



## CITY OF WASILLA

290 E. HERNING AVE.

WASILLA, ALASKA 99654-7091

PHONE: (907) 373-9050

FAX: (907) 373-0788

### ORDINANCE SERIAL NO. 92-29

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA SETTING FORTH THE REGULATIONS, PROCEDURES AND PENALTIES PERTAINING TO THE COLLECTION OF A SALES TAX IN THE CITY OF WASILLA.

BE IT ORDAINED AND ENACTED BY THE VOTERS OF THE CITY OF WASILLA, ALASKA AS FOLLOWS:

**Section I. Classification.** This ordinance is of a general and permanent nature and shall become a part of the Wasilla Municipal Code.

**Section II. Purpose.** To establish a Sales Tax within the City limits of Wasilla.

**Section III. Enactment.** Chapter 6.50 is hereby enacted as follows:

#### CHAPTER 6.50

#### SALES TAX

#### SECTIONS:

- 6.50.010 Statutory Authority
- 6.50.020 Definitions
- 6.50.030 Tax Levied - Rate
- 6.50.040 Examples of Taxed Transactions
- 6.50.050 Exceptions
- 6.50.060 Special Collection for Building Construction
- 6.50.070 Seller Accountability
- 6.50.080 Tax Returns - Contents - Penalty for Delinquency
- 6.50.085 Information to be Confidential
- 6.50.090 Tax Records - Final Tax Return
- 6.50.100 Collection Upon Sale
- 6.50.110 Tax Rate
- 6.50.120 City Mayor or Manager Regulation Promulgation Authority
- 6.50.130 Business License - Required
- 6.50.140 Public Statement of Tax Required - Exception for Coin-Operated Machines
- 6.50.150 Liability for Payment - Certificate of Protest
- 6.50.160 Tax Return - Extension of Time
- 6.50.170 Estimated Tax
- 6.50.180 Delinquent Taxes - Notice
- 6.50.190 Delinquent Taxes - Lien
- 6.50.200 Delinquent Taxes - Foreclosure - Time Limit
- 6.50.210 Certificate of Sale - Real Property

6.50.220 Violations - Penalty

6.50.230 Implementation

**6.50.010 Statutory Authority.** This sales tax is imposed and collected pursuant to the authority granted by Alaska Statutes (Section 29.45.700 et. seq.). This sales tax is to be liberally construed to include within the tax all retail sales, rental, and service activities described as within the scope of the sales tax pursuant to the terms of this ordinance and only those exemptions and exceptions are to be permitted which are expressly and clearly set forth by the terms of this ordinance. The tax payer bears the burden of showing eligibility for any exemption. An exemption shall be allowed only when the rental, sales, or service expressly and clearly falls within an exemption as defined by this chapter.

**6.50.020 Definitions.**

- A. "Bulk Sales" means sale of unpackaged items in large quantities.
- B. "Buyer" includes persons who are purchasers of property and services and lessees of property.
- C. "Distraint" means to seize and hold property as security for a debt.
- D. "Mail Order Sales" (generally not subject to the sales tax imposed herein) are strictly limited to sales to consumer made by mail order houses or other sellers who do not have a place of business within the City and who also do not have an ongoing presence within the City limits of Wasilla, such as the ongoing presence involving personal solicitation or regular promotional events. "Mail order sales" is generally limited to those businesses who receive and respond to orders by mail and who deliver the product which is the subject of the sale to the consumer by use of the mails or common carrier without further activity within the City limits.
- E. "Person" includes individuals and every person recognized in law, and every group of the aforesaid who act as a unit. "Person" is inclusive of, without limitation, every individual, receiver, assignee, trustee in bankruptcy, trust estate, firm, co-partnership, joint venture, club, company, business trust, corporation, association, society or any group of individuals acting as a unit, whether mutual, cooperative, corporate, fraternal, non-profit, or otherwise.
- F. "Rents" includes every letting or renting of property for consideration.
- G. "Retail Sale" means the transfer of title to tangible personal property for consumption or use, and not for resale, in substantially the same form or condition. "Retail Sale" includes every sale of property, regardless of quantity or price, except the following:
  - 1. Sales to wholesale and retail dealers in the property sold, for the purpose of resale within the City by such dealer;
  - 2. Sales of tangible personal property as raw materials to a person engaged in manufacturing for sale, which property becomes an ingredient or component part of

the manufactured product or a container thereof, or enters directly into the manufacturing process. A building or construction contractor or subcontractor is not a "person engaged in manufacturing".

H. "Sale" includes all retail sales, rentals and all services. Installment, credit and conditional sales are included within the term.

I. "Sales Price" means consideration paid by the buyer in terms of money and, in the case of sale involving an exchange of property, the fair market value of the property exchanged, all without any deduction for delivery costs, taxes or any other expenses whatsoever.

J. "Seller" includes persons or their agents who are vendors of and lessors of property, and persons furnishing services, and every person making sales.

K. "Services" include all services of every manner and description which are performed or furnished for compensation and, by way of illustration, includes the following:

1. Professional services;
2. Services in which a product or sale of property may also be involved, including personal property made to order;
3. Utilities, repair, construction, transportation, banking, advertising, maintenance, recreation, amusement, contracting and craftsperson's services;
4. Services wherein labor and materials are used to accomplish a specified result;
5. Services dispensed by machines and amusement devices including those which are coin-operated;
6. "Services" does not include services rendered to an employer by his employee.

**6.50.030 Tax Levied - Rate.**

A. A retail sales tax of two percent of the sales price or charge received is levied on all retail sales, rentals and services made within the City. The buyer shall pay the tax to the seller for the use and benefit of the City.

B. **Maximum Tax.** A two percent (2%) retail sales tax shall be applied only to the first five hundred dollars (\$500.00) of each separate sale of an item or items, rent or service transaction. The payment of rent, whether for real or personal property, in excess of five hundred dollars (\$500.00) and for more than one month shall be treated as several separate transactions covering the rental for one month each. A transaction involving payment for services or personal property to be rendered or delivered over a period of more than one month for a consideration in excess of five hundred dollars shall be treated as several separate transactions occurring one each month over the period of time that the service or property is rendered or delivered.

C. For purposes of the tax levied by this section, a sale of tangible personal property is made within the City if:

1. The sale is made by a business located within the City and delivery occurs within the City; or
2. The sale is made by a business located outside of the City and (a) delivery occurs within the City and (b) the seller maintains repeated or regular personal presence within the City limits for the purposes of promoting and encouraging the sale of seller's goods. Activity limited to the delivery of goods by use of common carrier or the mail is not considered maintenance of a regular presence within the City of Wasilla as referred to herein. Conducting regular promotional events or repeated solicitation of sales by personal presence would be activities that would make sales by such a seller within the scope of liability for the payment of the sales tax.

D. The tax levied by this section is applicable to all services rendered within the City, except those services that are (a) unusual, (b) occasional (as opposed to regular or consistent) and (c) merely incidental to the primary service given by the seller to the buyer. Services rendered within the City that are subject to the tax are those services which are regularly and consistently performed by the seller as part of the Seller's ordinary course of business. A service that would not be subject to the tax is where the seller of the service makes a merely incidental appearance within the City limits of Wasilla, related to the purposes of the service being offered, but the primary service to the buyer is performed in a location outside the City limits.

E. The sales tax on rentals is applicable to rentals for all real property located within the City and to rentals of personal property from a business located outside the City when the personal property is used in the City.

6.50.040 Examples of Taxed Transactions. Illustrative examples of transfers of ownership or possessions, and rendering of services, which are taxed under this chapter include, but are not limited to, the following:

A. Rentals of all tangible personal property, including vending machines, typewriters, office furniture and equipment, tools, automobiles, construction equipment and aircraft, including all maintenance and repair contracts in connection therewith;

B. Supplying natural or artificial gas, cable T.V., electricity, ice, telephone, garbage removal, sewer service, steam, water and all services by a public or private utility. Any and all such public utility services and/or resources shall include the applicable sales tax on the monthly or regular bills submitted by the utility to a consumer who uses the service or consumes the delivered resource within the City limits of Wasilla.

C. Transportation for hire of persons by common carrier, including motor transportation, taxicab companies and all other means of transportation for hire;

**D. Service by telephone and electric companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with telephone service, but shall not include deposits;**

**E. Printing or printed matter of all types, kinds and characters and the service of printing or overprinting;**

**F. Renting rooms or living quarters or offices or other commercial space of whatever name or nature by hotels, apartments, roominghouses, public lodginghouses or by firms or individuals renting single or multiple-unit residences or offices or other commercial space, including state or federally subsidized rentals. However, see the exemption defined by 6.50.050(S), excluding rentals of 30 or more consecutive days when used for the purpose of residential habitation. For purposes of computing the maximum tax, a rental of property for a period in excess of one month shall be deemed as a series of rentals with each rental transaction terminating as a rental payment is made. The maximum sales tax payable shall be payable at the time of filing the next monthly return to be submitted following receipt of the rental;**

**G. Foods, confections, and all liquors, beverages and drinks sold and dispensed by retail stores, restaurants or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;**

**H. Advertising of all kinds, types and characters contracted for or sold in the City, including any and all devices used for advertising purposes and the servicing of advertising devices;**

**I. Gross proceeds derived from the operation of punchboards, slot machines, marble machines, jukeboxes, merchandise-vending machines or amusement devices of any kind, and self-service laundry and drycleaning machines and pull tabs and similar gaming devices;**

**J. The sale of tickets or admissions to places of amusement, entertainment, recreational or athletic events, or dues or fees for the privilege of having access to or use of amusement, entertainment, athletic or recreational facilities, including free or complimentary passes and tickets, admissions due or fees. Such free or complimentary passes and tickets, dues or fees are declared to have a value equivalent to the sale price or value of the tickets, passes, admissions dues or fees;**

**K. Sales of tangible personal property and services made for the purpose of developing and improving real estate, even though such real estate is intended for resale as real property. Subject to the limitations set forth in Section 6.50.060 herein;**

**L. Services of drycleaners, laundries, garages, barbershops, beauty shops and cold storage and locker plants;**

**M. Retail sales of motor fuels, oils and lubricants;**

**N. Services rendered by lawyers, accountants, shoe repair shops, carpenters and cabinetmakers, house painters and decorators, tinsmiths and sheet iron workers, watchmakers,**

radio and television advertising, photographers (including all film development), printing establishments, garages, mechanics and machinists, plumbers and electricians, welders and stove cleaners, and services of all other tradespersons, craftspersons and professional practitioners.

6.50.050 Exceptions. The tax levied shall not apply to the following:

- A. Casual and isolated sales of personal property and/or performance of services not made in the ordinary and usual course of business;
- B. Sales of insurance and bonds of guaranty and fidelity;
- C. Gross receipts or proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles;
- D. Sales, services, and rentals to a buyer or made by a seller, organized and administered solely by the exempt organization that has obtained a 501(c)3 or 501(c)4 exemption certificate from the Internal Revenue Service and an exemption certificate from the City; provided this exemption applies to sellers only if the income from the exempt sale is exempt from federal income taxation.
- E. Gross receipts or proceeds derived from the sale of food in public, common, high school or college cafeterias or lunchrooms operated primarily for the public and not operated for profit;
- F. Gross receipts or proceeds derived from sales or services which the municipality is prohibited from taxing under the laws of the State or under the laws of the United States; or gross receipts or proceeds from the transportation, loading, unloading or storing of cargo from vessels or aircraft in foreign or interstate commerce, or on goods in transit or awaiting and being processed for shipment;
- G. Gross receipts or proceeds derived from carrier sales made directly to consumers or users of newspaper or any other periodicals;
- H. Gross receipts or proceeds derived from sales to the United States government or the State or any political subdivision thereof, including the City of Wasilla;
- I. Dues or fees to clubs, labor unions or fraternal organizations;
- J. Real estate agents gross receipts received on behalf of the owner and derived from sale of real property, but excepting the real estate agent's fee earned as commission for sale of such property which fee or commission shall be taxable up to the first five hundred dollars of the commission;
- K. Sales of tickets for school entertainments, school athletic events, and activities conducted for charitable purposes or community benefits;

L. Interstate air, train and boat fares;

M. Sales of food supplies to cafes, restaurants and other establishments where food is sold to the public for use in the normal course of business of cafes, restaurants and other such establishments.

N. Sale of food supplies to hospitals, institutional homes having six or more charges, recreational camps and schools, provided a certificate authorizing such exemption is first obtained from the City;

O. The maximum tax on contracts for the original construction of private buildings or private residences or sale of equipment shall be ten dollars; and even though the single sale of those articles of tangible personal property may run to several thousand dollars, only the first five hundred dollars shall be subject to tax as set forth in Section 6.50.060 herein;

P. Sales to orbital and space propulsion facilities;

Q. Sales of food supplies or other goods purchased with food coupons, food stamps, or other certificates issued under 7 USC 2011-2025 (Food Stamp Act) or 42 USC 1786 (Special Supplemental Food Program);

R. Residential rentals other than rentals to transients who occupy or rent a suite, room or rooms in a hotel-motel for fewer than thirty consecutive days for the purpose of habitation;

S. Child day care, pre-elementary school and baby-sitting services;

T. Sale of cemetery plots, caskets, funeral and burial related items and services by a funeral home;

U. The sale of goods and services performed in the course of and necessary in the mental or physical treatment by health care providers licensed by the State of Alaska, including midwives, and the sale of goods and services performed pursuant to a prescription or written order from any of the above;

V. Sales and rentals of hearing aids, crutches, wheelchairs and personal apparatus specifically manufactured for a patient;

W. Sales by mail order, as earlier defined in Section 6.050.020.

6.50.060 Special Collection for Building Construction. For the purpose of facilitating the collection of the tax and for the convenience of the buyer, the following special application shall prevail:

A. The buyer who proposes to undertake the original construction of private building or buildings within the City may, at the time of making application for and receiving the building

permit, pay the maximum tax required. Upon payment the City shall issue an exemption certificate which shall exempt the buyer for a period not to exceed one year from paying any further tax in purchasing for the project for which the permit has been issued. Showing of such certificate, which shall not be transferrable, at the time of the purchase of goods, materials or articles will be sufficient to permit the purchase of the goods, materials or articles without further payment of tax and will relieve the seller of the obligation to collect the tax.

B. In the event that the building or buildings for the project are to be erected outside of the City, then the buyer may pay the tax directly to the City and receive an exemption certificate which shall be considered by the seller as prima facie evidence of the previous payment of such tax for any purpose for the particular project described on the tax receipt. Showing of such receipt at the time of purchase of goods, materials or articles without further payment of tax and will relieve the seller from the obligation to collect the tax.

C. In the event that any other single building project, other than those buildings or construction for which a building permit would be required, is contemplated, requiring miscellaneous purchasing from more than one seller, the buyer may, in order to avoid the payment of multiple taxes, obtain from the City an exemption certificate showing the payment of the maximum tax and the description of the project. The showing of such receipt at the time of purchase of goods, materials or articles will be sufficient to permit the purchase of goods, materials or articles without further payment of tax and will relieve the seller from the obligation to collect the tax.

**6.50.070 Seller Accountability.** Upon collection by the seller of the taxes imposed in this chapter, title to the collected taxes shall vest in the City. All taxes collected are City monies, and the seller is at all times accountable to the City for such monies. Collection of any tax or taxes, interest and penalties due and payable to the City under this chapter may be enforced through civil action brought in any court of competent jurisdiction. Every sale which is made within the City, unless explicitly exempted by this chapter or a subsequent ordinance, shall be presumed to be subject to the tax imposed under this chapter in any action to enforce the provisions of this chapter.

**6.50.080 Tax Returns - Contents - Penalty for Delinquency.**

A. Every seller, on or before the 20th day of each month, shall make out a return for the preceding month, upon forms to be provided by the City, setting forth the amount of all sales, rentals and services, all nontaxable sales, rentals and services, and all taxable sales, rentals and services for the preceding month, the amount of tax thereon, and such other information as the City may require, and sign and transmit the same to the City. The tax levied shall be paid by the seller to the City at the time of transmitting the return and, if not so paid, such tax shall forthwith become delinquent. Interest at the rate of fifteen percent per annum on the delinquent tax from the date of delinquency until paid shall accrue and be collected in the same manner as the delinquent tax is collected. The monthly tax return referred to herein is to be received or postmarked on or before the 20th day of each month. The tax payable shall be delinquent if not received on or before the 20th day of the month in which the tax form, with payment, is to be transmitted.



B. All tax returns shall show such further information as the City may require to enable it to compute correctly and collect the tax levied in this chapter. In addition to the information required on returns, the City may request, and the seller must furnish, any information deemed necessary for a correct computation of the tax. The seller shall compute and remit to the City the required tax due for the preceding month, and the remittance of the tax must accompany the returns herein required. If not paid when due, the tax shall be delinquent from such date, and collection shall be enforced under the terms of this chapter, as set forth in this chapter.

C. Sellers who timely comply with submission of a correct monthly sales tax return, as required in this section (.080) shall be entitled to retain 2% (two percent) of the amount of the tax monies to be remitted to the City to a maximum retainage of \$100.00.

This right to retain a portion of the tax monies to be remitted is not available unless a complete and correct tax return is submitted by no later than the 20th day of each month (for sales tax collected in the preceding month). Submission of a return is defined as actual delivery to the City or placing the return in the mail for delivery to the City. Should the 20th day of the month fall on a weekend or holiday, the following business day shall be deemed the 20th day of the month for the purposes of this subsection. Similarly, the date of delinquency established above, the 20th day of the month, shall be extended to the following business day if the 20th of the month falls on a weekend or holiday.

6.50.085 Information to be Confidential. Except as otherwise provided in this chapter, all return, 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 are not subject to public inspection. Except upon court order, such returns, reports and information shall be made available only to employees and agents of the City whose job responsibilities are directly related to such returns, reports and information; to the person supplying such returns, reports and information and to persons authorized in writing by the person supplying such returns, reports and information. The following information shall be made available to the public: the name and address of current business license holders; whether a business license holder is more than thirty days delinquent in filing returns and in remitting sales tax; and if so delinquent, the amount or estimated amount of sales tax due and the number of returns not filed. The Mayor or his designee may, from time to time, publish the names of sellers delinquent in remitting sales taxes and the amount thereof. 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.

6.50.090 Tax Records - Final Tax Return. It shall be the duty of every seller required to make a return and pay over any tax under this chapter to keep and preserve suitable records of the gross daily sales together with invoices of purchases and sales, bills of lading, bills of sale and other pertinent records and documents which may be necessary to determine the amount of tax due under this chapter and such other records of goods, wares, merchandise and other subjects of taxation under this chapter as will substantiate and prove the accuracy of such returns. It shall also be the duty of every seller who makes exempt sales to keep records of such sales, which shall be subject to examination by the City or any authorized employee thereof engaged in checking or auditing the records of any seller required to make a report under the terms of this chapter. All

such records shall remain in the City and be preserved for a period of three years after payment of the taxes, unless the City has authorized, in writing, their destruction or disposal at an earlier date, and shall be open to examination at any time by the City or any authorized employee thereof while engaged in checking such records. The burden of proving that a sale, rental or service was not taxable shall be upon the seller.

Any seller who filed or should have filed a sales tax return for the prior month shall file a return for the current month even though no tax may be due. The return shall show why no tax is due and, if the business is sold, the name of the person to whom it was sold. If any seller sells, leases or otherwise disposes of his business, he shall make a final sales tax return within fifteen days after the date of sale; and the purchaser, successor or assign shall withhold a sufficient portion of the purchase price to safely cover the amount of such sales tax, penalties and interest as may be due and unpaid to the City until such time as the former owner has produced a receipt from the City showing that all tax obligations imposed by this chapter have been paid; and further provided, if any purchaser of a business fails to withhold from the purchase money as provided for in this section, he shall be personally liable to the City on account of the operation of the business by the former owner, owners or assigns.

**6.50.100 Collection Upon Sale.** The tax levied under this chapter shall be paid by the buyer, and it shall be the duty of every seller to collect from the buyer the full amount of the tax, except that the tax on receipts or proceeds from various mechanical devices as provided in Section 6.50.150 shall be paid by the operator thereof. Every seller shall add the amount of the tax levied by this chapter to the total sale 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. The tax shall constitute a part of such price and shall be a debt from the buyer to the seller until paid and shall be recoverable at law in the same manner as other debts.

The seller shall report and remit sales tax to the City on the same basis, cash or accrual, that the Seller uses for reporting federal 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 that the seller declares such debt to be uncollectible and a bad debt for federal income tax purposes. Such bad debt credit must be claimed on a timely filed monthly sales tax report within two years from the date of sale in which the bad debt arose.

**6.50.110 Tax Rate.** Sellers shall collect the amount shown in this schedule:

	<u>Tax</u>
Under \$ .25	None
\$ .25 through \$ .64	\$.01
\$ .65 through \$1.24	\$.02
\$1.25 through \$1.64	\$.03
\$1.65 through \$2.24	\$.04
\$2.25 through \$2.64	\$.05
\$2.65 through \$3.24	\$.06
\$3.25 through \$3.64	\$.07
\$3.65 through \$4.24	\$.08

\$4.25 through \$4.64	\$ .09
\$4.65 through \$5.24	\$ .10
Over \$5.24, continue on same scale up to five hundred dollars.	

**6.50.120 City Mayor or Manager Regulation Promulgation Authority.** The City Mayor or Manager may take any action necessary or appropriate to the implementation of this chapter by promulgation of regulations which may include the adoption of forms. Such regulations or any proceedings adopted by the City Mayor or Manager are effective at the time indicated by him, but are subject to revision or repeal by the City Council at the next meeting following their effective date or at the time that the Council acts thereon.

**6.50.130 Business License - Required.** All sellers shall secure a City Business License as otherwise required in Chapter 9.04 of this code in connection with doing business in the City. Before renewing a business license to a seller, the City may require the applicant to post a bond, furnish a statement of net worth, or furnish additional security to insure the full and prompt payment of taxes to be collected under this chapter when in the judgement of the City Mayor or Manager it is in the interest of the City to do so.

**6.50.140 Public Statement of Tax Required - Exception for Coin-Operated Machines.** A seller shall not advertise or hold out or state to the public or to any buyer, directly or indirectly, that the tax payment or any part thereof imposed by this chapter will be assumed or absorbed by the seller or that it will not be added to the sales price or that it will be refunded or absorbed in whole or in part. The seller shall, whenever feasible, separately state the tax to the buyer on each taxable transaction. When not feasible to state separately, the seller shall prominently display a sign indicating the imposition of the tax. The revenue from a coin-operated machine shall be treated in gross on a monthly basis, without reference to the amount paid or played on a particular transaction.

**6.50.150 Liability for Payment - Certificate of Protest.** A seller shall determine in the first instance whether a sale is exempt under this chapter; however, if the seller incorrectly determines that a sale is exempt, then the seller is liable to the City for the tax just as if he had collected it. In the event that the seller determines that a transaction is not exempt, but the buyer believes the transaction to be exempt, then the seller will furnish to the buyer a form of certificate of protest, available at the City, which shall be filled out by the buyer and delivered to the seller with the disputed tax. The certificate shall show the respective names and addresses of the seller and the buyer, the nature of the claim of exemption, and such other information as may be prescribed by the City. The seller shall remit to the City all certificates of protest delivered to him as promptly as possible but in any event no later than thirty days after delivery of the certificate to him, together with any additional information which the seller believes to be pertinent to the determination of the issue. The City Mayor or Manager, after consultation with the City Attorney, will rule on each protest and send to the buyer a notice that his claim has been allowed or disallowed within thirty days of receipt of the certificate by the City. If the claim has been allowed, a refund will be remitted with the notice. In the event the claim is disallowed, the buyer may seek judicial review thereof within thirty days, unless judicial review is sought within such time, the decision of the City Mayor or Manager is final.

**6.50.160 Tax Return - Extension of Time.** the City Mayor or Manager or his designee may, in his discretion, upon written application duly made, grant an extension of time for filing returns and remitting the tax each month to any seller, provided:

A. That such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon such seller; and

B. That such seller is not delinquent in any payment of tax or filing of returns or otherwise in violation of this chapter.

**6.50.170 Estimated Tax.**

A. In the event that the City is unable to ascertain the tax due to be remitted by a seller by reason of the failure of the seller to keep accurate books, to allow inspection, failure to file a return or falsification of records, the City may make an estimate of the tax due based on any information available to it. Notice of the estimate of taxes due shall be furnished to the seller, and the amount therein stated shall become final for the purposes of determining liability of the seller to the City in thirty days, unless the seller files an accurate return supported by satisfactory records, indicating a lesser liability. A seller shall immediately notify the City of any fire, theft or other casualty which would prevent his complying with this chapter. Such casualty constitutes a defense to any penalty provided in this chapter, but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense under this section.

B. Nothing in this section shall prevent the City from filing and maintain an action to collect any taxes collected or which should have been collected in addition to any penalty assessed. In such action, the estimated tax due made by the City shall be prima facie evidence of the amount payable.

**6.50.180 Delinquent Taxes - Notice.** Whenever any seller fails to submit the required return, or such return is reasonably believed by the City to contain incorrect reporting, the City may notify such seller in writing by certified mail, return receipt requested, that a hearing will be held upon the matter at a specified place and time, which shall not be less than fifteen days after the date of such notice, at which time and place the seller shall present himself and make available to the City for inspection the seller's books, papers, records and other memoranda pertaining to gross revenue and the determination of sales tax liability, if any, and in the event of noncompliance by the seller the City may forthwith take such legal action as provided for in this chapter and the statutes of the State.

**6.50.190 Delinquent Taxes - Lien.**

A. If a seller who is liable to collect and pay over a sales tax under the provisions of this chapter neglects or refuses to pay the tax after notice of delinquency, the City shall have a lien for such amount (including penalty, interest and administration costs) upon all property and rights to property, real and personal, belonging to such seller. The lien arises at the time of delinquency and continues until the liability or the amount is satisfied or the lien is foreclosed.

B. The City may record a notice of lien. When the notice of lien is recorded, the lien has priority over other liens except those for property taxes and special assessments. The City may

record subsequent notices of lien for amounts due after the recording of a previous notice of lien. The City may also record amended notices of lien to correct any errors or to provide notice of the then current principal amount owing.

C. The notice of lien for real property shall set out:

1. The name of the seller;
2. A description of the real property interest reputedly owned or held by seller;
3. The principal amount owing at a stated date; and
4. A statement that penalty, interest and administration costs are also owing.

D. Within ten days after recording the notice of lien or amended notice of lien, the City shall mail a copy of the notice by certified mail, return receipt requested, to the last known address of the seller.

**6.50.200 Delinquent Taxes - Foreclosure - Time Limit.** The City Attorney, at the request of the City Council, may file an action to foreclose the lien of the City for the tax upon property and rights to property, real or personal, and sell the same, applying the proceeds thereof to the payment of the tax, interest, penalty, administration costs and the costs of foreclosure. The action shall be commenced and pursued in the manner provided for the foreclosure of liens by AS Sections 09.45.170 through 09.45.220; provided, however, upon commencement, the City shall provide written notice of the action to all persons having an interest of record in the property being foreclosed or persons in possession of the property. The action may be commenced at any time within six years after the lien arises.

**6.50.210 Certificate of Sale - Real Property.** In the case of a sale of real property under this chapter:

A. The deed of sale given under the provisions of this chapter is prima facie evidence of the facts stated in it; and

B. The deed is considered and operates as a conveyance of all the right, title and interest that the party delinquent had in and to the real property sold as of the time of the lien of the City attached to it.

**6.50.220 Violations - Penalty.** Each of the following acts, when intentional, constitutes an offense and is punishable by civil penalty of up to two hundred dollars, and each act set forth in this section constitutes a separate offense, and each day constitutes a separate offense for continuing offenses of omission, commission or concealment:

A. Failure to obtain a business license by a seller;

- B. Failure to file a tax return or failure to remit taxes when due;
- C. Falsification of misrepresentation of any record filed with the City under this chapter or required to be kept by this chapter, if used to mislead the City tax authorities;
- D. Making sales while the seller's business license is suspended;
- E. Failure of a seller to allow the inspection at reasonable times of records required to be kept by this chapter.

**6.50.230 Implementation.**

A. This ordinance shall become effective and shall be implemented on January 1, 1993 if, before that date, the voters of the City of Wasilla have approved, by majority vote, a ballot proposition authorizing the levy of a 2% sales tax on retail sales, services, and rentals within the City of Wasilla.

In the event of approval and implementation of a Matanuska-Susitna Borough-wide sales tax, the 2% sales tax levied on retail sales, services and rents within the City of Wasilla pursuant to this ordinance shall:

- (a) be in addition to the sales tax levied by the Borough, and shall
- (b) be applied, reported, collected and enforced according to the terms of the approved and implemented Borough-wide sales tax ordinance.

The effect of this section is intended to repeal and replace the substantive provisions of this ordinance with all of the substantive provisions of the Borough-wide sales tax ordinance if such is approved and implemented.

- B. **Property Tax Cap.** The 2% City sales tax levy is on the condition that the City property tax levy be limited to a maximum of 2 mills.
- C. **Use of Tax for Police.** The 2% City sales tax levy is on the condition that sales tax first be appropriated to fund a police department and the remaining tax be appropriated through the ordinary public budget process.

Introduction: 8/10/92

Public Hearing 8/24/92

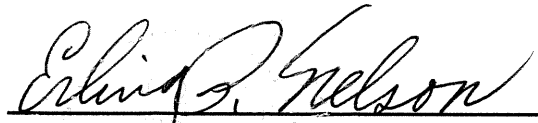
Public Hearing 09/14/92

ORDINANCE SERIAL NO. 92-29  
PAGE 15

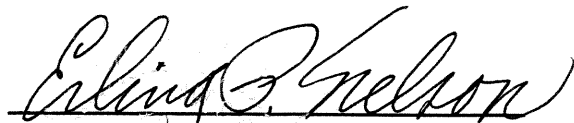
ADOPTED by the Council of the City of Wasilla on this 28<sup>th</sup> day of September, 1992.

  
\_\_\_\_\_  
John C. Stein, Mayor

ATTEST:

  
\_\_\_\_\_  
Erling P. Nelson, CMC  
City Clerk

LEVY OF 2% sales tax approved/~~rejected~~ by the Voters of the City of Wasilla at the regular election on the 6th day of October, 1992.

  
\_\_\_\_\_  
Erling P. Nelson, CMC  
City Clerk