

CHAPTER 19 (Revised 1/24/07)

SALES TAX

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Section 1. Historical Data (Note to user: *The information contained in the historical data section will vary depending on the date of incorporation, the law that was in effect at the time, and whether a sales tax was enacted on the date of incorporation. The [certificate of incorporation documents](#) are available on line if it is necessary to research this information.*

In accordance with the provisions of, at that time, [certificate](#), an election for the incorporation of a _____ class city known as _____, Alaska was held on ___[insert date]_____. At that time a majority of the voters passed said proposition imposing a ___% consumer sales tax. On the [_day_] day of ___[Month]____, [Year]_ the City of _____ was incorporated with authority to enact a _____% sales tax.

Section 2. Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings given them by this section:

- A. **BUYER, CONSUMER, AND PERSON** include without limiting the scope thereof, every individual, receiver, assignee, trustee in bankruptcy, trust estate, firm, co-partnership, joint venture, club, company, business, trust, corporation, association, organization society, agent or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise.
- B. **SELLER** means every person making retail sales to a buyer or consumer, renting property, or performing services for consideration whether acting as principal or using the services of an agent or broker.
- C. **BUYER** means the person, who in the ordinary meaning of the term takes title to, takes possession of, or buys property or receives services for consideration.
- D. **SELLING PRICE** means the consideration exchanged, whether money, credit, rights, or other property expressed in terms of money paid or delivered by a buyer to a seller all without any deduction

on account of losses, except as provided in **Section 4** of this chapter.

- E. **RETAIL SALES** means any sales of personal property for any purpose other than resale in the regular course of business.
- F. **SERVICES** means all services of every manner and description that are performed or furnished for consideration whether in conjunction with the sale of goods or not, but does not include services rendered by an employee to an employer.

Section 3. Taxable Sales (Note to user: this section may be changed to reflect the intent of each community's sales tax. This is generic language provided to reflect the most common practice.)

There shall be levied and collected a sales tax equal to the sum of ____ percent on the selling price of all retail sales and rentals made and services performed as provided within the city boundaries when the selling price amounts to ____ cents (\$.____) or more, provided that there shall be no sales tax imposed upon the exempt sales listed in Section 4.

Section 4. Exempt Sales (Note to user: this section may be changed to reflect the exemptions the community chooses to enact. This is generic language provided to reflect a sample range of exemptions.)

The tax levied under this chapter shall not apply to the following:

- A. Sales and service charges of less than \$.____ (____ cents);
- B. Casual and isolated sales not made in the regular course of business;
- C. Trade-in sales; the value of new or used articles taken in trade as a credit of part payment on the sale of a new article, and a tax paid only on the net sales price;
- D. Gross receipts derived from sales, services, rentals and transactions which the city is prohibited from taxing under the Constitutions and laws of the United States or the State of Alaska;
- E. Gross receipts sales and shipping and handling charges derived from orders received from outside the city where delivery is made by mail or common carrier;
- F. Services under a building or construction contract or subcontract;
- G. Rentals of real property for periods in excess of twenty-seven (27) days in which no personal services are provided by the landlord;
- H. Sales of insurance and bonds of guarantees and fidelity;
- I. Gross receipts derived from funeral charges and services, medical, dental, optometry, veterinary, and hospital services or from sales of prescription medicines, oxygen used for medical purposes, blood or blood plasma, artificial devices designed or altered for the use of a particular crippled person, artificial limbs, eyes and organs, crutches and wheelchairs, hearing aids, prescription glasses, artificial teeth sold by a dentist and materials used by a dentist in treatment;
- J. Gross receipts from the sale of food and beverages, bake sales, and other occasional fund raising events held by non-profit, charitable, religious, or service organizations;
- K. Gross receipts from the sales of food and beverages in school cafeterias and lunch rooms operated primarily for teachers and students and not operated primarily for the public or for profit;
- L. Dues or fees paid to clubs, labor unions, fraternal organizations, and other non-profit organizations;
- M. Gross receipts from sales, services, and rentals to any non-profit corporation, organization, or institution which is organized exclusively for religious or charitable purposes;
- N. Gross receipts from sales, services, and rentals to the United States Government, the state and its political subdivisions, and the city provided, however, that the exemption shall not apply to rentals or the sale of materials, supplies, and services to contractors for the manufacture or production of property or services for government agencies on a contract, in which event the

- contractor shall be deemed the buyer or consumer or user subject to the payment of the tax;
- O. All public utility services owned and operated by the city and other services that may be operated under contract with the city so long as the city collects or has the power to collect the billings for services provided;
 - P. (1) residents 65 years of age or over; (2) disabled veterans; or (3) a resident at least 60 years old who is the widow or widower of a person qualified for and exemption under (1) or (2) of this subsection;
 - Q. Gross receipts from purchases made with food stamps, food coupons or other food instruments that are exempted from taxation under A.S. 29.45.700;
 - R. Child day care, pre-elementary school, and baby sitting services;
 - S. That part of the selling price of travel and adventure services, rentals, and goods, excluding lodging, sold outside but delivered within the city, which is not remitted to the provider of the service and which represents a selling cost or commission or similar charge;
 - T. Sales of goods and services for resale. A service is sold for resale when the service is directly integrated into services or goods sold by the buyer to another purchaser in the normal course of business and the service is purchased separately for each resale, and the service is identified, charged for, and billed separately from any other service;
 - U. Sales tax paid on leases under a lease/purchase agreement may be credited toward the payment of the tax due on the exercise of the purchase option in the same proportion as the lease payments are applied to the purchase price, provided that there will be no refund of taxes paid on the lease;
 - V. Rental of rooms taxed under another provision of this Title.
 - W. The physical transfer of refined fuel, unless the transfer is made in connection with a sale or use in the city, or (2) wholesale sales or transfers of fuel refined in the city. A sale is in the city if the fuel is delivered to the buyer in the city. A use is in the city if the fuel is consumed in the city. The prohibitions on the levy and collection of a sales or use tax on refined fuel do not apply to a city if, on the effective date of this section, the city is
 - (1) levying and collecting a sales or use tax on the sale, use, or transfer of refined fuel under an ordinance adopted before January 1, 2003; or
 - (2) receiving payments in lieu of a sales or use tax on the sale, use, or transfer of refined fuel under an agreement entered into before January 1, 2003.
 - X. A construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract.

Section 5. Burden of Establishing Exemption

The burden of proving a tax exemption is upon the individual(s) claiming the exemption. Under the direction of the chief administrative officer the city clerk or other person administering this chapter, hereafter known as tax administrator shall propose to the council procedures, regulations, and forms to facilitate proper claiming of exemptions.

Section 6. Seller to Add Tax to Selling Price

- A. Every seller shall add the amount of the tax levied by this chapter to the total selling price, and the tax shall be stated separately on any sales receipts or slips, rent receipts, charge tickets, invoices, statements of account or other tangible evidence of sale.
- B. Sales made using coin operated devices or with a metering device where sales tax cannot be added separately, may include the tax in the selling price.
- C. Sales made at concession stands, high customer volume establishments, or admissions may include the sales tax in the selling price.

Section 7. Filing Returns, Penalties and Interest for Delinquency

- A. Every person making retail sales, renting property, or providing services within the city shall on or before the 20th day of the month after the ending day of the month make out a return

for the preceding month on forms to be furnished by the city setting forth the total amount of all sales, rents, and services, for such preceding month, regardless of whether such transactions are taxable or nontaxable, the amount of tax due, and such other information as the city may require, and sign and transmit the same to the city clerk or tax administrator. A seller making only exempt sales may be allowed, upon written request approved by the city council, to file quarterly on the 20th day of the month after the ending day of the quarter.

- B. The tax levied under this chapter, whether or not collected from the buyer, shall be paid by the seller to the city in monthly installments at the time of transmitting the return, and if not so paid such tax shall immediately become delinquent. A penalty of five percent (5%) of such tax shall be added to the tax for the first month or fraction thereof of delinquency, and an additional five percent (5%) for each additional month or fraction thereof of delinquency until a total penalty of fifteen percent (15%) has accrued. Such penalty shall be assessed and collected in the same manner as the tax is assessed and collected. In addition to the aforesaid penalty, interest at the rate of eight percent (8%) per year on the delinquent tax from the date of delinquency until paid shall accrue and be collected in the same manner the delinquent tax is collected.
- C. The seller shall report and pay sales tax to the city on the same basis, cash or accrual, that the seller uses for reporting income tax. A seller reporting on the accrual basis shall be allowed a tax credit for sales tax previously paid by the seller on any sale, service, or rental made on credit to the extent the seller declares such debt to be uncollectable and a bad debt for federal income tax purposes. Such bad debt credit must be claimed on a filed sales tax report within two years from the date of sale in which the bad debt arose.
- D. Except as otherwise provided herein, all returns, reports, and information required to be filed with the city under this chapter and all information deductible from such filed returns, reports, and information, shall be kept confidential and shall not be subject to public inspection. Except upon court order, such returns, reports, and information shall be made available only to employees of the city whose job responsibilities are directly related to such returns, reports, and information or to the person authorized in writing by the person supplying such returns, reports, and information. The following information shall be made available to the public: the names and addresses of sellers, whether or not a business is registered to collect sales tax in the city, whether or not a business is current in filing sales tax returns and in remitting sales tax, the amount of sales tax due, and the number of returns not filed. There may be published, from time to time, the names of sellers delinquent in remitting sales taxes and the amount thereof, provided that the names of sellers who have signed a confession of judgment for the delinquent sales taxes, penalties, and interest as of the date on which the names are submitted to the publisher, will not be published. Information may also be made available to the public in the form of statistical reports if the identity of particular sellers is not revealed by the reports.

Section 8. Seller's allowance for Uncollectable Accounts

- A. All sellers and persons paying sales tax returns to the city shall be allowed to deduct from the sales tax due to the city for the month of December, January, or February an amount equal to that amount of sales tax already paid the city on sales that the seller was unable to collect during the preceding calendar year.
- B. All persons exercising this allowance shall provide sufficient proof with that month's return, to justify the amount deducted.

Section 9. Assessment Limitation Periods; Record keeping

- A. The amount of any tax imposed under this chapter may be determined and assessed for a period of three (3) years after the tax becomes due and payable. The beginning of the three (3) year period shall be the day of the month on which submission of any monthly return prescribed by this chapter was due. Suit for collection of such tax may not be commenced after expiration of the three-year period except for taxes, penalties, and interest due that are

- the subject of a written demand or assessment made within the three-year period.
- B. Each seller or person otherwise engaged in business within the city that is subject to this chapter shall maintain and keep for a period of three (3) years suitable records necessary to determine the amount of tax obligation and all of the monthly sales tax reports, forms, and records prescribed by this chapter or as prescribed hereafter by the city. The tax administrator is hereby specifically authorized and empowered to examine and inspect at all reasonable hours the books, records, and other documents of any seller in order to carry out the provisions of this chapter.

Section 10. Delinquency; Failure to Submit Return

- A. Whenever any seller fails to file the required monthly return for a period of thirty (30) days or the tax administrator believes a return contains inaccurate reporting, the tax administrator shall mail a written demand to the delinquent seller's last known address by Certified Mail, Return Receipt Requested, requesting submission of the required sales tax return within ten (10) days. The demand letter will include notification that in the event of noncompliance with such demand the tax administrator shall immediately file a complaint against the delinquent based on the administrator's assessment of tax liability. Concurrently, the tax administrator shall make a sales tax assessment against the delinquent seller, based on an estimate of the gross revenue received by the seller during the month in question. The administrator shall immediately institute action to recover such tax.
- B. Whenever any seller fails to submit the required monthly return after notice given as provided in subsection (A) of this section, or such return is reasonably believed by the tax administrator to contain incorrect reporting, the tax administrator may notify such seller in writing by Certified Mail, Return Receipt Requested, that a hearing will be held on the matter at a specified place and time, which shall be no less than fifteen (15) days after the date of such notice. At such time and place stated in the letter the seller shall present himself and make available to the tax administrator for inspection all of the seller's books, papers, records, and other memoranda pertaining to gross revenue to make a determination of sales tax liability, if any. In the event of noncompliance by the seller the city shall take such legal action, civil or criminal, or both, as provided for in this chapter or the civil or criminal statutes of the State of Alaska, or both.
- C. The city may file a civil action for collection of any taxes, penalty, or interest due before or after making a demand or assessment under subsection (A) of this chapter.

Section 11. Appeal

For controversies not exceeding five hundred dollars or involving procedures implemented by the tax administrator, an appeal by a financially aggrieved taxpayer or merchant may be directed to the mayor. The mayor shall set a date and time for hearing the appeal and prepare a written decision on the appeal, which shall be made a part of the public record. The appellant may appeal the decision of the mayor to the city council, or other established city appeal board within fifteen days after receipt of the written decision of the mayor. Failure of the appellant to so appeal shall be deemed a waiver of any further right to appeal such decision.

Section 12. Forgiveness of Uncollected Taxes, Penalties, and Interest

The city council or tax administrator when so authorized by the city council, may forgive the payment of uncollected sales taxes, interest, and penalty thereon and penalties for failure to file (owed by the seller to the city) upon a determination of tax administrator that such uncollected sales taxes have never been collected by a substantial portion of a clearly definable class of seller, or, which have never been collected on a substantial portion of a clearly defined class of type of transaction or service.

Section 13. Registration and Inspection of Business License

- A. A person, firm, partnership, corporation, or other business entity shall register with the city before

making retail sales, rendering services, or making rentals within the city. Each person who exercises the taxable privilege of doing business within the city thereby consents to the inspection of his Alaska State Business License and shall present such in order to facilitate the provisions and objectives of this chapter.

- B. A person, firm, partnership, corporation, or other business entity wishing to do business within the city shall, unless the person has been a resident of the city for six months prior to registering or the corporation or association is composed of such residents, or has been regularly engaged in business within the city for nine of the twelve months preceding registration, deposit with the tax administrator a deposit of _____dollars (\$____.00). The seller may not deduct the deposit from the seller's last or any other sales tax return.
- C. The deposit required under (B) of this section shall be refunded upon written request and a determination by the tax administrator that the seller has filed sales tax returns and made full payment of any sales tax owing for the first calendar year of business or the seller has filed a statement that he has stopped business activity within the city and has paid all sales tax due. The deposit must be refunded within 30 days of receipt of the request, unless the tax administrator has questioned a return made during the period under consideration.
- D. The tax administrator may withdraw any amount the administrator determines owing on city sales tax. No seller may engage in the business activity for which the deposit was made after receiving written notice from the city that a portion or all of the deposit has been withdrawn to cover delinquent or insufficient payment of sales taxes. Upon restoring the deposit to its original amount, the seller may again engage in business activity covered under the deposit.

Section 14. Sale of Business; Final Tax Return; Liability of Purchaser

If any seller sells, assigns, transfers, conveys, leases, forfeits, or abandons his or her business, the seller shall make a final sales tax return within fifteen (15) days after the date of the transaction showing that all tax obligations imposed by this chapter have been paid. The purchaser, successor, transferee, lessee, assignee, creditor, or secured party shall withhold a sufficient portion of the purchase money to pay the amount of such sales taxes, penalties, and interest as may be due and unpaid to the city. If the purchaser, assignee, transferee, lessee, successor, creditor, or secured party fails to withhold from the purchase money, or fails to otherwise provide for or make payment of the taxes, interest, and penalty owed by the business as provided in this chapter, the purchaser, assignee, transferee, lessee, successor, creditor, or secured party shall be personally liable for the payment of the taxes, penalties, and interest accruing and unpaid to the city on account of operation of business of any former owners, operators, or assigns.

Section 15. Lien for Tax; Interest and, Penalty Due

The tax, interest, and penalty imposed under this chapter and any other fees associated with collection of this debt shall constitute a lien in favor of the city upon the assets or property of every person engaging in business within the city. The lien arises upon delinquency and continues until liability for the amounts owed is satisfied or the property of the delinquent person is sold at a foreclosure sale. The lien is not valid as against a mortgagee, pledge, purchaser, or judgment creditor until notice of the lien is filed in the office of the Recorder for the _____ recording district in the manner provided in A.S. 40.19 for federal tax liens.

Section 16. Collected Taxes

Taxes collected by a seller belong to the City of _____ and shall be held by the seller in trust for the City of _____ until paid over as provided in this chapter

Section 17. Penalties

Person, persons, companies, firms, corporations or other entity(ies) violating the provisions of this chapter shall upon conviction thereof be fined not to exceed the sum of three hundred dollars (\$300).

CITY OF _____
ADDRESS: _____

FOR OFFICE USE ONLY

PHONE: (____) ____ - _____ Received _____, 20____, By _____

Receipt No: _____ Amount Received: _____

SELLER'S MONTHLY SALES TAX RETURN: _____ Code of Ordinances Chapter _____
(Date) (Available in the city office)

DUE ON OR BEFORE THE 20th OF EACH MONTH

(Individual or firm name) For Month Ending: _____, 20____

ADDRESS: _____

GROSS RECEIPTS SUBJECT TO SALES TAX:

1. (a) Gross Sales (cash and credit)-----	\$
(b) From Collections on Credit Sales (deducted on line 3 of previous returns)	
2. TOTAL GROSS RECEIPTS (Total from line 1)-----	\$
3. DEDUCTIONS:	
(a) Sales for Resale within _____ [City name]-----	
(b) Sales outside _____ [City name]-----	
(c) Sales to Government Agencies -----	
(d) Exempt by Ordinance -----	
(e) Other Deductions (Explain) _____	
4. TOTAL DEDUCTIONS CLAIMED-----	\$
5. Net subject to Sales Tax (Subtract line 4 total from line 1 total)-----	\$
CALCULATION OF TAX, PENALTY, AND INTEREST	
6. ___% of line 5 (sales tax owed this return)-----	\$
7. Interest (___% of line 6 per month from time return due)-----	\$
8. Additional Penalty as Stated in Chapter ____ and explained----- by notice from Clerk-----	\$
9. Total Sales Tax Due (total of lines 6, 7 and 8)-----	\$
TOTAL AMOUNT PAID WITH RETURN (should be the same as line 9)-----	\$

I, _____, do solemnly swear that I am _____
(Position held)
of _____
(Individual, firm, partnership)

In making the foregoing report under penalties of perjury, I declare I have examined this return and to the best of my knowledge and belief, it is true, correct and complete.

(Signature)

(Date)