 day period 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 fifteen percent (15%) 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.~~65.070~~**65.070**[~~05.040~~**05.040**]E.2.): \$500.00.

2. Engaging in the business of 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.

12.65.180 Collection of taxes.

1 Taxes, interest, penalties, and administration costs due under this chapter
2 and unpaid may be collected by referral to a collection agency, commencing
3 a civil action for the collection of a debt, by executing a claim against security
4 provided under section 12.65.140~~140~~, by foreclosure of the tax lien in
5 accordance with AS 09.45.170 through 09.45.220, by any method permitted
6 by law, or any combination of the above.

7
8 **12.65.190 Tax lien.**

- 9
10 A. The taxes and the penalties provided for herein shall constitute a lien
11 in favor of the municipality upon all property of the person owing the
12 tax. This lien arises upon delinquency and continues until the liability
13 is satisfied or the lien is foreclosed. When recorded, the lien shall
14 have priority established by AS 29.45.650(e).
15
16 B. The department may ~~shall~~ record a notice of lien at any time after
17 ~~when~~ the taxes are delinquent for more than thirty (30) days. The
18 department shall serve notice of the lien to ~~all~~ liable persons by
19 certified mail or process server.
20

21 **12.65.200 Remedies of person aggrieved.**

- 22
23 A. Any person aggrieved by any action or determination of the
24 department under this chapter may apply to the department and
25 request a hearing before the chief fiscal officer on the department's
26 action or determination within thirty (30) days from the date the
27 department mails notice of its action or determination.
28
29 1. An application for a hearing shall notify the department of the
30 specific action or determination contested and the amount of
31 tax, interest, cost or penalty contested, and the reason for such
32 contest.
33
34 2. The uncontested portion of any tax due under this chapter shall
35 be paid when due regardless of any application for a hearing.
36 Payment of the total amount due may be made at any time
37 before the hearing. Payment in full does not affect a person's
38 right to a hearing.
39
40 B. Upon timely application for a hearing under this section, the chief fiscal
41 officer, or an administrative hearing officer if designated by the chief
42 fiscal officer, shall hold a hearing and render a decision or
43 determination in accordance with chapter 3.60 to determine whether
44 a correction or reversal of the department's action or determination is
45 warranted.
46

- 1 1. If a person requesting a hearing fails to appear at the hearing,
2 the hearing officer shall issue a decision without taking
3 evidence from that person, unless the person shows
4 reasonable cause for failure to appear within seven (7) days
5 after the date scheduled for the hearing.
6
7 2. If the chief fiscal officer designates the administrative hearing
8 officer to conduct the hearing, the administrative hearing officer
9 shall hold the hearing and prepare recommended findings and
10 conclusions. These findings and conclusions shall be
11 forwarded to the chief fiscal officer for adoption, rejection, or
12 modification and issuance of a final order or decision by the
13 chief fiscal officer.
14
15 C. Within thirty (30) days after receipt of a written final decision by the
16 chief fiscal officer, a person aggrieved by the decision as a matter of
17 right may file an administrative appeal of the decision with the Superior
18 Court of the Third Judicial District, State of Alaska.
19
20 1. The person aggrieved shall be given access to the
21 department's file in the matter for preparation of such appeal.
22
23 2. Taxes, costs, penalties, and interest declared to be due in the
24 decision of the chief fiscal officer shall be paid within thirty (30)
25 days after the date of the decision or a supersedeas bond
26 guaranteeing payment shall be filed with the court in
27 accordance with Alaska Court Rules. Amounts paid shall be
28 held in trust by the municipality pending resolution of the
29 appeal.
30
31 D. If the Superior Court determines the department's action or
32 determination or the chief fiscal officer's decision was incorrect, the
33 court may determine the proper action, determination or decision. If
34 the person aggrieved is entitled to recover all or part, of any tax due
35 or paid, the court shall order the repayment and the department shall
36 pay such amount within fourteen (14) days and attach a certified copy
37 of the judgment to the payment.
38

39 **12.65.210 Dedication of net receipts (not revenues); tax cap**
40 **limitation.**
41

42 The sales [~~and use~~] taxes required to fund the costs of administration,
43 collection and audit are taxes required to fund additional services within the
44 meaning of Charter section 14.03(b)(2). **The portion of n[N]et** receipts from
45 the sales [~~and use~~] tax, after the costs of administration, collection and audit,
46 in one fiscal year are dedicated to property-tax reduction in the following year,

1 as prescribed in Charter section 14.07 and section 12.25.040 in order for the
2 tax collected to be in substitution of other taxes.

3
4 **12.65.220 Implementation and processes and procedures.**

5
6 The chief fiscal officer shall implement and administer this chapter, may make
7 administrative decisions with regard to its implementation, and may adopt
8 such procedures and processes as may be required to implement this
9 chapter, in accordance with chapter 3.40.

10
11 **12.65.230 Amendments.**

12
13 Any amendment to this chapter to increase the amount of the tax or to apply
14 the receipts from the tax to any other purpose besides property tax relief,
15 administration, collection and audit of the tax thereof, and the implementation
16 prescribed by Charter section 14.07, or any amendment or ordinance that
17 would have such effect, shall require the approval of three-fifths (3/5) of the
18 qualified voters voting on the question. All other amendments to provisions
19 of this chapter not having the foregoing effect may be adopted by ordinance
20 by majority vote of the Assembly.

21
22
23 **Section 3.** Anchorage Municipal Code chapter 12.25 is hereby amended to read
24 as follows (*the remainder of the chapter is not affected and therefore not set out*):

25
26 **Chapter 12.25 TAX INCREASE LIMITATION**

27
28 *** *** ***

29 **12.25.040 - Computation of maximum attainable tax revenue amount.**

30
31 The estimate of maximum attainable tax revenue (next year revenue
32 available) is computed for the next fiscal year according to the following
33 procedures:

- 34
35 A. Define the tax increase escalation amount, (L):
36 $L = (T - d - e) \times (1 + C + P)$ where the base amount for calculating the
37 next year's tax increase limit shall be the total amount of the municipal
38 taxes to be collected for the current fiscal year and:
39 1. L is the allowable tax increase due to population and inflation
40 growth factors.
41 2. T is the total amount of:
42 a. Real property and personal property taxes to be
43 collected for the current fiscal year plus the amount of
44 total [net] receipts from the prior fiscal year from levy
45 and collection of the general sales [and use] tax per
46 chapter 12.65,

- 1 b. Municipal payments in-lieu of taxes paid or to be paid by
 2 any municipality of Anchorage utility, department,
 3 agency, public corporation or authority (MPILT),
 4 c. Auto fees, and
 5 d. State and federal payments in lieu of taxes levied in the
 6 current fiscal year in current-year dollars.
 7 3. d is the total amount of municipal tax levied in the current fiscal
 8 year to fund the cost of judgments entered against the
 9 municipality and to pay principal or interest on bonds, including
 10 revenue bonds.
 11 4. e is the total amount of municipal tax levied in the current fiscal
 12 year to fund the cost of emergency ordinances enacted
 13 pursuant to Charter section 10.03.
 14

16 7. Transition rules for voter-approved sales **[and-use]** tax.

- 17 a. In order for the net receipts from the sales **[and-use]**
 18 taxes collected in **the fiscal year first levied [2022]** to
 19 be in substitution of property taxes that could be
 20 collected in **the subsequent year, for the year first**
 21 **levied [2023, for 2022]** only, the tax escalation amount
 22 (L) computed according to this subsection for **the**
 23 **subsequent year [2023]** shall be
 24 i. calculated as though T did not include the **total**
 25 **[net]** receipts from the levy and collection of the
 26 general sales **[and-use]** tax under chapter 12.65
 27 in **the year first levied [2022]**, and
 28 ii. reduced by the **total [net]** receipts from the levy
 29 and collection of the general sales **[and-use]** tax
 30 under chapter 12.65 in **the year first levied**
 31 **[2022]**.
 32 b. In order for the net receipts from the sales **[and-use]**
 33 taxes collected during **the second fiscal year levied**
 34 **[2023]** to be in substitution of property taxes that could
 35 be collected in **the subsequent year, for the second**
 36 **year levied [2024, for 2023]** only, the tax escalation
 37 amount (L) computed according to this subsection for
 38 **the subsequent year [2024]** shall be
 39 i. calculated as though T did not include both the
 40 **[net]** receipts from the levy and collection of the
 41 general sales **[and-use]** tax under chapter 12.65
 42 between January 1, **[2023]** and June 30 **of the**
 43 **second year levied [, 2023]**, and the difference
 44 between the **[net]** receipts from the levy and
 45 collection of general sales **[and-use]** tax under
 46 chapter 12.65 for the remainder of **the second**

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ATTEST:

Chair

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 840-2019(A)

Meeting Date: January 14, 2020

1 **From: ASSEMBLY MEMBER DYSON**

2
3 **Subject: AO 2019-156(S): AN ORDINANCE PROPOSING A PUBLIC**
4 **SAFETY TAX MEASURE TO PROVIDE PROPERTY TAX RELIEF AND TO**
5 **COMBAT CRIME BY ENACTING A SALES AND USE TAX ON THE SALE OF**
6 **GOODS AND SERVICES WITHIN THE MUNICIPALITY OF ANCHORAGE WITH**
7 **HALF THE NET REVENUES UNDER THE “TAX CAP” DEDICATED TO**
8 **REDUCING PROPERTY TAXES, AND HALF ABOVE THE TAX CAP**
9 **DEDICATED TO PUBLIC SAFETY PURPOSES TO COMBAT CRIME WITH**
10 **THIS PORTION EXPIRING IN 2028 ABSENT VOTER REAUTHORIZATION;**
11 **AMENDING AMC CHAPTER 12.25 REGARDING THE TAX INCREASE**
12 **LIMITATION TO CONFORM TO THIS ENACTMENT; SUBMITTING THIS**
13 **PUBLIC SAFETY TAX MEASURE TO THE QUALIFIED VOTERS OF THE**
14 **MUNICIPALITY, AND PROVIDING FOR TRANSITION PROCEDURES AND**
15 **EFFECTIVE DATES.**

16
17 The Substitute version of this ordinance modifies the proposal in several
18 substantive ways, and includes several technical corrections identified by counsel
19 and the Treasury Division. The following are the most significant changes from
20 the original ordinance proposal:

- 21
- 22 • Rebrands this measure as it will appear on the ballot and be referred to
23 publicly to the “Crime Fighting Tax Measure.”
 - 24 • Remove the “use tax.” This is an unwieldy and difficult feature to administer
25 and is not necessary to include.
 - 26 • Changes so the full tax will expire December 31, 2028, and not only the half
27 for crime fighting, unless voters authorize the tax to remain. Additionally,
28 adds subsection (3) to Charter 14.03(a) to direct how the tax cap for 2029
29 should be calculate if the sales tax is not reauthorized.
 - 30 • Replaces the definite start date of July 1, 2022, with an authorization for the
31 Assembly to determine the first date the sales tax levy should be effective.
32 The Administration estimates it may take up to two years, roughly, to
33 prepare for administration of the tax and for an education and outreach
34 program to retail sellers about their obligations under the new sales tax. But
35 it cannot be predicted exactly when the necessary administrative framework
36 will be in place, so this flexibility allows the Assembly to levy the tax
37 whenever the Administration advises it is ready for it. This change also
38 required numerous edits to the transition rules provisions being added at
39 AMC section 12.25.040B.7., in Section 3 of the ordinance, in order to not
40 be locked down to 2022 as the year the tax is first levied.
 - 41 • Includes express language that an independent audit of the tax
42 expenditures is required annually.
 - 43 • The original AO listed “prepared food” as exempt at AMC section
44 12.65.040B.1. (p. 9 line 42) in error and the word “prepared” is to be deleted.

1 The intent is to exempt grocery store purchases of **non-prepared** food, as
2 in the definition of “food” on p. 7 line 20. This exemption is pursuant to State
3 and federal law that prohibit a sales tax on food that can be purchased with
4 food coupons, food stamps, other similar allotment under the federal Food
5 Stamp Program, food instruments, food vouchers, or other similar
6 certificate under the Special Supplemental Food Program for Women,
7 Infants, and Children. See AS 29.45.650(f). In the S-version the citation to
8 the SNAP program in federal law is also corrected at p. 7 line 21.

- 9 • Includes clearer express language that if another Municipal tax applies to a
10 good or service, that good or service is exempt from the general sales tax.
- 11 • Requires the Finance Department to report quarterly to the Assembly for
12 the first two years regarding its application of exemptions and
13 determinations, and thereafter annually.
- 14 • Deletes the section for a direct pay permit (AMC 12,.65.100) and reserves
15 it for future amendment. The section had no criteria for which retail sellers
16 could qualify and the circumstances that justify having this direct pay permit
17 program, so it is deferred for a future time when it can be more defined and
18 useful.
- 19 • The transition rules to the Tax Increase Limitation, Section 3 amending
20 AMC section 12.25.040, are amended to remove reference to specific years
21 relevant to the tax’s initial implementation because that is somewhat
22 unpredictable. Other changes include reference to the gross receipts rather
23 than net, for the taxes being collected. (Net receipts are subject to the
24 dedication clause, but gross collections of the tax are subject to the tax cap.)
- 25 • Other amendments are technical or minor in nature.

26
27 I request your support for AO 2019-156(S), the Crime Fighting Tax Measure
28 ordinance.

29
30 Prepared by: Assembly Counsel
31 Respectfully submitted: Fred Dyson, Assembly Member
32 District 2, Chugiak, Eagle River, and Birchwood

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2019-156

Title: **AN ORDINANCE PROPOSING A PUBLIC SAFETY TAX MEASURE TO PROVIDE PROPERTY TAX RELIEF AND TO COMBAT CRIME BY ENACTING A SALES AND USE TAX ON THE SALE OF GOODS AND SERVICES WITHIN THE MUNICIPALITY OF ANCHORAGE WITH HALF THE NET REVENUES UNDER THE "TAX CAP" DEDICATED TO REDUCING PROPERTY TAXES, AND HALF ABOVE THE TAX CAP DEDICATED TO PUBLIC SAFETY PURPOSES TO COMBAT CRIME WITH THIS PORTION EXPIRING IN 2028 ABSENT VOTER REAUTHORIZATION; AMENDING AMC CHAPTER 12.25 REGARDING THE TAX INCREASE LIMITATION TO CONFORM TO THIS ENACTMENT; SUBMITTING THIS PUBLIC SAFETY TAX MEASURE TO THE QUALIFIED VOTERS OF THE MUNICIPALITY, AND PROVIDING FOR TRANSITION PROCEDURES AND EFFECTIVE DATES.**

Sponsor: **Assembly Member Dyson**
 Preparing Agency: Assembly Department
 Others Impacted: Finance Department, Municipal Attorney, Anchorage Police Department

CHANGES IN EXPENDITURES AND REVENUES:					
(In Thousands of Dollars)					
	FY21	FY22	FY23	FY24	FY25
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ 2,600	\$ 3,600	\$ 3,600	\$ 3,600	\$ 3,600
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ 2,600	\$ 3,600	\$ 3,600	\$ 3,600	\$ 3,600
REVENUES:	\$ -	\$55,000 to \$90,000	\$110,000 to \$180,000	\$110,000 to \$180,000	\$110,000 to \$180,000
REVENUES AVAILABLE FOR BUDGETED PROPERTY TAX RELIEF AND PUBLIC SAFETY:	\$ -	\$ -	\$55,000 to \$90,000	\$110,000 to \$180,000	\$110,000 to \$180,000
CAPITAL:	\$ -	\$ -	\$ -	\$ -	\$ -
POSITIONS: FT/PT and Temp	13.5	27	27	27	27

PUBLIC SECTOR ECONOMIC EFFECTS:

Public Sector Revenues

During the first partial year of implementation in FY 2022, the proposed 3% sales and use tax on goods and services would generate roughly \$55M to \$90M for the six months from July through December 2022. The revenues generated in 2022 would be available for budgeted expenditures in FY 2023. During the first full year of implementation in 2023 and thereafter, the proposed 3% sales and use tax on goods and services would generate roughly \$110M to \$180M annually. The revenues generated in a particular year would be available for budgeted expenditures in the following year.

Public Sector Expenditures

There would be new additional expenditures by the Municipality to implement, administer, and enforce the proposed sales tax. There would be initial implementation costs to set up a new custom computer tax collection system, develop regulations, hire and train new personnel, and work with businesses to explain the regulations and advise them about how to remit the tax. The projected setup and implementation costs are about \$2.6M. Most of the initial set up costs would be incurred in 2021, the year prior to when the sales tax is first levied in 2022.

There would also be on-going operation costs of about \$3.6M annually to collect and enforce the tax. The operating costs include 27 FTE associated with a new Sales Tax Division within Finance Department as well as attorney and support resources from the Municipal Law Department and Administrative Hearing Office. The full amount of these annual operating costs would be incurred starting in the first year that the sales tax is levied in 2022. The same level of on-going operating costs would continue into FY 2029 and thereafter, even if the dedicated tax levy for public safety expires at the end of FY 2028.

PRIVATE SECTOR ECONOMIC EFFECTS:

A sales tax is estimated to raise approximately \$110-180 million per year. With a July 1, 2022 effective date, half that amount is expected to be collected in the last six months of 2022. These taxes will be applied to offset property taxes in 2023 and towards public safety costs. Property tax payers will see a decrease in property tax assessments which corresponds to the amount of sales taxes collected.

Businesses would need to use sufficiently functional cash registers, computer systems or other effective financial tracking systems to account for all gross sales and all taxable sales associated with their business. Businesses would be required to correctly calculate the sales tax and separately disclose the sales tax amount for all transactions. There are approximately 14,000 businesses in Anchorage that would remit general sales tax to the Municipality.

Prepared by:

Desirea Camacho, Assembly Budget Analyst

Telephone: 343-4376