



	Approved	Denied
Action taken <i>3/21/05</i>		X
Other:		
Verified by: <i>J. Munn, Deputy Clerk</i>		

**WASILLA CITY COUNCIL ACTION MEMORANDUM**

**AM No. 05-11**

**TITLE: REQUEST FOR SALES TAX PENALTY WAIVER.**

Agenda of: March 21, 2005  
 Originator: City Clerk's Office

Date: March 15, 2005

Route to:	Department	Signature/Date
	Police	
	Recreational and Cultural Services Library, Museum	
	Public Works Planning	
X	Finance *signature required	<i>Juan E. Colligan</i>
X	Clerk	<i>Jane Munn</i>

**REVIEWED BY MAYOR DIANNE M. KELLER:** *Dianne M. Keller*

**FISCAL IMPACT:**  yes\$ or  no      Funds Available  yes  no

Account name/number:

Attachments: letter from Lowe's, dated: February 23, 2005; Ordinance Serial No. 05-20

**SUMMARY STATEMENT:** The city received the attached letter from Lowe's Home Improvement Warehouse, requesting a waiver of penalty for a late sales tax payment in December 2004.

Per our attorney, the council may approve the waiver under WMC 5.16.150.B.2 (see Ordinance Serial No. 05-20, attached)

The following is a statement of facts submitted by Ted Leonard, Director of Finance and Administrative Services:

- Lowe's was given copy of Wasilla Municipal Sales Tax Code.
- December's Sales Tax Return was due on January 31, 2005 at 5 p.m. Lowe's December Sales Tax return was received on February 3, 2005.

- Lowe's December Sales Tax Return was the first sales tax return filed by Lowe's.
- Lowe's was assessed a 5% percent late fee of \$953.22 for filing a late return.
- Lowe's paid the assessed penalty and interest and forfeited the credit for prompt payment \$100.00 on February 23<sup>rd</sup>.
- Lowe's has requested waiver and refund of the penalty paid.

**STAFF RECOMMENDED ACTION:** None. This matter falls within the discretion of the council. Should the council choose to grant the waiver, a motion to do so must be made from the floor.



Ted Leonard, Director of Finance  
Christy Smithers, City Clerk  
City of Wasilla

Via fax: 907-373-9092

Dear Mr. Leonard and Ms. Smithers:

I am writing regarding the letter we received (copy attached) informing us of the penalty and interest due for late payment on our December, 2004 sales tax return which was our first return to be filed with you. Although we are remitting a check in the amount of \$1076.71, we formally request a waiver of the penalty amounting to \$953.21 of the total. We will, of course, pay the interest of \$23.50 and forfeit the vendor compensation of \$100.00 for the month of December.

We feel the circumstances warrant this waiver. Several weeks before the date of our grand opening, several phone calls were made to your finance department gathering information and clarifying issues and procedures to ensure our compliance with all of your local laws and exemptions. We were especially intent on setting our system procedures in place to collect and remit the correct sales tax with the \$500 maximum which included testing not only the transactions at the point of sale, but also confirming the accuracy of the aggregate sales information reported at the end of the month. Due diligence required more review before being satisfied that our system, which reports on 1100 stores, was correctly reporting on the unique sales of the Wasilla store.

Additionally, we feel that a penalty is not warranted. Penalties are usually levied when there is intent and forethought to the action. In this case, it was quite the opposite.

We also wish to point out that of the several hundred returns we file each month, this is the only one that must be received in the taxing office BY the due date. Regardless of wording, all other jurisdictions requiring receipt of a document or a check accept postmarked by the due date. Additionally, our initial impression was that the return was to be postmarked by the end of the month.

You can be assured that an additional procedure has been put into place to have the check in your office before the end of each month.

We understand that your procedures may involve presenting this to the City Council. By way of UPS next day delivery, a check in the amount of \$1076.71 will be sent tomorrow. We look forward to hearing from you soon and appreciate your review of the facts and circumstances. We feel confident that your review will come to the same conclusion on the penalty waiver.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Todd Freas".

Elizabeth Todd Freas, CPA  
Lowe's Companies, Inc.  
Sales Tax Dept  
704-758-2325  
704-757-0633 fax

RECEIVED

FEB 23 2005

CLERK'S OFFICE  
CITY OF WASILLA