

Vote: Cox, Ewing, Holler, Koskela, Menard, and Metiva in favor

**CITY OF WASILLA
ORDINANCE SERIAL NO. 07-17**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC SECTION 5.16.045, RULES APPLICABLE TO PARTICULAR BUSINESSES OR OCCUPATIONS, AND WMC SECTION 5.16.050, EXEMPTIONS, TO PROVIDE EXEMPTIONS FROM SALES TAX FOR SALES OF MATERIALS USED IN BUILDING CONSTRUCTION THAT ARE UNIFORM FOR THE CITY AND THE CITY OF PALMER; AMENDING WMC SECTION 5.16.050, EXEMPTIONS, TO IDENTIFY SEPARATELY THOSE EXEMPTIONS FROM SALES TAX THAT REQUIRE A CERTIFICATE OF EXEMPTION; AND AMENDING WMC 5.16.080, CERTIFICATE OF EXEMPTION, TO PROVIDE FEES FOR CERTIFICATES OF EXEMPTION FOR SALES OF MATERIALS USED IN BUILDING CONSTRUCTION THAT ARE UNIFORM FOR THE CITY AND THE CITY OF PALMER, AND TO PROVIDE A PERIOD FOR TRANSITION TO THE NEW FEES FOR CERTIFICATES OF EXEMPTION.

* **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.** WMC 5.16.045, Rules applicable to particular businesses or occupations, is amended to read as follows:

5.16.045 Rules applicable to particular businesses or occupations.

A. Real Estate Sales Commissions.

1. Commissions on sales of real property located in the city are subject to sales tax, regardless of the location of the person to whom the commission is payable.

2. Commissions on sales of real property payable to a person who maintains an office in the city are subject to sales tax, regardless of the location of the real property.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

B. [BUILDING CONSTRUCTION BY PROPERTY OWNER. WHEN WORK IS PERFORMED ON REAL PROPERTY BY THE OWNER OF THE PROPERTY, EMPLOYEES OF THE OWNER OF THE PROPERTY, OR THE OWNER ACTING AS THE OWNER'S OWN CONTRACTOR, THE MAXIMUM SALES TAX ON ALL MATERIALS, SUPPLIES AND SERVICES PURCHASED BY THE OWNER AND INCORPORATED IN THE WORK IS EQUAL TO FIVE-HUNDRED DOLLARS (\$500.00) MULTIPLIED BY THE SALES TAX RATE IN EFFECT WHEN THE TAX IS DUE UNDER THIS SUBSECTION. BEFORE MAKING ANY PURCHASES THAT ARE TO BE INCORPORATED INTO THE WORK, THE OWNER MAY PAY THE MAXIMUM SALES TAX TO THE CITY. UPON SUCH PAYMENT, THE CITY SHALL ISSUE A BUILDING EXEMPTION CERTIFICATE SHOWING THE PAYMENT OF THE MAXIMUM SALES TAX AND SPECIFYING THE PROJECT, ITS LOCATION, AND THE OWNER'S NAME. THE CERTIFICATE SHALL BE EFFECTIVE FOR THE LESSER OF THE DURATION OF THE WORK AND ONE YEAR, AND IS NOT TRANSFERABLE. BY EXHIBITING A VALID BUILDING EXEMPTION CERTIFICATE WHEN PURCHASING MATERIALS, SUPPLIES OR SERVICES TO BE INCORPORATED IN THE WORK, THE OWNER WILL BE EXEMPT FROM PAYING SALES TAX, AND THE SELLER WILL BE EXEMPT FROM COLLECTING SALES TAX ON THE TRANSACTION.

C.]Sales of Gaming Property. An amount equal to the gross receipts of the seller from sales of gaming property, less the cost of prizes awarded on each series, set of games, or contest for which gaming property has been sold, shall be subject to sales tax.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

C[D]. Sales From Coin Operated Machines. An amount equal to the gross receipts from each coin operated machine that the seller operates in the city, shall be subject to sales tax.

* **Section 3. Amendment of section.** WMC 5.16.050, Exemptions, is amended to read as follows:

5.16.050 Exemptions.

A. The following transactions are exempt from sales tax:

1. Sales of real property, and interests in real property. Whether a transaction is a sale of real property is determined as of the time of the transaction, and without reference to whether what is sold later will be incorporated into real property.

2. Casual and isolated sales, rentals or services, not made in the ordinary course of business.

[3. SALES TO A DEALER IN THE PROPERTY SOLD, FOR THE PURPOSE OF RESALE BY THE DEALER.

4. SALES OF RAW MATERIAL TO A MANUFACTURER, WHICH RAW MATERIAL BECOMES AN INGREDIENT OR COMPONENT PART OF A MANUFACTURED PRODUCT OR A CONTAINER THEREOF, OR IS CONSUMED IN THE MANUFACTURING PROCESS.

5. SALES OF TANGIBLE PERSONAL PROPERTY AND EQUIPMENT RENTALS TO A PERSON LICENSED AS A CONTRACTOR UNDER CHAPTER 8.18 OF THE ALASKA STATUTES, WHICH PROPERTY OR RENTED EQUIPMENT IS TO BE USED IN THE CONSTRUCTION OF IMPROVEMENTS TO REAL PROPERTY.]

3[6]. Sales of securities, insurance and bonds of guaranty and fidelity.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

4[7]. The following fees charged by banks, savings and loan associations, credit unions and investment banks:

a. Fees associated with deposit accounts, including service fees, monthly account fees, NSF fees, and attachment fees.

b. Fees for the purchase of bank checks, money orders, travelers checks, foreign currency and similar products for payments.

c. Fees for, or commissions on, the sale, exchange or transfer of currency, stocks, bonds and other securities.

d. Fees for the use of automatic teller machines and for transactions made through automatic teller machines, notary fees and overdraft protection fees.

5[8]. Contracts to transport elementary or secondary school students to and from school.

[9. SALES, RENTALS AND SERVICES TO A PERSON THAT THE INTERNAL REVENUE SERVICE RECOGNIZES AS AN ORGANIZATION DESCRIBED IN SECTION 501(C)(3) OR 501(C)(4) OF THE INTERNAL REVENUE CODE, AND WHICH HOLDS A CURRENT EXEMPTION CERTIFICATE FROM THE CITY; PROVIDED THAT THE SALE, RENTAL OR SERVICE IS NOT FOR USE IN AN "UNRELATED TRADE OR BUSINESS" OF THE PERSON, AS THAT TERM IS DEFINED IN THE INTERNAL REVENUE CODE.

10. SALES, RENTALS AND SERVICES BY A PERSON THAT THE INTERNAL REVENUE SERVICE RECOGNIZES AS AN ORGANIZATION DESCRIBED IN SECTION 501(C)(3) OR 501(C)(4) OF THE INTERNAL REVENUE CODE, AND WHICH HOLDS A CURRENT EXEMPTION CERTIFICATE FROM THE CITY;

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

PROVIDED THAT THE SALE, RENTAL OR SERVICE IS NOT PART OF AN "UNRELATED TRADE OR BUSINESS" OF THE PERSON, AS THAT TERM IS DEFINED IN THE INTERNAL REVENUE CODE.]

6[11]. Sales of food in lunchrooms or cafeterias in elementary, secondary or post-secondary schools that are operated primarily for the convenience of school students and faculty, and not operated for profit.

7[12]. Sales, rentals or services which the city is prohibited from taxing by the constitution or statutes of the United States or the State of Alaska.

8[13]. Sales of newspapers and other periodicals that are made directly by carriers to consumers or users.

9[14]. Sales, rentals and services to the United States, the state of Alaska, and any of their agencies, instrumentalities, or political subdivisions.

10[15]. Dues or fees to clubs, labor unions or fraternal organizations.

11[16]. Sales of admission to school entertainments, school athletic events, and events conducted for the benefit of charitable or community organizations. This exemption does not apply to sales of gaming property.

12[17]. Sales of air, train, boat, cruise line or bus tour transportation, car rentals, accommodations, or admission to entertainment events, where the service is provided outside the city, and fees or commissions related to such sales.

[18. SALES OF FOOD SUPPLIES TO FOOD SERVICE ESTABLISHMENTS FOR INCORPORATION INTO FOOD PRODUCTS TO BE SOLD TO THE PUBLIC.

19. SALE OF FOOD SUPPLIES TO HOSPITALS, INSTITUTIONS HOUSING SIX OR MORE RESIDENTS, RECREATIONAL CAMPS AND SCHOOLS, PROVIDED

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A CERTIFICATE AUTHORIZING SUCH EXEMPTION IS FIRST OBTAINED FROM THE CITY].

13[20]. Sales related to orbital space facilities, space propulsion systems, space vehicles, satellites or stations, to the extent of the exemption required by AS 29.45.650(h).

14[21]. Sales of property purchased with food coupons, food stamps, or other certificates issued under 7 U.S.C. 2011-2025 (Food Stamp Act) or food instruments, food vouchers, or other certificates issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants and Children).

15[22]. Residential rentals for a term of thirty (30) or more consecutive days.

16[23]. Child day care, pre-elementary school and baby-sitting services.

17[24]. Sales of cemetery plots, and sales of caskets, funeral and burial related goods and services by a funeral home.

18[25]. Sales of property and services required in the course of mental or physical treatment by a health care provider licensed by the state of Alaska, and sales of property and services pursuant to a prescription or written order from such a person.

19[26]. Sales and rentals of hearing aids, crutches, wheelchairs and personal apparatus specifically manufactured for a patient.

B. The following transactions are exempt from sales tax, provided that the buyer presents to the seller at the time of the sale transaction a valid certificate of exemption applicable to the transaction, issued to the buyer under Section 5.16.080:

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

1. Sales to a dealer in the property sold, for the purpose of resale by the dealer.

2. Sales of raw material to a manufacturer, which raw material becomes an ingredient or component part of a manufactured product or a container thereof, or is consumed in the manufacturing process.

3. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment, to an owner of real property for use in the original construction of, or renovations to, improvements to the real property. This exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in repairing or maintaining real property.

4. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment, to a person licensed as a contractor under Chapter 8.18 of the Alaska Statutes for use in the original construction of, or renovations to, improvements to real property. This exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in repairing or maintaining real property.

5. Sales, rentals and services to a person that the Internal Revenue Service recognizes as an organization described in Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, provided that the sale, rental or service is not for use in an "unrelated trade or business" of the person, as that term is defined in the Internal Revenue Code.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

6. Sales of food supplies to food service establishments for incorporation into food products to be sold to the public.

7. Sale of food supplies to hospitals, institutions housing six or more residents, recreational camps and schools.

C. The following transactions are exempt from sales tax, provided that the seller has at the time of the transaction a valid certificate of exemption applicable to the sale transaction, issued to the seller under Section 5.16.080:

1. Sales, rentals and services by a person that the Internal Revenue Service recognizes as an organization described in Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, provided that the sale, rental or service is not part of an “unrelated trade or business” of the person, as that term is defined in the Internal Revenue Code.

* **Section 4. Amendment of section.** WMC 5.16.080, Certificate of Exemption, is amended to read as follows:

5.16.080 Certificate of exemption.

A. A person shall apply to the finance director for a certificate of exemption that is required for an exemption from sales tax under Section 5.16.050.**B** or **5.16.050.C**, on a form approved by the finance director. **The application shall be accompanied by any applicable fee that is required under B of this section.** The finance director may require additional information of the applicant as necessary to determine whether the application should be granted. **A certificate of exemption is issued for a calendar year, and expires on December 31 of the calendar year for which it was issued.**

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

B. Except as provided in this subsection, there shall be no charge for a certificate of exemption. The applicant shall pay the city:

1. For a certificate of exemption issued under Section 5.16.050.B.3 for the 2007 calendar year, \$12.50.

2. For a certificate of exemption issued under Section 5.16.050.B.3 for the 2008 calendar year or any subsequent calendar year, \$30.00.

3. For a certificate of exemption issued under Section 5.16.050.B.4 for the 2008 calendar year or any subsequent calendar year, \$150.00.

C. The finance director may revoke a certificate of exemption after notice to the holder of the certificate and a hearing, if the finance director finds that the holder of the certificate:

1. Gave false information when applying for the certificate of exemption;

2. Used the certificate of exemption in a transaction that was not exempt from sales tax under **the exemption in** Section 5.16.050 **for which the certificate was issued**;

3. Permitted the use of the certificate of exemption by a person other than an authorized agent or employee of the holder of the certificate; or

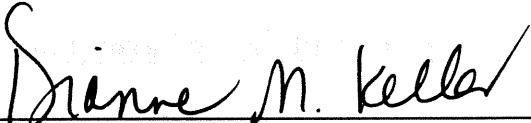
4. Ceases to be entitled to exemption from sales tax under **the exemption in** Section 5.16.050 **for which the certificate was issued**.

* **Section 5. Effective date.** This ordinance shall take effect upon adoption by the Wasilla City Council, provided that any certificate of exemption that the city issued under WMC 5.16.045.B before the effective date of this ordinance shall continue to be

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

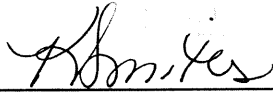
governed by the terms of WMC 5.16.045.B that were in effect when the certificate was issued.

ADOPTED by the Wasilla City Council on April 23, 2007.



DIANNE M. KELLER, Mayor

ATTEST:



KRISTIE SMITHERS, MMC
City Clerk

[SEAL]



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: ORDINANCE SERIAL # 07-17: TO AMEND WMC SECTION 5.16.045, RULES APPLICABLE TO PARTICULAR BUSINESSES OR OCCUPATIONS, AND WMC SECTION 5.16.050, EXEMPTIONS, TO PROVIDE EXEMPTIONS FROM SALES TAX FOR SALES OF MATERIALS USED IN BUILDING CONSTRUCTION THAT ARE UNIFORM FOR THE CITY AND THE CITY OF PALMER; AMENDING WMC SECTION 5.16.050, EXEMPTIONS, TO IDENTIFY SEPARATELY THOSE EXEMPTIONS FROM SALES TAX THAT REQUIRE A CERTIFICATE OF EXEMPTION; AND AMENDING WMC 5.16.080, CERTIFICATE OF EXEMPTION, TO PROVIDE FEES FOR CERTIFICATES OF EXEMPTION FOR SALES OF MATERIALS USED IN BUILDING CONSTRUCTION THAT ARE UNIFORM FOR THE CITY AND THE CITY OF PALMER, AND TO PROVIDE A PERIOD FOR TRANSITION TO THE NEW FEES FOR CERTIFICATES OF EXEMPTION.

Agenda of: March 12, 2007
 Originator: Finance Department

Date: April 1, 2007

Route to:	Department	Signature/Date
	Police Chief Youth Court, Dispatch, Code Compliance	
	Culture and Recreation Services Director Library, Museum, Sports Complex	
	Public Works & Recreation Facility Maintenance Director	
X	Finance, Risk Management & MIS Director Purchasing	<i>Dianne E. Colligan</i>
X	Deputy Administrator Planning, Economic Development, Human Resources	
X	City Clerk	<i>K. Smith</i>

REVIEWED BY MAYOR DIANNE M. KELLER: *Dianne M. Keller* 4/2/07

FISCAL IMPACT: yes no Funds Available yes no

Account name/number: N/A

Attachments: None

SUMMARY STATEMENT: This ordinance unifies the City's and the City of Palmer's sales tax exemptions for Owner/Builders and Contractors by using similar criteria and restrictions. It emphasizes that this type of exemption is to be used for sales of materials purchased for original construction or remodeling and that it may not be used for sales of materials used in repairing or maintaining real property. Changes to the fee charged for these two exemptions will remain the same through December 31, 2007. However, on January 1, 2008 the

Owner/Builder exemption will increase from \$12.50 to \$30.00 and the Contractor's exemption will increase from zero to \$150.00.

Currently WMC 5.16.050 Exemptions, lists the types of exemptions the City allows, however, it doesn't clearly identify which exemptions require a valid certificate of exemption issued by the City and those that don't require a certificate. This ordinance separates the exemptions that require a certificate of exemption (Owner/Builder, Contractor, Wholesale/Manufacturer and Non Profit) and specifically states that a certificate of exemption must be obtained from the City.