

**CITY OF WASILLA
ORDINANCE SERIAL NO. 05-20**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC CHAPTER 5.16 SALES TAX REGARDING THE APPLICATION OF SALES TAX PAYMENTS, AND REDUCTIONS IN PENALTIES FOR LATE FILING AND PAYMENT OF SALES TAX.

* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

* **Section 2. Amendment of section.** Subsection D of WMC 5.16.120, Tax returns – Contents – Penalty for delinquency, is amended to read as follows:

5.16.120 Tax returns--Contents—Penalty for delinquency.

D. Sales tax that is not received on or before the time when due is delinquent. Delinquent sales tax bears interest at the rate of fifteen (15) percent per annum until paid. In addition, delinquent sales tax shall be subject to a late payment penalty equal to five percent of the amount of the delinquent sales tax multiplied by the number of calendar months (or portions thereof) that elapse until the delinquent sales tax, interest and penalty are paid in full; provided that the amount of penalty shall not exceed twenty-five (25) percent of the amount of the delinquent sales tax. The penalty does not bear interest. [ALL PAYMENTS OF SALES TAX RECEIVED FROM A SELLER OWING DELINQUENT SALES TAX SHALL BE APPLIED FIRST TO ACCRUED PENALTY, SECOND TO ACCRUED INTEREST AND THEN TO SALES TAX PAYMENTS OWED BY THE SELLER IN THE ORDER OF THEIR DUE DATES.]

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* **Section 3. Adoption of section.** WMC 5.16.125, Application of sales tax payments, is adopted to read as follows:

5.16.125 Application of sales tax payments.

A. Payments on sales tax accounts shall be applied first to accrued penalty, second to accrued interest and then to sales tax payments owed by the seller in the order of their due dates, except as this section provides otherwise.

B. Payments on sales tax accounts submitted with sales tax returns shall be applied to the most current return period, first to accrued penalty, second to accrued interest and then to sales tax payable under the return. Any remaining moneys shall be applied as provided in subsection A of this section.

C. Amounts of delinquent sales tax, interest or penalty that have been reduced to judgment, are the subject of a confession of judgment, or are the subject of a written payment agreement between the City and the seller, are payable as provided in the judgment, confession of judgment or payment agreement, respectively, and, except as provided otherwise in the judgment, confession of judgment or payment agreement, thereafter cease to be subject to the further accrual of interest or penalty under this chapter.

* **Section 4. Amendment of section.** WMC 5.16.150, Tax return – Extension of time, is amended to read as follows:

5.16.150 Tax return--Extension of time—Waiver or reduction of penalty.

A. Upon written application of a seller, stating the reasons therefor, the finance director may extend the time to file a sales tax return, if the finance director finds each of the following:

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1. For reasons beyond the seller's reasonable control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

2. The seller has a reasonable plan to cure the problem that caused the seller to apply for an extension, the seller will commence and proceed with diligence to cure the problem, and the problem will be cured within a reasonable time; and

3. At the time of the application, the seller is not delinquent in filing any other sales tax return or in remitting sales tax to the city.

B. A penalty assessed under Section 5.16.120.D for the delinquent remittance of sales tax or under Section 5.16.180.F for failure to file a sales tax return:

1. May be waived by the finance director, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city, within five (5) business days after the date of delinquency. A seller may not be granted more than one waiver of penalty under this paragraph in any period of 24 consecutive months. The finance director shall report all such waivers of penalty to the council in writing, at least once each calendar quarter.

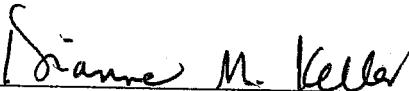
2. May be waived or reduced by the council, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city. In determining whether to waive or reduce a penalty, and the amount of a reduction, the council shall consider the following:

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- a. The seller's history of compliance with the requirements of this chapter;
- b. The degree of the seller's responsibility for the delinquency for which the penalty was assessed;
- c. The amount of the penalty in relation to the amount of delinquent sales tax and interest owed by the seller;
- d. Whether waiving or reducing the penalty will contribute to the prompt payment of the delinquent sales tax, interest and remaining penalty;
- e. The reasonableness of the seller's efforts to assure timely filing of sales tax returns and remission of sales tax in the future; and
- f. The effect that waiving or reducing the penalty will have on the deterrence of future delinquencies by the seller and others.

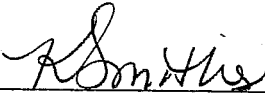
* **Section 5. Effective date.** This ordinance shall take effect upon adoption of the Wasilla City Council.

ADOPTED by the Wasilla City Council, Alaska, on February 28, 2005.



DIANNE M. KELLER, Mayor

ATTEST:



KRISTIE SMITHERS, MMC
City Clerk

[SEAL]

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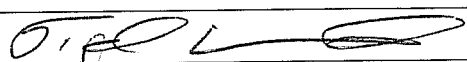
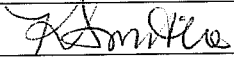
**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: ORDINANCE SERIAL NO. 05-20: AMENDING WMC 5.16, SALES TAX REGARDING PAYMENTS AND REDUCTIONS IN PENALTIES FOR LATE FILING AND PAYMENT OF SALES TAX.

Agenda of: February 14, 2005

Date: February 7, 2005

Originator: Ted Leonard, Director of Finance and Administrative Services

Route to:	Department	Signature/Date
	Police	
	Recreational and Cultural Services Library, Museum	
	Public Works Planning	
X	Finance *signature required	
X	Clerk	

REVIEWED BY MAYOR DIANNE M. KELLER:  for Mayor Keller

FISCAL IMPACT: Not able to accurately determine at this time. Attachments: Ord. 05-20

SUMMARY STATEMENT: Attached is Ordinance 05-20, which revises code provisions related to sales tax interest and penalties. This ordinance provides for a more detailed treatment of the application of payments to delinquent tax, penalty, and interest and the ordinance also provides for the once in 24 month waiver of penalty discussed at the council work session and clarifies the council's authority to waive or reduce sales tax penalty.

The City has modeled its payment application more in line with the structure used by Kenai Borough and the Municipality of Juneau. The Finance department believes that the wording in section 5.16.25 will allow the Finance Department to more efficiently collect delinquent sales tax, penalties and interest. The section will allow delinquent taxes and penalties reduced to a judgment to be taken out of the sales tax system and transferred to our A/R system. This will allow the sales tax clerk to concentrate more on sales tax operations and compliance and our A/R accounting technician trained in collection of debts to concentrate on collection of past due sales tax debts.

The ordinance provides a more detailed description of the authority of waiving or reducing sales tax penalties and interest. It allows for the once in twenty four month waiver of the penalty discussed in the work session. It also clarifies the council's authority to waive or reduce sales tax penalty. Code section WMC 5.16.150 (B) (2) will describe to the businesses the criteria that the Council will use in deciding whether or not to waive penalties and interest. The Finance Department believes this will make the collection system more efficient due to the fact that the new code section gives the business a more detailed description of the process to have a penalty or interest waived.