

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

**CITY OF WASILLA  
ORDINANCE SERIAL NO. 07-30**

**AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 5.16.130, DUTIES UPON CESSATION OR TRANSFER OF BUSINESS, WMC 5.16.190, VIOLATIONS—REMEDIES, AND ADOPTING WMC SECTIONS 6.04.015 THROUGH 6.04.085, TO ESTABLISH UNIFORM PROVISIONS FOR THE ENFORCEMENT OF SALES TAX AND BUSINESS LICENSE REQUIREMENTS, AND TO STRENGTHEN THE BUSINESS LICENSE REQUIREMENT AS AN AID TO SALES TAX COLLECTION AND REPEALING WMC SECTIONS 6.04.010 THROUGH 6.04.100.**

\* **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 5.16.130, Duties upon cessation or transfer of business, is amended to read as follows:

**5.16.130 Duties upon cessation or transfer of business.**

A. A seller that ceases to engage in [DO] business in the city without a transfer of the business shall file with the city a final sales tax return, and remit any sales tax due, for the period ending on the date that the seller ceases to engage in [DO] business in the city, not later than [WITHIN] fifteen (15) days after that date.

B. [WHEN A] A seller that transfers its business in the city[:] shall provide the transferee with written notice of the transferee’s obligations under subsection C of this section not less than fifteen (15) days before the effective date of the transfer, but neither the seller’s failure to give the notice nor the transferee’s failure to receive the notice shall relieve the transferee of any such obligation. [1.]

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

The seller shall file with the city a final sales tax return, and remit any sales tax due, for the period ending on the effective date of the transfer, not later than [WITHIN] fifteen (15) days after the [THAT] effective date, and provide a copy of the return to the transferee. The seller shall file with the final sales tax return proof that it provided the transferee with the written notice described in the first sentence of this subsection.

C[2]. The transferee of a business shall obtain from the city before the effective date of the transfer an estimate of the delinquent sales tax, penalty and interest, if any, owed by the seller as of the effective date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the seller [TRANSFEROR] has produced a receipt from the city showing that all tax obligations imposed by this chapter have been paid. [3.] A transferee that fails to withhold the amount required under this subsection shall be liable to the city for the lesser of the amount of delinquent sales tax, penalty and interest due from the seller as of the date of transfer, and the amount that the transferee [IT] was required to withhold.

D[C]. In subsections B and C of this section, the term “transfer” includes [MEANS ANY OF] the following [WITH RESPECT TO A SELLER]:

1. A change in voting control, or in more than fifty (50) percent of the ownership interest in a seller that is a corporation, limited liability company or partnership;
  2. A sale of substantially all of the assets used in the business of the seller;
- and

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

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the seller's gross receipts from sales, rentals or services.

\* **Section 3. Amendment of section.** WMC 5.16.190, Violations—Remedies, is amended to read as follows:

**5.16.190 Violations—Remedies.**

A. Each of the following is a violation of this chapter:

1. **[DOING BUSINESS IN THE CITY WITHOUT A CURRENT BUSINESS LICENSE**

2.] A buyer failing to pay sales tax to a seller as required by this chapter.

**2[3].** A seller failing to collect sales tax from a buyer as required by this chapter.

**3[4].** A seller failing to file a sales tax return or remit sales tax when due.

**4[5].** A buyer or seller knowingly submitting false information in a document filed with the city under this chapter.

**5[6].** A seller falsifying or concealing information related to its business activities in the city for the purpose of avoiding payment of sales tax.

**6[7].** A seller failing to permit the city to inspect records of the seller as required by this chapter.

**7[8].** A seller failing to maintain records as required by this chapter.

**8. A buyer giving false information when applying for a certificate of exemption, or using a certificate of exemption in a transaction that was not exempt from sales tax under the exemption for which the certificate was issued.**

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

**9. A seller failing to notify a transferee of the seller's business of the transferee's withholding obligation under Section 5.16.130.C, or the transferee failing to withhold the amount required by Section 5.16.130.C.**

**10. A person causing or permitting a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to commit a violation of this chapter described in paragraphs 1 through 9 of this subsection.**

**B. A person who is convicted of a violation of this chapter described in this subsection shall be subject to a fine of not more than \$1,000 plus any surcharge required to be imposed by AS 29.25.074, imprisonment for not more than 90 days, or both such fine and imprisonment.**

**C[B].** Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.

**D[C].** A seller that fails to file a sales tax return or remit sales tax when due, in addition to any other liability therefor imposed by this chapter, shall pay to the city all costs incurred by the city to determine the amount of the seller's sales tax liability or to collect the sales tax, including without limitation costs of obtaining, reviewing and auditing the seller's business records, collection agency fees, and actual reasonable attorney's fees.

**E[D]. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the city as required by this chapter shall be liable**

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

**to the city for the amount that should have been collected or remitted, plus any applicable interest and penalty.**

**F.** Pursuant to AS 29.45.650 there is created a lien on the real and personal property of a seller to secure the payment of sales tax, interest, penalty and costs of collection. The finance director shall cause notice of the lien to be recorded with respect to the property of a seller when the finance director finds that the seller is delinquent in remitting sales tax to the city. The notice shall state the name of the seller; the amount of delinquent sales tax, interest, penalty and cost of collection owed by the seller as of a specified date; and that interest, penalty and costs will continue to accrue until payment is made. Within ten (10) days after recording the notice, city shall mail a copy of the notice by certified mail, return receipt requested, to the last known address of the seller; provided that failure of the city to mail the notice or of the seller to receive it shall not affect the validity or priority of the lien.

**G[E].** The city may bring a civil action to:

1. Enjoin a violation of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due under Section 5.16.180.
3. Recover a civil penalty of **\$1,000** [TWO HUNDRED FIFTY DOLLARS (\$250.00)] for each violation of this chapter.
4. Foreclose a recorded sales tax lien as provided by law.

**H[F].** All remedies for violations of this chapter are cumulative and are in addition to **any others** [THOSE] existing at law or **in equity** [INEQUITY].

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

\* **Section 4. Adoption of sections.** WMC Sections 6.04.015 through 6.04.085, in the Business Licenses Generally chapter, are adopted to read as follows:

**6.04.015 License required.**

**A. No person may engage in business in the city without a current business license issued by the city under this chapter. A person engages in business in the city if the person makes a transaction in the city under Section 5.16.040.**

**B. A business license is issued for a calendar year, and expires on December 31 of the calendar year for which it was issued. The city will issue one business license for all locations at which the licensee engages in business in the city.**

**6.04.025 Application; Fee.**

**A. An application for a business license is submitted to the finance director on a form approved by the finance director, and shall be accompanied by the fee required under subsection B of this section. The application shall include the following information, and any additional information that the finance director may reasonably require:**

**1. The name of the applicant.**

**2. Any other name under which the applicant will engage in business in the city.**

**3. The applicant's mailing address, telephone number and email address.**

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

4. The street address and legal description of each location in the city where the applicant will engage in business.

5. If the applicant is not a natural person, the applicant's type of organization, and the jurisdiction under whose laws the applicant was organized.

B. The fee for a business license is twenty-five dollars (\$25); provided that there shall be no fee for a business license that is issued to an organization described in Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code. The fee is not prorated if the business license is issued after the calendar year commences. The city shall waive the fee if the applicant held a business license for the entire preceding calendar year, and had no sales tax payment delinquencies in that calendar year.

6.04.035 Review of application.

A. The finance director shall issue a business license to an applicant upon finding that the application includes all required information, the applicant has paid any required application fee, and the applicant has satisfied the requirements of subsections B and C of this section.

B. The finance director shall refer a business license application for review by the finance department to determine whether the applicant is delinquent in paying to the city any tax or assessment, or any fee or charge for city utility service. The finance department shall notify the applicant in writing of any delinquency that it finds. In response to the notice, the applicant shall either:

1. Provide evidence satisfactory to the finance director that the delinquent amount has been paid; or

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

2. Provide a plan for paying the delinquent amount satisfactory to the finance director, with security satisfactory to the finance director for the payment of the delinquent amount.

C. The finance director shall refer a business license application, other than an application to renew a business license that was issued after the effective date of this ordinance, for review by the city planner to determine whether any structure, or use of land or a structure, where the applicant will engage in business does not conform to Title 16, or the terms and conditions of any rezoning, planning commission approval, or administrative approval granted under Title 16. The city planner shall notify the applicant in writing of any such nonconformity. In response to the notice, the applicant shall either:

1. Provide evidence satisfactory to the city planner that the nonconformity has been corrected; or

2. Provide a plan for correction of the nonconformity satisfactory to the city planner, with security satisfactory to the city planner for the performance of the plan.

D. The finance director may investigate the financial condition and credit history of a business license applicant, and if the finance director finds that the financial condition or credit history of the applicant indicates a substantial risk that the applicant will not make full and timely payment of sales tax as required under Chapter 5.16, the finance director may require the applicant to post a bond or other security for such full and timely payment.

6.04.045 Information on business license; Changes in information; Display of license.

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A. A business license shall state the information concerning the licensee that the finance director may reasonably require.

B. A licensee shall notify the finance director promptly in writing of any change in the required information on the business license. In response to the notice, and upon the surrender of the prior business license, the finance director shall issue a new business license for the same calendar year bearing the current required information. There shall be no charge for the issuance of a new business license under this subsection.

C. The licensee shall display prominently the original business license at the licensee's principal business location in the city, and a copy of the business license at each other business location of the licensee in the city. If the licensee has no regular business location in the city, the licensee shall display the business license upon the request of the finance director or the finance director's designee.

6.04.055 Transfer of business.

A. A business license expires upon the effective date of a transfer of the business. Not later than fifteen (15) days after the effective date of the transfer, the licensee shall provide written notice to the finance director of the transfer, including the name, address, form of organization and jurisdiction of organization of the transferee, and surrender the licensee's business license to the finance director.

B. In subsection A of this section, the term "transfer" includes any of the following:

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1. A change in voting control, or in more than fifty (50) percent of the ownership interest in a licensee that is a corporation, limited liability company or partnership;

2. A sale of substantially all of the assets used in the business of the licensee; and

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the licensee's gross receipts from sales, rentals or services.

6.04.065 Suspension or revocation of business license.

A. The finance director may suspend or revoke a business license when the finance director determines that the licensee is delinquent in paying sales tax under Chapter 5.16, or the licensee has failed to comply with the requirements of sections 6.04.045 or 6.04.055.

B. The finance director shall not suspend or revoke a business license without first providing notice and an opportunity for a hearing on the suspension or revocation under this subsection.

1. At least fifteen (15) days before suspending or revoking a business license, the finance director shall mail notice of the suspension or revocation by certified mail, return receipt requested, to the last-known address of the licensee.

2. The notice of proposed suspension or revocation shall identify the licensee, state any other name under which the licensee engages in business in the city, and describe the sales tax payment delinquency or other cause for the suspension or revocation, state that unless a hearing is requested, the finance

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director will suspend or revoke the licensee's business license under this section upon the expiration of 15 days from the date of the notice, state that the right to a hearing will be waived if not timely requested, and the name, address and telephone number of the finance director or other city representative to be contacted concerning the proposed suspension or revocation.

3. The licensee may obtain a hearing on the proposed suspension or revocation by requesting the hearing in writing at the office of the finance director not more than fifteen (15) days after the date of the notice of proposed suspension or revocation.

C. Upon written request by the licensee, a hearing officer designated by the finance director shall conduct a hearing on the proposed suspension or revocation within seven (7) days after the request for hearing. The sole issue before the hearing officer shall be whether one or more of the grounds stated in subsection A of this section for suspending or revoking the business license has occurred and is continuing. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by the technical rules of evidence. The licensee may appear, present evidence, and cross-examine witnesses. The hearing shall be recorded. Within seven (7) days after the conclusion of the hearing, the hearing officer shall prepare a written decision whether to suspend or revoke the business license, and provide a copy of the decision to the licensee.

D. A hearing officer's decision suspending or revoking a business license shall include an order that the licensee immediately cease and desist from

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

engaging in business in the city unless and until the business license is reinstated or reissued.

E. Any person aggrieved by the hearing officer's decision under subsection C of this section to suspend or revoke a business license may appeal the decision to the superior court within 30 days after the date the decision was mailed or delivered to the parties. Unless the court orders otherwise, a decision to suspend or revoke a business license takes effect immediately upon its issuance.

6.04.075 Regulations.

The finance director may promulgate regulations and adopt forms to implement, interpret or make specific the provisions of this chapter.

6.04.085 Violations—Remedies.

A. No person may:

1. Engage in business in the city without a current business license required by this chapter.

2. Knowingly submit false information in a document filed with the city under this chapter.

B. A person who is convicted of violating a provision of this subsection shall be subject to a fine of not more than \$1,000 plus any surcharge required to be imposed by AS 29.25.074, imprisonment for not more than 90 days, or both such fine and imprisonment.

C. The city may bring a civil action to:

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

**1. Enjoin a violation of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.**

**2. Recover a civil penalty of \$1,000 for each violation of this chapter.**

**D. Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.**

**E. All remedies for violations of this chapter are cumulative and are in addition to any others existing at law or in equity.**

\* **Section 5. Repeal of sections.** WMC Sections 6.04.010 through 6.04.100 are repealed in their entirety as follows:

[6.04.010 LICENSE REQUIRED.

A. FOR THE PRIVILEGE OF ENGAGING IN BUSINESS IN THE CITY, A PERSON SHALL FIRST APPLY TO DO SO, AND PAY THE LICENSE FEE PROVIDED IN SECTION 6.04.040. A LICENSE ISSUED TO A FIRM FOR A PARTICULAR LINE OF BUSINESS COVERS ALL ITS OPERATIONS IN THE CITY IN THE LINE OF BUSINESS REGARDLESS OF THE NUMBER OF ITS ESTABLISHMENTS. EFFECTIVE WITH CALENDAR YEAR 1994 501C(3) NONPROFIT ORGANIZATIONS ARE REQUIRED TO OBTAIN A CITY BUSINESS LICENSE AND PAY THE LICENSE FEE PROVIDED IN SECTION 6.04.040.

B. THE CITY BUSINESS LICENSE MUST BE PROMINENTLY DISPLAYED AT THE PLACE OF BUSINESS OF EVERY SELLER; ANY SELLER WHO HAS NO REGULAR PLACE OF BUSINESS SHALL DISPLAY SUCH LICENSE UPON REQUEST. WHEN A BUSINESS HAS MORE THAN ONE LOCATION, EACH

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LOCATION SHALL BE LISTED ON THE LICENSE. THE ORIGINAL LICENSE SHALL BE DISPLAYED AT THE MAIN LOCATION AND A COPY OF THE LICENSE DISPLAYED IN EACH BRANCH LOCATION. IF THE BUSINESS IS CONTINUED AT THE SAME LOCATION BUT THERE IS A CHANGE IN ITS FORM OF ORGANIZATION, SUCH AS FROM A SINGLE PROPRIETORSHIP TO A PARTNERSHIP OR A CORPORATION, THE ADMISSION OR WITHDRAWAL OF A PARTNER, OR ANY OTHER CHANGE, THE SELLER MAKING SUCH CHANGE SHALL SURRENDER HIS OR HER OLD CITY BUSINESS LICENSE TO THE CITY FOR CANCELLATION. THE SUCCESSOR SELLER IS REQUIRED TO FILE A NEW APPLICATION FOR A CITY BUSINESS LICENSE, AND, UPON RECEIPT OF A PROPER APPLICATION PROPERLY EXECUTED, A NEW CITY BUSINESS LICENSE WILL BE ISSUED TO SUCH SUCCESSOR SELLER. WHEN THERE IS A CHANGE OF LOCATION FOR THE SELLER'S PLACE OF BUSINESS, A NEW BUSINESS LICENSE IS REQUIRED SHOWING THE NEW ADDRESS.

6.04.020 RENEWAL AND DURATION.

A. APPLICATION FOR RENEWAL OF A LICENSE AND PAYMENT OF THE INITIAL FEE SHALL BE MADE BEFORE FEBRUARY 1ST OF EACH YEAR.

B. NO LICENSE MAY BE ISSUED FOR A PERIOD EXTENDING BEYOND THE END OF THE CALENDAR YEAR IN WHICH IT IS ISSUED.

C. NEWLY ESTABLISHED BUSINESSES APPLYING FOR A CITY BUSINESS LICENSE AFTER DECEMBER 1ST, EACH YEAR, WILL BE ISSUED A BUSINESS LICENSE FOR THE FOLLOWING CALENDAR YEAR. BEFORE ISSUING OR RENEWING A BUSINESS LICENSE TO A SELLER, THE CITY MAY REQUIRE THE

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APPLICANT TO POST A BOND, FURNISH A STATEMENT OF NET WORTH, OR FURNISH ADDITIONAL SECURITY TO INSURE THE FULL AND PROMPT PAYMENT OF SALES TAXES TO BE COLLECTED UNDER CHAPTER 5.16 WHEN IN THE JUDGMENT OF THE CITY MAYOR OR MANAGER, IT IS IN THE INTEREST OF THE CITY TO DO SO. THE BUSINESS LICENSE OF ANY SELLER IS AUTOMATICALLY SUSPENDED WHEN SUCH SELLER FAILS TO REMIT DELINQUENT SALES TAXES, PENALTY AND INTEREST WITHIN THIRTY (30) DAYS AFTER NOTICE OF DELINQUENCY IS GIVEN OR MAILED. IT IS UNLAWFUL FOR A SELLER TO ENGAGE IN SALES WITHOUT A CURRENT CITY BUSINESS LICENSE OR TO ENGAGE IN SALES WHEN SUCH LICENSE IS SUSPENDED.

6.04.030 REGULATORY PROVISIONS.

A PERSON ENGAGING IN A BUSINESS SUBJECT TO LICENSING PROVISIONS OF A REGULATORY NATURE MUST, IN ADDITION TO FILING A REGULAR APPLICATION REQUIRED BY THIS CHAPTER, COMPLY WITH ANY OTHER OR ADDITIONAL REGULATORY PROVISIONS BEFORE BEING ENTITLED TO A LICENSE.

6.04.040 FEE.

THE LICENSE FEE FOR EACH BUSINESS SHALL BE TWENTY-FIVE DOLLARS (\$25.00) FOR THE CALENDAR YEAR OR ANY PART THEREOF. EFFECTIVE JANUARY 1, 1999, THE RENEWAL FEE WILL BE ELIMINATED FOR ANY LICENSED BUSINESS SHOWING NO SALES TAX PAYMENT DELINQUENCIES FOR THE PREVIOUS TWELVE (12) MONTHS. U.S. CODE SECTION 501(C)(3) AND

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(4), NONPROFIT ORGANIZATIONS, SHALL OBTAIN A CITY BUSINESS LICENSE AT NO COST.

6.04.050 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 OR HER, 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.

6.04.060 UNLAWFUL ATTEMPTS.

A. IT IS UNLAWFUL FOR A PERSON TO:

1. WILFULLY EVADE THE LICENSING PROVISIONS OF THIS CHAPTER;
2. FAIL TO MAKE AN APPLICATION FOR LICENSE OR FAIL TO KEEP OR PRODUCE ANY RECORDS REQUIRED HEREUNDER OR BY REGULATION;
3. TO DEFRAUD THE CITY OR EVADE PAYMENT OF THE FEE; OR
4. AID OR ABET ANOTHER IN AN ATTEMPT TO EVADE PAYMENT OF THE FEE.

6.04.070 FALSIFYING RETURNS.

IT IS UNLAWFUL FOR AN EXECUTIVE OFFICER OR AGENT OF A CORPORATION OR AGENT OF A PERSON TO MAKE OR PERMIT TO BE MADE

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FOR HIS OR HER PRINCIPAL A FALSE RETURN OR FALSE STATEMENT IN ANSWER TO AN INQUIRY FROM THE FINANCE DIRECTOR WITH INTENT TO EVADE THE PAYMENT OF THE FEE OR TO COMPLY WITH THE PROVISIONS OF THIS CHAPTER.

6.04.080 REMEDIES AND PENALTIES.

REMEDIES AND PENALTIES FOR VIOLATIONS OF THIS CHAPTER ARE AS PROVIDED IN CHAPTER 1.20.

6.04.090 PROSECUTION—WITNESS—IMMUNITY.

IN A PROSECUTION FOR A VIOLATION UNDER THIS CHAPTER, NO PERSON OTHERWISE COMPETENT AS A WITNESS IS PRIVILEGED TO REFUSE TO TESTIFY ON THE GROUNDS THAT THIS TESTIMONY MAY INCRIMINATE HIM OR HER. HOWEVER, NO INDICTMENT OR PROSECUTION SHALL AFTERWARDS BE BROUGHT AGAINST THE WITNESS ON ACCOUNT OF AN OFFENSE OR TRANSACTION CONCERNING WHICH HE OR SHE TESTIFIES AS A WITNESS. IN A PROSECUTION UNDER THIS CHAPTER, THE CITY ATTORNEY MAY, WITH THE CONSENT OF THE CITY COUNCIL, COMPROMISE THE CASE BY ACCEPTING FROM THE DEFENDANT A SUM NOT LESS THAN THE FEE, PENALTIES AND INTEREST PROVIDED IN SECTIONS 6.04.040 AND 6.04.080 AND COSTS OF SUCH PROSECUTION.

6.04.100 ALASKA STATUTES PROCEDURES.

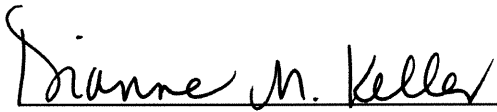
IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES AND INSOFAR AS APPLICABLE, THE DEFINITIONS SET FORTH IN AS 43.70.110 SHALL BE USED, TOGETHER WITH THE PROCEDURES, POWERS, RULES AND

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REGULATIONS SET OUT IN OR ADOPTED BY VIRTUE OF AS 43.05.040, 43.05.090 AND 43.70.020 AS NOW IN EFFECT OR HEREAFTER AMENDED OR ADOPTED, SO THAT THE FINANCE DIRECTOR SHALL BE EMPOWERED TO USE SUCH PROCEDURES, POWERS, RULES AND REGULATIONS WHICH ARE INCORPORATED BY REFERENCE AND HAVE EFFECT AS THOUGH FULLY SET OUT HEREIN, UNLESS OR UNTIL THE FINANCE DIRECTOR, WITH COUNCIL APPROVAL, ADOPTS SPECIFIC REGULATIONS IN PLACE OF THEM CONFORMABLE WITH THIS CHAPTER.]

\* **Section 6. Effective date; transition.** This ordinance shall take effect upon adoption by the Wasilla City Council. The city shall treat a business license for the 2007 calendar year that was issued before the effective date of this ordinance as a business license that was issued for the 2007 calendar year after the effective date of this ordinance.

ADOPTED by the Wasilla City Council on May 14, 2007.

  
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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. 07-30 UNIFORM PROVISIONS FOR THE ENFORCEMENT OF SALES TAX AND BUSINESS LICENSE REQUIREMENTS.**

Agenda of: April 23, 2007

Date: April 11, 2007

Originator: Susan Colligan, Finance Director

Route to:	Department	Signature/Date
X	Finance, Risk Management & MIS Director Purchasing	<i>Susan Colligan</i>
X	Deputy Administrator Planning, Economic Development, Human Resources	<i>S. Gary 4-12-07</i>
X	City Clerk	<i>Tom YS</i>

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

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

Account name/number: N/A

Attachments: Proposed Ordinance 07-30

**SUMMARY STATEMENT:**

Ordinance Serial No. 07-30 is presented for consideration. The ordinance amends the sales tax and business license code. It emphasizes the duties upon cessation or transfer of a business and establishes uniform provisions for the enforcement of sales tax and business license requirements which will aid in the collection of sales tax.

Amend WMC 5.16 Sales Tax Code

Section 2, paragraph A, changes "do business" to "engage in" business.

Section 2, paragraph B, adds that a seller that ceases to engage in business has not less than fifteen days before the effective date of a transfer to provide written notice to the transferee of their obligation to withhold sales tax, penalty and interest, if any, as outlined in paragraph C. Paragraph B also adds that the seller must file proof to the city that it provided said written notice.

Section 2, paragraph C, clarifies that the transferee's obligations to withhold sales tax, penalty and interest, if any, are to be performed before the date of the transfer.

Section 3, paragraph A, 1, currently pertains to a business license violation and will be moved from the sales tax code to WMC 6.04, Business Licenses & Regulations.

Section 3, paragraph A, 8, 9 & 10, were added to allow the city to impose a fine for the following violations:

8. Buyers who obtain a certificate of exemption using false information or used the exemption fraudulently.
9. A seller that fails to notify a transferee of the seller's business of their withholding obligations.
10. Persons affiliated with a corporation, limited liability corporation or a partnership that cause or commit a violation of 5.16.190.

Section 3, paragraph B, adds that a person convicted of a violation in paragraph A, 1-10 is subject to a fine not to exceed \$1,000 plus any state imposed surcharges, imprisonment for not more than 90 days, or both such fine and imprisonment.

Section 3, paragraph E, adds that persons affiliated with a corporation, limited liability corporation or a partnership that cause or commit a violation of paragraph A, 2-3 shall be personally liable for sales tax, penalty & interest that should have been collected and remitted to the city.

Section 3, paragraph G, increases a civil penalty from \$250.00 to \$1,000.00.

#### Amend WMC 6.14 Business Licenses

6.04.010, License required, this section has been deleted and replaced with 6.04.015, 6.04.045 and 6.04.065.

Section 4, 6.04.015, paragraph A, clarifies that if a person makes a transaction in the city as defined under Section 5.16.040 they are required to have a current business license.

6.04.020, Renewal and duration, was deleted and replaced with 6.04.025 and 6.04.035.

Section 4, 6.04.025, paragraph A, adds that a business license application, approved by the finance director, accompanied with the required fee, must include specific information. Changes to be made to the current business license application include requiring the applicant's email address legal description of each location in the city where they are doing business, whether or not the applicant is a natural person, and the jurisdiction under whose laws the applicant was organized. The finance director will have the option to require any additional information.

Section 4, paragraph B, adds new verbiage pertaining to the \$25 business license fee.

6.04.030, Regulatory provisions, this was deleted.

Section 4, 6.04.035 paragraph A, adds that the finance director will issue a business license to an applicant that has met all the following requirements as outlined below:

Paragraph B, will require the finance department to verify that the applicant isn't delinquent paying to the city any taxes, assessments or fees or charges for city

utility service. A written notice will be sent by the finance department if there is any delinquency found.

Paragraph B, 1-2, adds two options to correct any delinquency that is found. The applicant can either provide proof that they have paid the delinquency in full or submit a plan for approval by the finance director on how they plan to pay the delinquency.

Paragraph C, will require that new business license applications are to be reviewed by the city planner. This is to insure that the business will meet the city's Title 16 requirements. A written notice will be sent by the city planner if any nonconformity is found.

Paragraph C, 1-2, adds two options to correct any nonconformity found. The applicant can either provide proof that the nonconformity has been corrected or they may submit a plan for correction of the nonconformity that meets the city planner's approval.

Paragraph D, no changes. This was previously included in 6.04.020 6.04.040, Fee, this was deleted and transferred to 6.04.025, B

Section 4, 6.04.045, paragraphs A-C, pertains to the information stated on a license, and changes to the license and how the license is to be displayed.

6.04.050 City mayor or manager regulation promulgation authority, this has been deleted and replaced with 6.04.75.

Section 4, 6.04.055, adds the definition of what a transfer of business includes and the duties of a seller when a transfer has taken place. These changes unify the business license code 6.04 with the sales tax code 5.16.

6.04.060, Unlawful attempts, was deleted and replaced with 6.04.085 Violations—Remedies.

Section 4, 6.04.065, replaces 6.04.10 C, expands on when a business license may be revoked or suspended and what steps must be taken by the finance director when such action is determined to be necessary. It also outlines the licensee's right to a hearing and when they may request one.

6.04.070, Falsifying returns, has been deleted and replaced with 6.04.085 Violations--Remedies.

Section 4, 6.04.075, Regulations, replaces 6.04.060, Unlawful Attempts.

6.04.080, Remedies and penalties, has been deleted and replaced with 6.04.085 Violations—Remedies.

Section 4, 6.04.085, A-B, adds a list of specific violations, states that the violator may be subject to a fine up to \$1,000 plus any surcharge required, possible imprisonment of up to 90 days, or both such fine and imprisonment.

Section 4, 6.04.085, C-E, adds that the city may bring a civil action, states that a civil penalty of up to \$1,000 may be incurred for each violation and that each day the act or omission occurs is a separate violation.

6.04.090-6.04.100, have been deleted.