

**ANCHORAGE, ALASKA
AO No. 2019-156**

1 **AN ORDINANCE PROPOSING A PUBLIC SAFETY TAX MEASURE TO**
2 **PROVIDE PROPERTY TAX RELIEF AND TO COMBAT CRIME BY ENACTING A**
3 **SALES AND USE TAX ON THE SALE OF GOODS AND SERVICES WITHIN THE**
4 **MUNICIPALITY OF ANCHORAGE WITH HALF THE NET REVENUES UNDER**
5 **THE “TAX CAP” DEDICATED TO REDUCING PROPERTY TAXES, AND HALF**
6 **ABOVE THE TAX CAP DEDICATED TO PUBLIC SAFETY PURPOSES TO**
7 **COMBAT CRIME WITH THIS PORTION EXPIRING IN 2028 ABSENT VOTER**
8 **REAUTHORIZATION; AMENDING AMC CHAPTER 12.25 REGARDING THE**
9 **TAX INCREASE LIMITATION TO CONFORM TO THIS ENACTMENT;**
10 **SUBMITTING THIS PUBLIC SAFETY TAX MEASURE TO THE QUALIFIED**
11 **VOTERS OF THE MUNICIPALITY, AND PROVIDING FOR TRANSITION**
12 **PROCEDURES AND EFFECTIVE DATES.**

13
14
15 **Section 1.** A ballot proposition containing substantially the following language shall
16 be submitted to the qualified voters of the Municipality of Anchorage at the April 7,
17 2020 regular election:
18

19 **PROPOSITION NO. _____**
20 **PUBLIC SAFETY TAX MEASURE:**
21 **CHARTER AMENDMENT TO ADOPT A 3% SALES AND USE TAX:**
22 **HALF TO REDUCE PROPERTY TAXES AND**
23 **HALF DEDICATED TO PUBLIC SAFETY TO COMBAT CRIME**
24

25 The proposed Charter Amendment and Assembly Ordinance 2019-__ would
26 enact a three percent (3%) sales and use tax on the sale of certain goods
27 and services within the Municipality of Anchorage, with specified exemptions
28 (such as food, medicine, medical services, legal services, utilities, education
29 services, and many others more fully set forth below). One-half the net
30 revenues will be limited to purposes of reducing property taxes, and one-half
31 of the net revenues will be dedicated to public safety purposes to combat
32 crime for a limited period (2022 – 2028), unless reauthorized by the voters.
33

34 The ordinance includes a cap of \$200 in tax per good or service contract, or
35 per transaction, if multiple items and goods are purchased as part of a single
36 transaction taking place during a single day. It also provides for a partial
37 reimbursement to sellers that incur costs to collect the tax.
38

39 Except for the costs to the Municipality of administration, collection, and audit,
40 one-half of this sales and use tax is subject to (e.g. “under”) the tax increase
41 limitation of the Anchorage Municipal Charter § 14.03 (commonly referred to

as the "Tax Cap") in order to reduce property taxes dollar for dollar. To provide an accurate dollar amount for property tax reduction, rather than projections based on estimates, the sales and use tax net proceeds from one fiscal year will be applied to reduce the property tax for the following fiscal year.

If approved by more than 3/5 of the qualified voters voting on the question, the Charter amendments and the sales and use tax will become effective on July 1, 2022, and one-half of the tax will expire, unless reauthorized by the voters, at the end of December 31, 2028.

Shall the Charter be amended as shown below, and Assembly Ordinance 2019-__ become law?

YES ☐ NO ☐

This Public Safety Tax Measure proposes to amend Anchorage Municipal Charter by adding a new section 14.07 to read as follows:

Section 14.07. - Sales and Use Tax Dedicated to Property Tax Relief and Public Safety.

- (a) There is hereby levied a three percent (3%) tax on the sale and use of goods and services within the municipality, with exemptions as approved by the voters.
- (b) The assembly may prescribe additional exemptions to the tax imposed by this section by ordinance, and shall enact such additional provisions as necessary or reasonable to implement this section, including for the expiration of one-half the tax.
- (c) Net receipts from the sales and use tax, after payment of the costs of administration, collection, and audit to the municipality, in one fiscal year are dedicated as follows:
 - (1) one-half to property-tax reduction in the following year, in order for the tax collected to be in substitution of other taxes.
 - (2) one-half to public safety purposes to combat crime, specifically:
 - (A) compensation for police officers, 9-1-1 emergency dispatch, and forensic evidence technician positions,
 - (B) prosecutors and staff support for them,
 - (C) mental and behavioral health services for inmates and convicts, and

- (D) municipal support or programs for criminal courts and parole supervision.
- (d) One-half of this tax dedicated in (c)(2) shall expire and lapse at the end of December 31, 2028, unless reauthorized by the voters.
- (e) Receipts covering the costs of administration, collection, and audit are taxes required to fund additional services within the meaning of Charter § 14.03(b)(2).
- (e) To accomplish the dedication, and notwithstanding any other provision of this Charter to the contrary, for 2022 and 2023 only, the levy and collection of the sales and use taxes collected pursuant to this section may cause total tax levies to exceed the limits otherwise required by the tax increase limitation of Charter § 14.03, provided that one-half of the total levy of all other taxes is correspondingly reduced in 2023 and 2024 in a manner that ensures that the total amount of municipal taxes that can be levied in future years, exclusive of one-half of this tax dedicated to public safety purposes pursuant to (c)(2), does not exceed that which could be have been levied under Charter § 14.03, had this section not been enacted. Procedures to effectuate this subsection may be adopted by ordinance.

And by amending Anchorage Municipal Charter § 14.03 as follows (new language proposed is shown in **bold and underlined**; language to be deleted is shown with ~~strikeout and bold~~):

Section 14.03. - Tax increase limitation.

- (a) Except as provided in this section, the total amount of municipal tax that can be levied during a fiscal year shall not exceed the total amount approved by the assembly for the preceding year by more than a percentage determined by adding the average percentage increase in the Federal Consumer Price Index for Anchorage from the preceding five fiscal years plus the average percentage growth or loss in the Anchorage municipal population over the preceding five fiscal years as determined by the state department of community and regional affairs.

- (2) In order for the sales and use tax levied pursuant to Charter § 14.07 to be in substitution of other taxes, and to promote greater fiscal stability, “the total amount of municipal tax that can be levied during a fiscal year” shall include the net receipts

of the levy and collection of sales and use tax collected pursuant to Charter § 14.07 for the preceding year. The “total amount approved by the assembly for the preceding year” shall be the total amount of the taxes and payments in-lieu of taxes approved by the assembly for collection in the preceding year **together with the net receipts of the levy and collection of the sales and use tax collected pursuant to Charter § 14.07 for the year immediately prior to the preceding year.**

Section 2. Anchorage Municipal Code Title 12 is hereby amended to add a new chapter 12.65 to read as follows:

Chapter 12.65
Tax on the Sale or Use of Goods and Services

12.65.010	Sales and use tax.
12.65.020	Purpose and dedication of revenue.
12.65.025	One-half for public safety dedication expires December 31, 2028.
12.65.030	Definitions.
12.65.040	Non-taxable sales and exemptions.
12.65.050	Obligation for payment of tax; disposition of excess collections; liability for uncollected taxes.
12.65.060	Presumption of taxability; sales price and value.
12.65.070	Certificate of registration.
12.65.080	Maintenance of records required.
12.65.090	Tax receipts segregated and held in trust.
12.65.100	Direct pay permit
12.65.110	Sales and Use tax returns; remitting and reporting requirements.
12.65.120	Timely filing allowance.
12.65.130	Confidentiality of information.
12.65.140	Security for fiduciary performance.
12.65.150	Certificates of exemption.
12.65.160	Prohibited acts.
12.65.170	Penalties.
12.65.180	Collection of taxes.
12.65.190	Tax lien.
12.65.200	Remedies of person aggrieved.
12.65.210	Dedication of net receipts (not revenues); tax cap limitation.
12.65.220	Implementation and processes and procedures.
12.65.230	Amendments.

12.65.010 Sales and use tax.

- A. *Sales Tax Imposed.* A sales tax of three percent (3%) is hereby levied on the sales of all goods and services sold within the municipality on or after July 1, 2022, except as provided in this chapter. One-half of this tax shall expire pursuant to section 12.65.
- B. *Use Tax Imposed.* A use tax at the same rate as the sales tax in subsection A., for the privilege of use within the municipality, is hereby levied on the person using the following goods acquired on or after July 1, 2022:
1. Goods manufactured in the municipality, only if the person manufacturing the good is not engaged in the business of manufacturing for resale to an end user; or
 2. Goods acquired outside of the municipality and primarily used within the municipality, if the acquisition is the result of a transaction subject to the sales tax if it had occurred in the municipality.
 3. The first one-thousand dollars (\$1,000) of goods manufactured in the municipality or goods acquired outside of the municipality and primarily used within the municipality, as described in subparagraphs 1 and 2 above, are exempted from the use tax on an annual basis.
- C. *Credit for taxes previously paid.* The use tax levied under this section shall be adjusted in accordance with AS 29.45.650(c) if the person subject to the use tax provides proof, in the form required by the department, the person previously paid a sales tax imposed by any jurisdiction on the goods.
- D. To the fullest extent permitted under the law and constitutions of the United States and the State of Alaska, and under the Charter, a person who has nexus within the state and whose sales are not subject to the sales taxes shall collect the use tax from the purchaser and pay the tax collected to the municipality.

12.65.020 Purpose and dedication of revenue.

- A. *Property tax relief and public safety dedication.* The purpose of this chapter is to provide property tax relief to the property owners of the municipality and to combat crime. The net receipts from the sales and

use tax, after payment of the costs of administration, collection and audit to the municipality, shall be applied so that:

1. one-half will reduce property taxes equally and uniformly throughout the municipality so the benefits of the reduction in property taxes are shared throughout the municipality.
2. one-half to combat crime by providing funding for police officers, 911 dispatch, forensic evidence technicians, prosecutors and their support staff, mental and behavioral health services for inmates and convicts, and development and implementation of programs for Municipal involvement in parole supervision and support for criminal court services.

B. The net receipts of sales and use tax obtained by the municipality in one fiscal year shall be restricted to application to the following fiscal year's budget by appropriations. The amount of net receipts of sales and use tax obtained by the municipality in one fiscal year shall be included in the tax increase limitation computation for the next fiscal year as an offset amount of the real and personal property taxes to be collected for that fiscal year.

12.65.025 One-half for public safety dedication expires December 31, 2028.

One-half of the tax levied under this chapter and dedicated for public safety purposes in subsection 12.65.020A.2. shall expire and lapse at the end of December 31, 2028, unless reauthorized by the voters. If not reauthorized prior to that time, the tax rate shall thereafter be one and one-half percent (1.5%).

12.65.030 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of Exemption shall mean a certificate issued by the municipality to a person qualifying as an "Exempt Purchaser" of goods upon application by the purchaser demonstrating its entitlement to such exemption. The purchaser shall provide the certificate to a seller of goods at the time of purchase in order to obtain the permitted exemption.

Charitable Organization shall mean an organization exempt from taxation under 26 U.S.C. 501(c)(3)

Chief Fiscal Officer shall mean the chief fiscal officer of the municipality, or designee.

Coins shall mean monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium, or other such metals now, in the future, or heretofore designated as a medium of exchange under the laws of this state, the United States, or any foreign nation.

Counseling Services shall mean all services provided to an individual taxpayer by a psychologist or psychological associate, psychiatrist, clinical social worker, substance abuse counselor, or a marital and/or family therapist, licensed or certified to provide such services by the state of Alaska.

Department shall mean the finance department of the municipality.

Exemption shall mean a buyer or seller is exempt under a provision of this chapter, or the sale itself is exempt under a provision of this chapter.

Food shall mean goods that may be lawfully purchased with food stamp program benefits issued under 7 U.S.C. 2011 - 2025 (Food Stamp Act, Supplemental Nutrition Assistance Program) or purchased with food instruments, food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Nutrition Program for Women, Infants and Children or WIC).

Goods shall mean all tangible personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software.

Legal Services shall mean all services provided to an individual taxpayer by a lawyer or paralegal or any other individual licensed or certified by the State of Alaska to provide legal services.

Medical Services shall mean all services provided to an individual taxpayer by a physician, osteopath, chiropractor, dentist, registered or practical nurse, physician's assistant, certified nurse's aide, paramedic, emergency medical technician, naturopath, optometrist, audiologist, hospital, midwife, birth center, occupational therapist, physical therapist, or any other person certified or licensed by the state of Alaska to provide health care services.

Person shall mean those who are under a duty to perform an act concerning which a violation of this chapter could occur, such as an individual, company, partnership, joint venture, joint agreement,

1 association (mutual or otherwise), corporation, estate, trust, business
2 trust, receiver or trustee, syndicate, or political subdivision of this state,
3 or combination acting as a unit including officers or members of any
4 such entities. It is the intent of this chapter that such persons be
5 personally liable for unremitted taxes.

6
7 **Precious metal bullion** shall mean any precious metal, including but
8 not limited to, gold, silver, platinum and palladium, that has been put
9 through a process of refining and is in such a state or condition that its
10 value depends upon its precious metal content and not its form.

11
12 **Prescription medicine** shall mean all medicine and any medical
13 goods prescribed by a physician or psychiatrist licensed to practice
14 medicine in the United States.

15
16 **Purchaser** shall mean a person to whom a sale is made.

17
18 **Real Property** shall mean land, whether subdivided or not, all
19 buildings, structures, improvements and fixtures of any kind thereon,
20 and all possessory rights and privileges belonging and pertaining
21 thereto.

22
23 **Resale** shall mean the sale of goods by a seller of raw materials, or
24 wholesaler, either consumed in the manufacturing process or which
25 become a component part of a product manufactured for sale; a sale
26 of goods sold to a licensed general or specialty building contractor
27 when the goods sold becomes permanently affixed to the residence
28 or commercial structure being constructed by the licensed contractor;
29 or a sale of goods by a manufacturer, or wholesaler, to a retail vendor.

30
31 **Services** shall mean all services of every manner and description
32 performed or furnished for compensation within the municipality as
33 required to install, construct, repair or complete specified results or
34 end products and professional services, services in which a product
35 or sale of property may be involved, repair, transportation, advertising,
36 recreation, amusement, craftsmen's services, and services wherein
37 labor and materials are provided to accomplish a specific result.

38
39 **Seller** shall mean every person, whether acting as principal, agent or
40 employee, who makes a sale subject to this tax.

41
42 **Selling price** applies to the measure subject to sales tax and means
43 the total amount of consideration, including cash, credit, property, and
44 services, for which personal property or services are sold, leased, or
45 rented, valued in money, whether received in money or otherwise,
46 without any deduction for the following:

- a. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- b. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- c. Delivery charges;
- d. Installation charges; and
- e. Credit for any trade-in, as determined by state law.

Tax Payer shall mean any person responsible for the payment of any Use or Sales tax as required by this chapter.

12.65.040 Non-taxable sales and exemptions.

A. The following sales are not taxable under this chapter:

1. Sales to or uses by an agency of the United States government, an instrumentality of the State of Alaska as that term is defined in AS 39.52.960, a municipality or school district, including the Anchorage School District, or a Native entity or tribe included on the federal list published under 25 U.S.C. 5131.
2. Sales to or uses by foreign diplomats under the Foreign Missions Act (22 U.S.C. 4301 *et seq.*).
3. Sales to or uses by the Alaska Life and Health Insurance Guaranty Association, under AS 21.79.130.
4. Sales or use of goods related to an orbital space facility, pursuant to AS 29.45.650(h).
6. Other sales or uses the municipality is prohibited from taxing under the federal or state Constitutions or laws of the United States or the State of Alaska.

B. The municipality hereby declares the following exemptions and limitations to the tax imposed by this chapter:

1. Sales of prepared food.
2. Sale of prescription medicine or medical goods prescribed by a physician, psychiatrist or other person licensed in the United States to lawfully authorize such prescription.

3. The provision of medical services or counseling services.
4. The provision of legal services.
5. Education services provided by government schools and programs, non-profit institutions and religious organizations.
6. The tax shall not exceed \$200.00 on the purchase or use of any single item or good.
7. The tax shall not exceed \$200.00 on the entire purchase of multiple items and goods when purchased as part of one transaction taking place during a single day.
8. The tax shall not exceed \$200.00 per year on the provision of any single service provided to an individual taxpayer for services which are of an on-going nature, may be comprised of interrelated and interdependent functions necessary to perform a specified action, and which may be reflected in multiple or periodic invoices or contracts.
9. Sales of utilities including water, sewer, electricity, #2 diesel heating fuel, natural gas, refuse service, cellular phone service, telephone service, internet, and cable television.
10. The sale of gasoline or diesel fuel.
11. Financial service transactions. For purposes of this chapter, financial service transactions are limited to: deposit account services, loan transaction fees, transactions relating to the sale or exchange of currency or securities, transactions for conversion of negotiable instruments, safe deposit services, escrow collection services, late fees, overdraft fees, and interest charged on past due accounts.
12. The use by an individual of personal or household effects brought into the municipality for the establishment by the individual of an initial residence in the municipality is exempt from the use tax.
13. Licensed child and adult care services.
14. Isolated sales by one individual to another when the seller is not generally engaged in the business of selling the same or similar property.

15. Rental, unless the rental transaction for personal property provides a right of purchase at the end of the rental contract.
 16. The sale or rental of real property (including all necessary or customary services provided in order to legally accomplish a sale or rental of real property).
 17. The sale of contracts of insurance.
 18. The sale of goods or services already subject to excise taxes imposed by the municipality, including but not limited to hotel overnight accommodation taxes, tobacco taxes and motor vehicles rental taxes.
 19. The sale of marijuana and marijuana products.
 20. The sale of coins and precious metal bullion.
- C. The following sales are not taxable, provided the seller is in possession of a valid certificate of exemption:
1. Sales by a charitable organization, or a private or parochial school, provided the sale of goods is incidental and all of the proceeds of the sale go to the organization and its mission.
 2. The sale of goods not sold to the end user of the goods
- D. The application of the exemptions provided for in subsections A-C of this section to specific goods and services shall be determined by the Department. The Assembly may alter or modify a determination of the Department concerning the application of any exemption provided for in subsection A-C of this section to any specific goods or services.
- E. Any additions or deletions of any exemption provided for in subsections A-C of this section must be by ordinance.
- 12.65.050 Obligation for payment of tax; disposition of excess collections; liability for uncollected taxes.**
- A. The purchaser is obligated to pay sales and use tax under this chapter and it shall be collected by the seller at the time of the sale transaction or acquisition. The tax rate is applied to the selling price.
1. If a purchaser produces a certificate of exemption issued by the municipality pursuant to section 12.65.140 at the time of the

1 sale transaction, the seller shall not collect the tax. The seller
2 shall retain verification of the exempt status of the transaction
3 in its records. If no verification is retained, the seller is liable for
4 the uncollected taxes.

5
6 2. If the purchaser does not produce an exemption certificate
7 issued by the municipality, but the transaction is in fact exempt
8 under federal, state, local or other law, the seller is not liable for
9 the uncollected tax, provided verification of the purchaser's
10 exemption is retained in the seller's records or otherwise readily
11 available and reported to the department.

12
13 3. Any uncollected sales tax under this subsection, which should
14 have been collected, is a liability of the seller.

15
16 4. If the selling price cannot be determined for purposes of
17 calculating the amount of sales and use tax, the fair market
18 value at the time of sale shall be subject to the sales and use
19 tax.

20
21 B. All sales and use taxes collected pursuant to this chapter are
22 municipal funds for which the seller is liable to the municipality. The
23 seller is liable for all monies collected from the purchaser as sales and
24 use tax in excess of the tax imposed by section 12.65.010. The seller
25 shall make reasonable efforts to return excess tax collected to the
26 purchaser. If the seller is unable to return it, the excess tax collected
27 shall be reported and remitted to the municipality with the regular tax
28 return.

29
30 C. Any person acquiring an ownership interest in the accounts receivable
31 of a business, whether by purchase, foreclosure, or otherwise, shall
32 also be liable for the payment of taxes, penalties, interest, fees and
33 costs accruing and unpaid to the municipality from those accounts
34 receivable.

35
36 D. Any person acquiring an ownership interest in an ongoing business,
37 whether by purchase, foreclosure or otherwise, shall also be liable for
38 the payment of any taxes, penalties, interests, fee or costs owed to
39 the municipality for taxes collected by the former owner or seller of the
40 business.

41
42 E. The president and any officer, member, manager or agent of a
43 corporation or limited liability company with control of, supervision of,
44 or charged with the responsibility of filing sales and use tax returns or
45 remitting sales and use taxes is personally liable for any unpaid taxes,
46 penalties, interest, fees and costs accruing and unpaid to the

municipality. Dissolution of, or sale of, or other change in the form of the corporation or company does not discharge this personal liability.

- F. The municipality may pursue collection of unpaid and unremitted taxes as provided in this chapter.

12.65.060 Presumption of taxability; sales price and value.

- A. To prevent evasion of the sales and use tax and to aid in its administration, it is presumed:
1. All sales of goods or services by a person engaging in business in the municipality are subject to the tax, unless exempt by this chapter; and
 2. All goods or services purchased or sold by any person for delivery into the municipality are purchased or sold for a taxable use in the municipality.
- B. For purposes of this section, the sales price or value of property, goods or services shall be determined as of the time of acquisition, introduction into the municipality, or conversion to use, whichever is latest.
- C. If the department has reasonable cause to believe a seller structured a transaction to avoid collecting or remitting the tax levied under this chapter, there is a rebuttable presumption that the substance of the transaction is a taxable sale under this chapter.

12.65.070 Certificate of registration.

- A. *Required display.* Except as otherwise provided in this chapter, every seller operating within the municipality shall obtain a certificate of registration from the department. The seller shall obtain a certificate of registration prior to conducting business in the municipality and shall prominently display the certificate at the registered place of business.
1. A business with multiple sales locations may obtain one certificate of registration, provided the application lists every place of business located within the municipality. Each location shall prominently display a copy of the certificate of registration, except:
 - a. A vending machine seller is not required to display the certificate or to list each vending machine location.

- b. The department may direct a seller with multiple or mobile locations to display or make available the certificate in a reasonable location and manner.

B. *Application.* Each seller shall apply for a certificate of registration on a form or in a format prescribed by the department containing information the department may require. There shall be no charge for the application or issuance of a certificate of registration.

C. *Contents.* A certificate of registration shall bear the name of the seller, the address of the primary place of business, the address or physical location where the seller sells goods or services in the municipality, the seller's form of business organization, the seller's method of accounting, and state whether the seller is exempt from collecting the sales tax under section 12.65.040.C.

D. The seller named on an issued certificate is responsible to inform the department of any changes to the information contained in the application and certificate of registration.

E. *Expiration.* If the holder of a certificate of registration ceases to engage in business, changes its name, changes its form of business organization, changes ownership, or ceases to be exempt from collecting the tax under section 12.65.040, its certificate of registration automatically expires. Expiration is effective on the date of the change in circumstances resulting in expiration by operation of law. Within ten (10) days of the expiration, the seller shall:

1. Surrender the expired certificate of registration to the department for cancellation.
2. Notify the department in writing of the date and the name, telephone and address of any person to whom the seller's business or accounts receivable of the business described in the returned certificate of registration is leased, conveyed or otherwise relinquished or transferred with a brief description of the circumstances causing the expiration of the seller's certificate and the date it expired; and
3. File a final tax return for the period subsequent to the seller's last tax return with all taxes collected and other payments due in the manner required for filing tax returns, remitting taxes collected and payment of other sums due under this chapter.

1 F. The department may require an applicant applying for a certificate of
2 registration who has previously been fined or subject to penalties
3 under this chapter, or had a certificate of registration under this
4 chapter revoked, suspended, or cancelled as a penalty, to obtain and
5 submit a guarantee for its performance under this chapter in
6 accordance with section 12.65.130. Proof of the security shall be
7 submitted to the department with the application. The department
8 shall not issue the certificate of registration until receipt of valid
9 security is confirmed.

10
11 G. The department may refuse to issue a certificate of registration if there
12 is reasonable cause to believe the applicant:

- 13
14 1. structured its business or sales transactions to avoid payment
15 of delinquent taxes, penalties, interest, or costs due under this
16 chapter;
17
18 2. Willfully withheld information requested to determine the
19 applicant's eligibility to receive a certificate; or
20
21 3. There is reasonable cause to believe information submitted in
22 the application is false or misleading.

23
24 **12.65.080 Maintenance of records required.**

25
26 A. The seller shall keep available in the municipality for a period of three
27 (3) calendar years after the year created, such records as are
28 necessary to permit the municipality to perform an audit of the seller's
29 collection and remittance of the sales tax. Such records shall contain
30 at least the following:

- 31
32 1. All sales receipts specifying what goods or services were sold
33 in the transaction, the sale price for each item, total sum for the
34 transaction, and total tax for the transaction; and
35
36 2. Other records the department may require.

37
38 B. The seller shall be responsible to obtain and preserve evidence
39 sufficient to support all claimed exemptions from the tax for
40 transactions subject to this chapter. Specification in this chapter of the
41 records to be kept by a seller shall not relieve the seller of its
42 responsibility to keep sufficient records.
43

12.65.090 Tax receipts segregated and held in trust.

Title to taxes collected pursuant to this chapter shall vest in the municipality upon collection. Persons authorized to collect tax have a fiduciary duty to the municipality with respect to tax receipts.

12.65.100 Direct Pay Permit.

A direct pay permit authorizes its holder to purchase tangible personal property and services without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases tangible personal property or services under a direct pay permit issued under this section is liable for any sales and use tax due. The tax due must be paid by the permit holder on a quarterly basis on a schedule established by the department. To obtain a direct pay permit, a person must apply to the department and satisfy criteria for direct pay permit holders established by the department.

12.65.110 Sales and Use Tax returns: Remitting and reporting requirements.

A. A sales and use tax return is not complete unless it contains the information required by this section and is accompanied by the tax payment required. The sales and use tax return shall be filed and tax monies shall be remitted by the seller to the municipality quarterly, unless the seller qualifies or is required to remit and report as follows:

1. A seller with less than \$100 in annual tax collections may file a tax return and remit taxes on an annual basis.
2. A seller with \$150,000 or more in quarterly tax collections shall file a tax return and remit taxes each month.
3. A taxpayer liable for use tax on tangible personal property or services is entitled to a full credit for the amount of sales or use tax paid on the same tangible personal property or same service to another jurisdiction.
4. The department may require monthly tax returns and remittances from any seller delinquent in remittance of sales taxes to the municipality, or any other tax or fee to the municipality.

B. The department may require any seller required to file monthly returns due to a delinquency to submit timely returns and remittances for twelve (12) consecutive months before the department grants a

request to restore the privilege of filing quarterly returns. The department may deny a request to return to filing quarterly for good cause.

- C. A seller operating more than one (1) location within the municipality may file separate tax returns for each location but is allowed a single timely filing allowance under section 12.65.110, regardless of the multiple locations.
- D. A tax return is due and payment in full shall be received by the last day of the month following the end of the quarter, the month or the calendar year for which the tax return is filed. If this day falls on a Saturday, Sunday, or holiday observed by the municipality, the tax return and remittance payment shall be due the following business day.
- E. A tax return shall be submitted on a form or in a format prescribed by the department and shall include information as the department may require. A seller shall report and remit the sales and use tax using the same method of accounting the seller uses for federal tax purposes.
- F. A seller may claim a deduction on its tax return for the amount of taxes due to the municipality in a transaction where the total amount of the sales is uncollected and deducted on a federal tax return as bad debt. If the seller later collects on such bad debt, the seller shall remit and report the portion of the collection attributable to the sales and use tax to the municipality.
- G. A seller may claim a deduction on its tax return for sales and use taxes previously remitted to the municipality if such taxes were collected in error and refunded to the purchaser, or if the sales transaction was reversed for the customer in accordance with the seller's established and written refund policy.
- H. If a seller fails to file a complete tax return as required by this section or if the department finds a tax return is not supported by the records required to be maintained under this chapter by the seller filing the tax return, the department may prepare and file a tax return on behalf of the seller. Taxes estimated on a tax return filed on behalf of a seller under this subsection may be premised upon any information available to the department including comparative data for similar businesses. A seller for whom an involuntary tax return is filed under this subsection shall be liable for the taxes stated on the involuntary tax return, in addition to penalties and interest provided for in this chapter.

1. The department shall notify the seller of a determination made under this subsection and include in such notice the basis of the department's calculations determining the seller's liability with a notice of the seller's rights under section 12.65.190, that payment is due immediately and that taxes, interest, penalties and costs continue to accrue from the date taxes were due under this chapter for the period(s) covered by the determination.
 2. Unless otherwise determined by the department, taxes due under this section shall be payable immediately.
 3. Taxes determined under this section shall be due on the same date as if a tax return had been filed by the seller in accordance with this chapter and interest, penalties and administration costs shall accrue from the due date.
- I. The director or corporate officer of a corporation, member of a limited liability company, or other person charged with the responsibility to report and remit a seller's taxes collected pursuant to this chapter has a fiduciary duty to ensure timely, proper, and complete tax returns are filed and the related taxes due under this chapter are remitted to the department on behalf of the seller. A person with significant control over a corporation's or limited liability company's finances may be held personally liable for failing to timely file a complete and proper tax return under this chapter.

12.65.120 Timely filing allowance.

- A. A seller authorized to collect the sales and use tax under this chapter and who is in otherwise full compliance with this chapter may retain three percent (3%) of the tax collected, up to a maximum of \$3,000 in a calendar year, for purposes of offsetting a portion of the costs incurred by the seller in collecting the tax for the municipality, provided the seller's tax return and full remittance is received by the department on or before the due date.
- B. If the seller is not in full compliance with this chapter, the seller is not eligible for and may not retain the three percent (3%) credit.
- C. A seller is not in full compliance if the seller:
1. has an account with a past-due balance, or
 2. has a missing or incomplete return outstanding, or
 3. is in any manner not in compliance with a municipally-approved payment plan.

- 1 D. The seller shall report on each tax return the amount retained under
2 this section for that reporting period, and the total amount retained in
3 the calendar year up to the last day of the reporting period.
4

5 **12.65.130 Confidentiality of information.**
6

- 7 A. The records of the seller retained pursuant to this chapter shall be
8 considered proprietary and confidential, and shall not be disclosed to
9 any person except employees and agents of the municipality acting in
10 their official capacity and then only for purposes reasonably related to
11 the collection and remittance of the sales and use tax.
12

- 13 B. Notwithstanding subsection A., the department may, at its discretion
14 for the sole purpose of enforcing this chapter, share any and all sales
15 and use tax returns, registration information or other data gathered
16 under this chapter with other federal, state and municipal tax collection
17 agencies and other government agencies only as necessary to
18 enforce this chapter, collect tax monies, or perform an audit.
19

20 **12.65.140 Security for fiduciary performance.**
21

- 22 A. *Guarantee required.* To ensure a seller subject to this chapter
23 performs its fiduciary responsibility to timely collect, account for,
24 safeguard, report and remit taxes levied by this chapter, under section
25 12.65.070F, or for other good cause shown, the department may
26 require a seller to provide a guarantee by one or more of the methods
27 specified in this section. The amount of the guarantee shall be in an
28 amount the department determines to be five percent (5%) of the
29 estimated average annual sales revenues for the applicant, or
30 \$5,000.00, whichever is greater. In the event the municipality
31 exercises a claim against the guarantee, the seller shall provide an
32 additional guarantee, in an amount equal to the amount of the paid
33 claim, no later than thirty (30) days after the date such claim is paid or
34 its certificate of registration shall be automatically revoked.
35

- 36 B. *Methods.* The applicant seller shall include one or more of the
37 following methods to guarantee performance of its fiduciary
38 responsibilities at the time of application for a certificate of registration:
39

- 40 1. *Surety bond.* The seller may elect to grant a surety bond, in an
41 amount defined in subsection A. of this section, from a
42 company authorized to do such business in the state. The bond
43 shall be in a form acceptable to the municipal attorney. The
44 bond shall be payable to the municipality and shall be
45 conditioned upon payment in full of the tax, including penalties
46 and interest due and to become due and owing to the

1 municipality by said seller during the effective period of the
2 bond under the provisions of this chapter. The surety may
3 terminate this bond, except as to any liability already incurred
4 or accrued, and may do so upon giving the seller and the
5 department written notice to that effect. The surety shall provide
6 written notice to the department not less than thirty (30) days
7 before the expiration, non-renewal, lapse, termination, or other
8 similar event affecting such surety bond. Thirty (30) days after
9 receipt by the department of such notice or upon a later date
10 specified in the notice, or upon the filing and acceptance of a
11 new bond, the existing bond shall terminate and be of no further
12 force and effect, except as to any liabilities or indebtedness
13 incurred or accrued thereunder as of the date of termination.
14

15 2. *Deposit in escrow.* The applicant seller may elect to deposit a
16 cash sum, in an amount defined in subsection A. of this section,
17 either with the municipality or in escrow with a responsible
18 financial institution authorized to do such business in the state.
19 In the case of an escrow account, the seller shall file with the
20 municipality an escrow agreement which shall include the
21 following terms:
22

23 a. Funds of the escrow account shall be held in trust until
24 released by the municipality and may not be used or
25 pledged by the seller as security in any matter during
26 that period other than payment of the tax, penalties, and
27 interest due and to become due and owing to the
28 municipality under this chapter.
29

30 b. In the case of a failure on the part of a seller subject to
31 this section to remit taxes due under this chapter by the
32 required due date, the institution shall immediately make
33 all funds in such account available to the municipality for
34 use in satisfying those taxes due, along with any related
35 penalties and interest as provided for in this chapter.
36

37 3. *Letter of credit.* The applicant seller may elect to produce, from
38 a bank or other responsible financial institution authorized to do
39 such business in the state, a letter of credit in a form acceptable
40 to the department. Such letter shall be filed with the department
41 and shall certify the following:
42

43 a. The financial institution irrevocably guarantees funds in
44 an amount defined in subsection A. of this section.
45

- 1 b. In the case of failure on the part of the seller to remit
2 taxes due under this chapter by the required due date,
3 the financial institution shall pay to the municipality
4 immediately and without further action such funds as are
5 necessary to satisfy those taxes due, along with any
6 related penalties and interest as provided for in this
7 chapter, up to the limit of credit stated in the letter.
8

9 4. Other forms of guarantee acceptable to the department.
10

- 11 C. When a seller subject to this section files a tax return and remits the
12 full amount of taxes due under this chapter, by the due date prescribed
13 by this chapter, for tax return periods equivalent to two (2) consecutive
14 calendar years, the seller may submit a written request to the
15 department for a waiver of the requirement to post a guarantee.
16 Except as provided in this section, the department shall approve the
17 request in writing, stating the date the requirement for a guarantee
18 shall expire and any funds held by the municipality in satisfaction of
19 the guarantee requirement returned. The department shall not,
20 however, approve the request and the requirement for a guarantee
21 shall not expire when the department has reasonable cause to believe
22 the applicant seller is a related party or related entity to another person
23 or seller, still owing delinquent sales tax revenues for which the
24 applicant is applying for a certificate of registration for purposes of
25 avoiding payment of delinquencies, penalties or interest under this
26 chapter.
27
- 28 D. The agreement or contract, and other evidence of a guarantee under
29 this section, is subject to inspection by the department. The
30 department may require production of the agreement or contract
31 providing the guarantee for inspection prior to issuing a certificate of
32 registration.
33
- 34 E. Security for fiduciary performance under this section may be waived
35 for an applicant seller with less than \$25,000 in annual revenues on
36 average for the past three (3) consecutive years.
37

38 **12.65.150 Certificates of exemption.**
39

- 40 A. The department shall provide a certificate of exemption to an eligible
41 person upon successful application by that person. The municipality
42 shall charge a fee for the application or issuance of the certificate of
43 exemption, in a reasonable amount determined by the department.
44 Once issued, the certificate of exemption shall be valid for five (5)
45 years unless earlier revoked by the municipality due to the ineligibility

of the person receiving the certificate of exemption or due to misuse of the certificate of exemption.

1. A person regularly purchasing goods or services in a sale exempt from the tax under section 12.65.040 may use a certificate of exemption when those goods or services are purchased from a seller. The purchaser shall use the certificate only when purchasing goods or services in exempt transactions. Use of the certificate by any person other than the purchaser to whom the certificate is issued, or for sales not exempt under section 12.65.040, is prohibited.
2. Application for a certificate of exemption shall be made to the department on a form or in a format prescribed by the department containing, in addition to such information as the department may require, the following:
 - a. The name, address and phone number of purchaser, including its corporate or other ownership structure and its federal tax status (federal tax status is only required if claiming exemption as a 501(c)(3) entity);
 - b. A description of the general character of the goods or services to be purchased in the regular course of business, for which the goods or services purchased using the exemption certificate are obtained; and
 - c. The signature or electronic signature of an authorized representative of the purchaser.

12.65.160 Prohibited acts.

- A. In addition to other acts and omissions prohibited by this chapter:
1. A person may not advertise, hold out, or state to the public or to any purchaser or person directly or indirectly the sales tax or any part of it is assumed or absorbed by the seller, or the tax is not be added to the sales price, or the tax is to be refunded, except as provided in this chapter.
 2. A seller shall not absorb, fail to add, or refund the sales tax or any part of it, unless the tax is refunded with a full or partial return or exchange of the purchased goods under the seller's usual return or exchange policy.

3. A seller shall not fail to state the amount of the tax separately from the sales price to the purchaser. The seller remains responsible for the tax amount even if the seller fails to state the amount of the tax separately. This subsection shall not apply to sales from coin-operated, currency-operated, or credit-card operated machines, bartering, sales of transportation for hire, games of chance and contests of skill, sales from street vending carts and sales where it is not feasible to require calculation of the sales tax at the time of sale under the circumstances as determined by the department.
4. No person may engage in business selling goods or services in the municipality without first obtaining a certificate of registration under this chapter.
5. No person, whether or not a seller covered by a certificate of registration, shall deny the department, or agent(s), subsequent to identification during business hours or at a reasonable time, access to records of sales transactions and other accounting records for purposes of inspection under this chapter.
6. No person shall charge or collect in excess of the proper amount of tax due under this chapter. Money collected as sales tax in excess of the actual sales tax owed becomes a liability of the seller under section 12.65.050.
7. No person shall misuse an exemption certificate. For purposes of this subparagraph, *misuse* shall mean:
 - a. For a purpose other than an allowed exempt purpose under this chapter; or
 - b. Copying or distribution of the exemption certificate to any person(s) other than the person to whom it is issued, whether or not a person uses or attempts to use such duplicated certificates in a purchase transaction.

12.65.170 Penalties.

- A. The penalties provided for in this subsection shall be in addition to all other penalties and interest provided for under this chapter, notwithstanding language to the contrary.
 1. A seller who fails to file a complete tax return, in accordance with section 12.65.100, within thirty (30) calendar days

following its due date shall automatically incur a civil penalty for each incomplete tax return, or tax return not filed, equal to five percent (5%) of the taxes due to the municipality with that tax return as determined by the department. Such penalty shall be automatically increased by an additional five percent (5%) of the taxes due for each 30 day period the return is delinquent, up to a maximum of twenty-five percent (25%) of the taxes owed. Interest shall accrue daily on the delinquent taxes at the rate of fifteen percent (15%) per annum, or the maximum interest rate allowed by law, whichever is greater.

2. A seller who fails to collect the tax levied by this chapter shall incur a civil penalty equal to twice the amount of the tax which should have been collected.

B. Except for subsection A., unless a different penalty is provided in this chapter, any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed \$1,000 for each separate violation. Where the same violation occurs multiple times, each occurrence shall constitute a separate violation. Violations of other requirements listed below subject the violator to a civil penalty not to exceed the specified amount:

1. Failure to notify department of expired certificate of registration (section 12.05.040E.2.): \$500.00.
2. Engaging in the business of sales without a certificate of registration: \$1,000.00.

C. The department may revoke, suspend, or cancel a certificate of registration issued under this chapter for any violation of this chapter.

D. The department may seek an abatement order or injunctive relief to address violations of this chapter.

12.65.180 Collection of taxes.

Taxes, interest, penalties, and administration costs due under this chapter and unpaid may be collected by referral to a collection agency, commencing a civil action for the collection of a debt, by executing a claim against security provided under section 12.65.100, by foreclosure of the tax lien in accordance with AS 09.45.170 through 09.45.220, by any method permitted by law, or any combination of the above.

12.65.190 Tax lien.

1 A. The taxes and the penalties provided for herein shall constitute a lien
2 in favor of the municipality upon all property of the person owing the
3 tax. This lien arises upon delinquency and continues until the liability
4 is satisfied or the lien is foreclosed. When recorded, the lien shall
5 have priority established by AS 29.45.650(e).

6
7 B. The department shall record a notice of lien when the taxes are
8 delinquent for more than thirty (30) days. The department shall serve
9 notice of the lien to all liable persons by certified mail or process
10 server.

11
12 **12.65.200 Remedies of person aggrieved.**

13
14 A. Any person aggrieved by any action or determination of the
15 department under this chapter may apply to the department and
16 request a hearing before the chief fiscal officer on the department's
17 action or determination within thirty (30) days from the date the
18 department mails notice of its action or determination.

19
20 1. An application for a hearing shall notify the department of the
21 specific action or determination contested and the amount of
22 tax, interest, cost or penalty contested, and the reason for such
23 contest.

24
25 2. The uncontested portion of any tax due under this chapter shall
26 be paid when due regardless of any application for a hearing.
27 Payment of the total amount due may be made at any time
28 before the hearing. Payment in full does not affect a person's
29 right to a hearing.

30
31 B. Upon timely application for a hearing under this section, the chief fiscal
32 officer, or an administrative hearing officer if designated by the chief
33 fiscal officer, shall hold a hearing and render a decision or
34 determination in accordance with chapter 3.60 to determine whether
35 a correction or reversal of the department's action or determination is
36 warranted.

37
38 1. If a person requesting a hearing fails to appear at the hearing,
39 the hearing officer shall issue a decision without taking
40 evidence from that person, unless the person shows
41 reasonable cause for failure to appear within seven (7) days
42 after the date scheduled for the hearing.

43
44 2. If the chief fiscal officer designates the administrative hearing
45 officer to conduct the hearing, the administrative hearing officer
46 shall hold the hearing and prepare recommended findings and

conclusions. These findings and conclusions shall be forwarded to the chief fiscal officer for adoption, rejection, or modification and issuance of a final order or decision by the chief fiscal officer.

C. Within thirty (30) days after receipt of a written final decision by the chief fiscal officer, a person aggrieved by the decision as a matter of right may file an administrative appeal of the decision with the Superior Court of the Third Judicial District, State of Alaska.

1. The person aggrieved shall be given access to the department's file in the matter for preparation of such appeal.

2. Taxes, costs, penalties, and interest declared to be due in the decision of the chief fiscal officer shall be paid within thirty (30) days after the date of the decision or a supersedeas bond guaranteeing payment shall be filed with the court in accordance with Alaska Court Rules. Amounts paid shall be held in trust by the municipality pending resolution of the appeal.

D. If the Superior Court determines the department's action or determination or the chief fiscal officer's decision was incorrect, the court may determine the proper action, determination or decision. If the person aggrieved is entitled to recover all or part, of any tax due or paid, the court shall order the repayment and the department shall pay such amount within fourteen (14) days and attach a certified copy of the judgment to the payment.

12.65.210 Dedication of net receipts (not revenues); tax cap limitation.

The sales and use taxes required to fund the costs of administration, collection and audit are taxes required to fund additional services within the meaning of Charter section 14.03(b)(2). Net receipts from the sales and use tax, after the costs of administration, collection and audit, in one fiscal year are dedicated to property-tax reduction in the following year, as prescribed in Charter section 14.07 and section 12.25.040 in order for the tax collected to be in substitution of other taxes.

12.65.220 Implementation and processes and procedures.

The chief fiscal officer shall implement and administer this chapter, may make administrative decisions with regard to its implementation, and may adopt such procedures and processes as may be required to implement this chapter, in accordance with chapter 3.40.

12.65.230 Amendments.

Any amendment to this chapter to increase the amount of the tax or to apply the receipts from the tax to any other purpose besides property tax relief, administration, collection and audit of the tax thereof, and the implementation prescribed by Charter section 14.07, or any amendment or ordinance that would have such effect, shall require the approval of three-fifths (3/5) of the qualified voters voting on the question. All other amendments to provisions of this chapter not having the foregoing effect may be adopted by ordinance by majority vote of the Assembly.

Section 3. Anchorage Municipal Code chapter 12.25 is hereby amended to read as follows (*the remainder of the chapter is not affected and therefore not set out*):

Chapter 12.25 TAX INCREASE LIMITATION

*** *** ***

12.25.040 - Computation of maximum attainable tax revenue amount.

The estimate of maximum attainable tax revenue (next year revenue available) is computed for the next fiscal year according to the following procedures:

- A. Define the tax increase escalation amount, (L):
- $$L = (T - d - e) \times (1 + C + P)$$
- where the base amount for calculating the next year's tax increase limit shall be the total amount of the municipal taxes to be collected for the current fiscal year and:
1. L is the allowable tax increase due to population and inflation growth factors.
 2. T is the total amount of:
 - a. Real property and personal property taxes to be collected for the current fiscal year plus the amount of net receipts from the prior fiscal year from levy and collection of the general sales and use tax per chapter 12.65,
 - b. Municipal payments in-lieu of taxes paid or to be paid by any municipality of Anchorage utility, department, agency, public corporation or authority (MPILT),
 - c. Auto fees, and
 - d. State and federal payments in lieu of taxes levied in the current fiscal year in current-year dollars.
 3. d is the total amount of municipal tax levied in the current fiscal year to fund the cost of judgments entered against the

municipality and to pay principal or interest on bonds, including revenue bonds.

4. e is the total amount of municipal tax levied in the current fiscal year to fund the cost of emergency ordinances enacted pursuant to Charter section 10.03.

7. Transition rules for voter-approved sales and use tax.

a. In order for the net receipts from the sales and use taxes collected in 2022 to be in substitution of property taxes that could be collected in 2023, for 2022 only, the tax escalation amount (L) computed according to this subsection for 2023 shall be

i. calculated as though T did not include the net receipts from the levy and collection of the general sales and use tax under chapter 12.65 in 2022, and

ii. reduced by the net receipts from the levy and collection of the general sales and use tax under chapter 12.65 in 2022.

b. In order for the net receipts from the sales and use taxes collected during 2023 to be in substitution of property taxes that could be collected in 2024, for 2023 only, the tax escalation amount (L) computed according to this subsection for 2024 shall be

i. calculated as though T did not include both the net receipts from the levy and collection of the general sales and use tax under chapter 12.65 between January 1, 2023 and June 30, 2023, and the difference between the net receipts from the levy and collection of general sales and use tax under chapter 12.65 for the remainder of 2023 and the net receipts from the levy and collection of general sales and use tax under chapter 12.65 for 2022, and

ii. reduced by the net receipts from the levy and collection of the general sales and use tax under chapter 12.65 between January 1, 2023 and December 31, 2023.

c. For 2024 and beyond, the tax escalation amount (L), T having been previously reduced by a year's worth of net receipts from the sales and use tax receipts under chapter 12.65 and thereby accomplishing the aim of making the sales and use tax in full substitution of other taxes, shall be calculated according to this section, without defining any additional exclusion for the sales

and use tax under subsection B.

B. Define exclusions in accordance with Charter section 14.03(b)(2) and the following guidance:

7. The net receipts from the sales and use tax under chapter 12.65 shall be excluded from the calculation in 2022 and 2023, and thereafter shall not be excluded, in accordance with subsection A.7.c. and Charter section 14.07(d).

(AO No. 84-208(S-A); AO No. 2003-160, §§ 2, 3, 1-1-04; AO No. 2003-161, § 1, 12-16-03; AO No. 2003-164, § 1, 12-16-03; AO No. 2004-22, § 1, 2-3-04; AO No. 2005-47, § 1, 4-19-05; AO No. 2005-48, § 1, 4-19-05; AO No. 2005-49, § 1, 4-19-05; AO No. 2009-109, § 2, 1-10-10; AO No. 2011-38, § 1, 3-29-11)

Section 4. Sections 2 and 3 of this ordinance and the Charter amendments set forth in the proposition in Section 1 shall become effective on July 1, 2022, if and only if, the proposition contained in Section 1 of this ordinance is approved by three-fifths (3/5) of the qualified voters of the Municipality voting on the proposition during the regular Anchorage Municipal election held on April 7, 2020. Section 2's directive to place the proposition on the ballot and the remainder of this ordinance shall be effective upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2019.

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 840-2019

Meeting Date: December 17, 2019

From: ASSEMBLY MEMBER DYSON

Subject: AN ORDINANCE PROPOSING A PUBLIC SAFETY TAX MEASURE TO PROVIDE PROPERTY TAX RELIEF AND TO COMBAT CRIME BY ENACTING A SALES AND USE TAX ON THE SALE OF GOODS AND SERVICES WITHIN THE MUNICIPALITY OF ANCHORAGE WITH HALF THE NET REVENUES UNDER THE "TAX CAP" DEDICATED TO REDUCING PROPERTY TAXES, AND HALF ABOVE THE TAX CAP DEDICATED TO PUBLIC SAFETY PURPOSES TO COMBAT CRIME WITH THIS PORTION EXPIRING IN 2028 ABSENT VOTER REAUTHORIZATION; AMENDING AMC CHAPTER 12.25 REGARDING THE TAX INCREASE LIMITATION TO CONFORM TO THIS ENACTMENT; SUBMITTING THIS PUBLIC SAFETY TAX MEASURE TO THE QUALIFIED VOTERS OF THE MUNICIPALITY, AND PROVIDING FOR TRANSITION PROCEDURES AND EFFECTIVE DATES.

I propose a ballot proposal for the April 2020 election that would raise the "tax cap" temporarily and raise money exclusively to combat crime. This Public Safety Tax Measure ordinance diversifies the municipality's tax base by adding a 3% sales and use tax with half for property tax relief under the tax cap, and half above the tax cap and dedicated to police, prosecution, emergency dispatch, forensic technicians, mental and behavioral health services for inmates and convicts, and to develop Municipal support or programs for criminal courts and parole supervision.

BACKGROUND

The Administration tells me, and according to prior sales tax proposals, a 1% sales tax would raise approximately \$31 million per year, depending on exemptions. That would mean that a 3% sales tax would raise \$93 million. They also tell me it would cost over \$3 million per year to administrate and that it takes two years to implement and establish in place the necessary personnel, programs, and tools to collect and administer a general sales tax. The ordinance provides for this necessary set-up time period, levying the tax on July 1, 2022.

Public Safety Tax: 1.5% temporarily for six years.

I want one-half of this sales tax money to be temporary for six years, above the tax cap, and dedicated and spent only for crime issues as follows:

- More police officers (maybe a hundred). According to the Chief of Police, we currently have about half as many police officers as the national average for a city our size. Our officers do not have the time to investigate many of our low value property crimes. Retailers are experiencing record high shop lifting losses. Our homeless population contributes to some of these

1 problems with property crimes. Our overloaded emergency medical
2 services are apprehensive about responding to emergency calls in some
3 areas of our city and frequently request and require police presence for their
4 safety.
5

- 6 • Our 911 dispatch staff are stretched to near the breaking point. Our
7 administrative staff are not able to keep up and citizens are waiting months
8 to get accident reports. More lab technicians are needed to process forensic
9 evidence. Our prosecutors are waiting months for drug testing samples to
10 be returned for drivers arrested for driving impaired, while the arrested
11 driver is still driving until the samples are returned. The State crime lab is
12 having great difficulty hiring lab technicians at the offered salary. These
13 delays thwart the ability of the government to provide for a defendant's
14 constitutional right to a fair and speedy trial.
15
- 16 • More staff for the prosecutor's staff and public defenders. Our prosecutors
17 are carrying over 250 cases each and charged persons are not getting the
18 public defender representation that our constitutions demand. Accused
19 persons are roaming our streets for weeks awaiting arraignment and
20 sometimes committing more crimes. Our police have often arrested a
21 person 3 times while awaiting trial for the first arrest.
22
- 23 • In 2017, there were 6,779 misdemeanor filings in the Anchorage District
24 Court (composed of property, person, DUI, motor vehicle-other, public
25 order, and other) of which 2093 were dismissed, and 940 of those before or
26 at arraignment.¹ In 2018 there were 8208 misdemeanor filings in the
27 Anchorage District Court (a increase of 21% over 2017), of which 3215 total
28 cases were dismissed from a total of 7348 cases disposed.² Our
29 prosecutors are finding the State unwilling or unable to take felony cases
30 and those cases are lingering and probably contributing to our high crime
31 rate.
32
- 33 • More parole supervisors. The State does not have enough capacity to
34 adequately supervise arrestees who are awaiting trial, nor the convicted
35 criminals who have been released and are awaiting court ordered treatment
36 when there is a profound lack of available treatment capacity.
37
- 38 • Our State courts are overwhelmed due to budget issues and getting court
39 dates for local cases is problematic. The State court system has cut back
40 hours to deal with a reduced budget. Hundreds of cases have been
41 dismissed or delayed for months while the alleged perpetrators are out on
42 the street. This has resulted in repeated property crimes while the alleged
43 perpetrator has been arrested for more crimes.
44
- 45 • Radically more mental health staff and facilities are desperately needed.
46 Criminals are waiting months to get into reformatory or rehabilitative

¹ Alaska Court System Annual Report FY 2017, pp. 125,132, and 135 (See <https://public.courts.alaska.gov/web/admin/docs/fy17.pdf> accessed December 12, 2019)

² Alaska Court System Annual Report FY 2018 (See <https://public.courts.alaska.gov/web/admin/docs/fy18.pdf> accessed December 12, 2019)

1 treatment, and there is a grossly inadequate amount of help available for
2 the multitude of issues facing much of our homeless population. It appears
3 that our area is at the lowest level of appropriate treatment at the very time
4 when we are swamped with people who need help with mental health and
5 substance abuse issues.

- 6
7 • Jail or prison space. Due to budget issues and poor policy decisions, we
8 are grossly short of prison beds and the needed treatment, job training,
9 education and other essential components of an adequate corrections
10 system. As a result recidivism will continue to be high and increase if this is
11 not turned around.

12
13 I do realize, and counsel has advised, that the Municipality only prosecutes
14 misdemeanor and lesser criminal offenses, does not provide parole services, may
15 not establish a municipal court, does not pay for judicial services in the court
16 system, does not collect restitution for victims, and may not operate a jail, prison,
17 or correctional institution. However, with approximately \$45 million in tax revenue
18 above the tax cap I believe the Municipality can develop innovative programs for
19 involvement or support in those areas, similar to the unique gang activity Special
20 Assistant Municipal Prosecutor that works in and closely with the U.S. Attorney
21 General's Office.

22 23 **Property tax relief: 1.5% permanently.**

24 It is my intention that half of the sales tax revenues be dedicated to property tax
25 relief below the tax cap. I believe this is good policy and will make our citizens
26 more interested in supporting the concept. The Municipality has one of the highest
27 property tax rates in the nation, and policy leaders and scholars have long advised
28 that our tax revenue sources need to be diversified for a more stable fiscal and
29 economic future.

30 31 **Protection for taxpayers and equitable measures.**

32 A general sales tax tends to be regressive in nature: it places a heavier tax burden
33 on the poor than on the wealthy. That is why many jurisdictions with a sales tax
34 include provisions to make it more equitable. The most common approach is to
35 provide broad-based exemptions on groceries and other basic necessities for
36 every household.³ This ordinance provides a wide range of exemptions targeted
37 to exclude items that make up a large share of low- and moderate-income
38 households' budgets. The key features making this sales tax equitable to
39 consumers in the Municipality:

- 40
41 1. In order to offset the more regressive aspects of a sales and use
42 tax, the ordinance exempts a number of basic or essential goods
43 and services, including but not limited to:
44 non-prepared foods;
45 prescription medicines;
46 medical or counseling services;
47 child care services;
48 adult care services;

3 *Options for a Less Regressive Sales Tax in 2018*, Davis, A., Policy Brief, Institute of
Taxation and Economic Policy (Sept. 2018).

education services;
legal services;
utility services;
fuels used for residential heating;
telephone, internet and cable services;
rental payments on property;
real estate sales.

2. The maximum sales tax for any purchase or service is capped at \$200.
3. Sales by charitable organizations or private or parochial schools are exempt from the tax as long as the sale is incidental and all of the proceeds go to the organization and its mission.
4. Sales of goods not sold to the end user of the goods are exempt from the tax.
5. Sellers required to collect the tax may retain 3% of the tax collected up to a maximum of \$3,000 per calendar year to offset the costs incurred by the seller in collecting the tax.

To protect the taxpayers from any attempts by a future Assembly to alter this tax, any amendments to increase the amount of the tax or to apply the receipts from the tax to any purpose other than stated in the dedication provisions require approval by a vote of 3/5 of the qualified voters voting on the question.

Timing of tax levy and collection.

Because of the municipality has not tracked sales and services previously, the anticipated receipts from a sales and use tax can only be broadly estimated. Accordingly, the ordinance allows the sales and use tax receipts for one fiscal year to be applied to the budget in the next fiscal year to offset property taxes. This will allow the Assembly to have solid information regarding sales and use tax receipts prior to establishing the mill rate for property taxes for the upcoming fiscal year. In order to permit this method a modification to the tax cap is required for the 2022 and 2023 fiscal years as the sales and use tax becomes integrated in the municipality's revenue stream.

Support and public participation.

I want and need the support of my colleagues on the Assembly and in the Administration to make this effort the best we can and to get the Mayor's support. Past experience indicates we should appropriate funds for an information campaign and town hall meetings.

At these town hall meetings, and in an invitation included in an information campaign, we should ask the public about these features and consider what amendments are appropriate before passage and approval of this ordinance. We should consider:

- What should be the percentage of the tax? I think 3% might be a good number.
- Should we give it a "sunset" date, I think we should and that 6 years would be enough to get up to speed and see some significant results. At the end of that time the citizens could/should be given an opportunity to extend or modify the program
- What, if any, additional exemptions should be made. Bill Evans tried a sales

1 tax a few years ago and he exempted the foods that met the criteria for food
2 stamps, plus other stuff that is not a strict retail over the counter item.
3

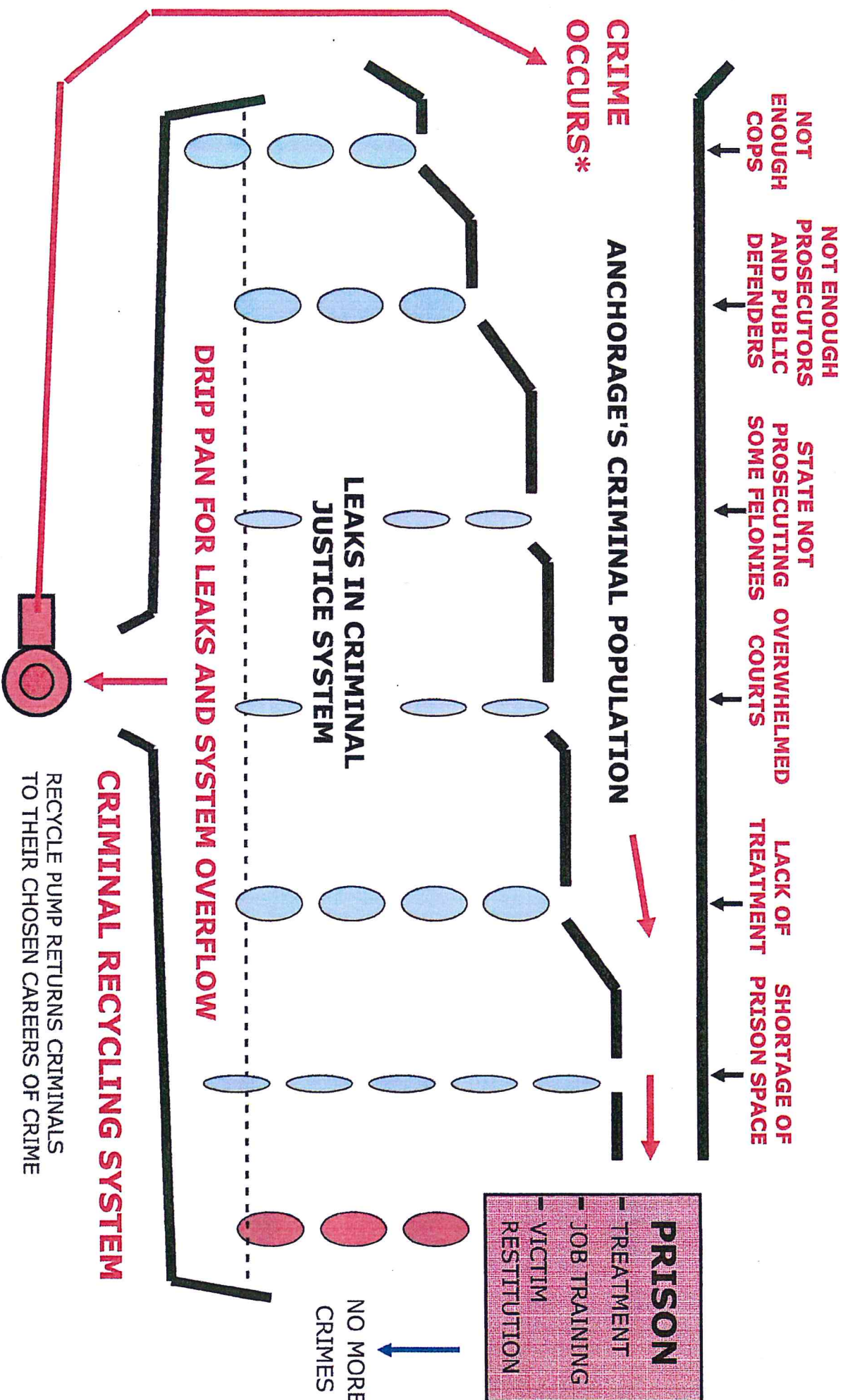
4 I request your support for the Public Safety Tax Measure ordinance.
5

6 Reviewed by: Assembly Counsel

7 Respectfully submitted: Fred Dyson, Assembly Member

8 District 2, Chugiak, Eagle River, and Birchwood
9

ANCHORAGE'S CRIMINAL JUSTICE CLOGGED AND LEAKING PIPE



* **CRIMES** ASSAULTS, PROPERTY, DRUGS AND ALCOHOL, FIREARMS, SEX, WHITE COLLAR, PAROLE VIOLATIONS