

**Proposed Initiative**  
**Enactment of a 3% General Sales Tax for Additional City Services**

(a) Shall Article VII (Sections 74-300 through 74-323) of the Fairbanks General Code of Ordinances be enacted to authorize a general sales tax of 3%, effective May 1, 2010, to fund the following additional City services, as allowed by Section 6.5(B)(3) of the City Charter:

(1). additional street maintenance and street reconstruction services above 2009 levels, not to exceed the sum of \$4 million dollars a year above the City 2009 Public Works budget, adjusted annually by the full year change in the Anchorage Consumer Price Index (CPI-U); and

(2). additional Public Safety services above 2009 levels, not to exceed the sum of \$4 million dollars a year above the City 2009 Public Safety budget adjusted annually by the full year change in the Anchorage Consumer Price Index (CPI-U),

(b) The proceeds of the sales tax provided in section (a) shall be applied:

1. First, to reduce the City base mill levy from 4.9 mills to 0 mills in the following fiscal year,

2. Then, for additional City service as stated in subsections (a)(1) and (a)(2).

(c). The sales tax shall be suspended annually if sufficient funds are received to fully fund subparagraphs (b)(1) and then (b)(2) and any excess proceeds shall be carried forward to the next fiscal year subject to the same limits on use and appropriation.

(d). Approval of this Initiative shall have no effect on existing sales taxes on alcohol, tobacco or the Hotel/Motel tax, none of such taxable sales shall be subject to this general sales tax.

**Initiative sponsors request that the City provide a full copy of the proposed sales tax ordinances at easily available public locations including the City Clerk's Office, 800 Cushman Street, and be available online at the City's web site ([www.ci.fairbanks.ak.us](http://www.ci.fairbanks.ak.us)) and, if submitted to the voters, be available for inspection at each polling place.**

## PROPOSED 3% CITY OF FAIRBANKS GENERAL SALES TAX

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### **74-300 Authority.**

This chapter is adopted pursuant voter approval of an Initiative at the City October 2009 regular election and to Alaska Statutes.

### **74-301 Definitions.**

When used in this chapter, the following words and phrases shall have the meanings set forth in this section:

“Buyer” means a person who acquires property, or the right to use or occupy property, or who receives a service, for consideration.

“Candy” means food that is a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces regardless of size. Candy does not include any preparation containing flour. Items that require refrigeration are not candy unless sold as prepared food.

“Delivery” means that goods have been placed within the buyer’s control.

*Food and food ingredients* mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

“Gaming property” means a right to participate in a game of chance regulated under Alaska Statutes Chapter 5.15, including without limitation a right to participate that is represented by a pull-tab, bingo card, or raffle or lottery ticket.

“Price” means the amount of money, and the fair market value of consideration other than money, that the buyer gives to the seller in exchange for property, the right to use or occupy property, or the rendering of services.

“Rental” means any transfer of the right to use or occupy property for consideration.

“Sale” means any transfer of property for consideration.

“Sales tax” means the tax levied by this chapter.

“Seller” means a person who, as principal or agent, transfers property, or the right to use or occupy property, or provides a service, for consideration.

“Service” means any application of labor, skill or knowledge to produce value in exchange for consideration, and may include the provision of property or the right to use or occupy property, but does not include services rendered to an employer by an employee.

“Soft drinks” means the following items, provided they are not sold in a vending machine: nonalcoholic beverages in liquid form that contain natural or artificial sweeteners but not beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than 50 percent vegetable or fruit juice by volume. Unsweetened water and ice is not taxable.

“Transaction” means any transfer of property, or the right to use or occupy property, or the rendering of a service, for consideration.

“Vending Machine Sale” All food and liquids sold from vending machines, or prepared for consumption by the seller, is taxable.

### **74-302 Interpretation.**

- A. The tax levied by this chapter applies to all sales, rentals and services except those that this chapter expressly exempts from the tax.
- B. Exemptions from the tax levied by this chapter are to be construed narrowly.

### **74-303 Levy of tax.**

Subject to the remainder of this chapter, a tax of three percent of the price is levied on all sales, rentals and services made in the city.

### **74-304 Maximum tax per transaction.**

A. Only the first one thousand (\$1,000.00) of the price in each transaction shall be subject to sales tax; provided, that a single payment for the sale or rental of property, or the rendering of a service, over a period exceeding one month shall be allocated pro rata to each one-month period or part thereof during the term of the transaction, and the first one thousand dollars (\$1,000.00) of the price allocated to each such period shall be subject to sales tax.

B. Long term vehicle leases shall be treated as one transaction per year, and per fractional year, of the lease term. The sales tax for the entire long-term vehicle lease shall be due and collected at the time of the first payment. There shall be no refund of such taxes should the lease terminate earlier than provided in the initial lease term. Any extension of the new lease term shall be treated as a new long-term lease.

### **74-305 Transaction in the city.**

A. The following rules determine whether a transaction is made within the city:

1. A sale or rental is made within the city if delivery occurs in the city, and the seller either:

a. Maintains a place of business, or an agent or employee, in the city; or

b. Regularly or repeatedly promotes sales or rentals in the city by means such as advertising, promotional events or solicitation of sales.

2. A service is made within the city if:

a. All or a substantial part of the service is rendered in the city; or

b. The seller maintains a place of business, or an agent or employee, in the city, the service benefits a person or property in the city, and either the order for the service is received or solicited in the city, or payment for the service is received in the city.

3. A rental of real property is made in the city if the real property is located in the city.

4. A service involving the construction, repair, renovation, improvement, sale or rental of real property is made in the city if the real property is located in the city.

### **74-306 Rules applicable to particular businesses or occupations.**

- A. Transactions subject to existing City sales taxes. Any transaction that is subject to the City's limited sales tax on the sale of alcohol, tobacco or hotel/motel occupancy shall not be subject to additional tax under this Chapter.
- B. Real Estate Sales Commissions.
  - 1. Commissions on sales of real property located in the city are subject to sales tax, regardless of the location of the person to whom the commission is payable.
  - 2. Commissions on sales of real property payable to a person who maintains an office in the city are subject to sales tax, regardless of the location of the real property.
- C. Sales of Gaming Property. An amount equal to the gross receipts of the seller from sales of gaming property, less the cost of prizes awarded on each series, set of games, or contest for which gaming property has been sold, shall be subject to sales tax.
- D. Sales from Coin-Operated Machines. An amount equal to the gross receipts from coin-operated machines that the seller operates in the city, shall be subject to sales tax

### **74-307 Exemptions.**

- A. The following classes of transactions are exempt from the general sales tax enacted by this Chapter:
  - 1. Food sold for human consumption, but no soft drinks, candy, and sales of food prepared ready to eat or sold by vending machine, PROVIDED that, prepared food sold to students of a school, customers of a hospital or clients of a "meals on wheels program operated for seniors over 65 or disabled persons shall not be taxed.
  - 2. The following utilities: any method of heating a structure, fees for use of connection to a regulated community water distribution or regulated community wastewater collection system.
  - 3. Electricity.
  - 4. Sales of professional medical services performed by a person, clinic, or hospital licensed and certified under the state of Alaska:
    - a. The preparation of controlled substances prescribed and supplied by a state licensed and certified medical professional,

- b. Counseling services provided by state licensed and certified psychologists or psychological associates, clinical social workers, alcohol and drug counselors, or marital and family therapists,
  - c. Assisted living services provided in accordance with state regulations, and licensed by such,
  - d. Sales and rentals of hearing aids, crutches, wheelchairs, and other personal property specifically manufactured for a patient.
- 5. All rentals or lease of real property.
- 6. Sales of real property, and interests in real property. Whether a transaction is a sale of real property is determined as of the time of the transaction, and without reference to whether what is sold later will be incorporated into real property.
- 7. Casual and isolated sales, rentals or services, not made in the ordinary course of business.
- 8. Sales of insurance and bonds of guaranty and fidelity.
- 9. The following fees charged by banks, savings and loan associations, credit unions, investment banks and other agents/traders:
  - a. Fees associated with deposit accounts, including service fees, monthly account fees, NSF fees, and attachment fees.
  - b. Fees for the purchase of bank checks, money orders, travelers checks, foreign currency and similar products for payments.
  - c. Fees for, or commissions on, the sale, exchange or transfer of currency; stocks, bonds, options and other securities; commodities including precious metals.
  - d. Fees for the use of automatic teller machines and for transactions made through automatic teller machines, notary fees and overdraft protection fees.
- 10. Contracts to transport elementary or secondary school students to and from school.
- 11. Sales of food in lunchrooms or cafeterias in elementary, secondary or post-secondary schools that are operated primarily for the convenience of school students and faculty, and not operated for profit.

12. Sales, rentals or services that the city is prohibited from taxing by the constitution or statutes of the United States or the state of Alaska.
13. Sales of newspapers and other periodicals that are made directly by carriers to consumers or users.
14. Sales, rentals and services to the United States, the state of Alaska, and any of their agencies, instrumentalities, or political subdivisions.
15. Dues or fees to clubs, labor unions or fraternal organizations.
16. Sales of admission to school entertainments, school athletic events, and events conducted for the benefit of charitable or community organizations. This exemption does not apply to sales of gaming property.
17. Sales of air, train, boat, cruise line or bus tour transportation, car rentals, accommodations, or admission to entertainment events, where the service is provided outside the city, and fees or commissions related to such sales.
18. Sales related to orbital space facilities, space propulsion systems, space vehicles, satellites or stations, to the extent of the exemption required by AS 29.45.650(h).
19. Sales of property purchased with food coupons, food stamps, or other certificates issued under 7 U.S.C. 2011-2025 (Food Stamp Act) or food instruments, food vouchers, or other certificates issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants and Children).
20. Child day care, pre-elementary school, baby-sitting services and adult daycare services.
21. Sales of cemetery plots, and sales of caskets, funeral- and burial-related goods and services by a funeral home located within the City.
22. Services rendered by an employee to any employer, not to exempt services provided by independent contractors.

B. The following classes of buyers are exempt from sales tax; provided, that the buyer presents to the seller at the time of the sale transaction a valid certificate of exemption applicable to the transaction, issued to the buyer under Section 74-309:

1. Sales to a dealer in the property sold, for the purpose of resale by the dealer.
2. Sales of raw material to a manufacturer, which raw material becomes an ingredient or component part of a manufactured product or a container thereof, or is consumed in the manufacturing process.

3. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment, to a person licensed as a contractor under Chapter 8.18 of the Alaska Statutes for use in the original construction of, or renovations to, improvements to real property. This exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in repairing or maintaining real property.
5. Sales, rentals and services to a person that the Internal Revenue Service recognizes as an organization described in Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code; provided, that the sale, rental or service is not for use in an “unrelated trade or business” of the person, as that term is defined in the Internal Revenue Code.
6. Sales of food supplies to food service establishments for incorporation into food products to be sold to the public.
7. Sale of food supplies to hospitals, institutions housing six or more residents, recreational camps and schools.

C. The following classes of sellers are exempt from sales tax; provided, that the seller has at the time of the transaction a valid certificate of exemption applicable to the sales transaction, issued to the seller under Section 74-309:

1. Sales, rentals and services by a person that the Internal Revenue Service recognizes as an organization described in Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code or organizations incorporated under the Alaska Nonprofit Corporation Act; provided, that the sale, rental or service is not part of an “unrelated trade or business” of the person, as that term is defined in the Internal Revenue Code.
2. Sales of goods/services by small business. Sales of goods made, or services provided, by a person or entity with gross taxable sales less than \$5,000/month shall be exempted from coverage of this Chapter for the following month, provided that the seller must maintain a City business license and is required to file a monthly return as provided by Sec. 74-313. In the event that taxable sales in any exempt month are equal to or in excess of \$5,000, there shall be no exemption under this section for the two following months, regardless of the amount of total sales.

### **Sec. 74-308. Senior/disabled citizen rebate.**

Senior or disabled citizens who are residents of the Fairbanks North Star Borough shall receive an annual sales tax rebate from the city in an amount not to cumulatively exceed one hundred fifty dollars per year (\$150.00). Any eligible applicant with a delinquent account with the City of Fairbanks shall have their refund applied to the delinquent account. Applicants must meet the following requirements:

- A. The citizen must be a resident of the Fairbanks North Star Borough at least sixty five years of age; or
- B. The citizen is a resident of the Borough and is one hundred percent disabled by virtue of the disability standards set by the Social Security Act of the United States.
- C. No receipts are to be required to receive the rebate.

In addition to meeting any of the requirements of this subsection, residents must apply for the refund for each year that the sales tax is in effect; applications must be fully completed and submitted by March 31 of the subsequent year or no rebate will be paid for the prior year.

#### **74-309 Certificate of exemption.**

A. A person shall apply to the finance director for a certificate of exemption that is required for an exemption from sales tax under Section 74-307(B) or (C) on a form approved by the finance director. The application shall be accompanied by any applicable fee that is required under subsection B of this section. The finance director may require additional information of the applicant as necessary to determine whether the application should be granted. A certificate of exemption is issued for a calendar year and expires on December 31st of the calendar year for which it was issued.

B. Except as provided in this subsection, there shall be no charge for a certificate of exemption. The applicant shall pay the city: For a certificate of exemption issued under Section 74-307(B)(4) each calendar year, one hundred fifty dollars (\$150.00), as may be adjusted by Council Resolution in the City Schedule of Fees and Charges for Services.

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

1. Gave false information when applying for the certificate of exemption;
2. Used the certificate of exemption in a transaction that was not exempt from sales tax under the exemption in Section 74-3.050 for which the certificate was issued;
3. Permitted the use of the certificate of exemption by a person other than an authorized agent or employee of the holder of the certificate; or
4. Ceases to be entitled to exemption from sales tax under the exemption in Section 74-307 for which the certificate was issued.

#### **74-310 Determination whether transaction is exempt.**

A seller shall require the buyer to pay sales tax on each transaction that is not exempt from sales tax under this chapter. If a buyer pays sales tax on a transaction that the buyer believes to be exempt, the buyer may request that the city determine whether the transaction is exempt by completing a certificate of protest in a form provided by the city. The certificate shall show the names and addresses of the seller and the buyer, the basis for the claim of exemption, and such other information as may be prescribed by the city. A seller shall keep a supply of certificates of protest and provide one to a buyer upon request. After completing the certificate of protest, the buyer shall give it to the seller, who shall deliver it to the city as promptly as possible, but in no event later than thirty (30) days after its receipt from the buyer. The finance director will determine whether a transaction is exempt from sales tax based on the information in the certificate of protest, and notify the buyer in writing of the determination, within thirty (30) days after receipt of the certificate. If the finance director determines that the transaction is exempt, the finance director shall remit a refund with the notice.

### **74-311 Collection of sales tax—Addition and separate statement; Exceptions.**

- A. The buyer shall pay sales tax to the seller at the time of payment for a sale, rental or service subject to sales tax. The seller shall collect sales tax from the buyer at the time of payment for a sale, rental or service subject to sales tax. The seller is responsible for remitting sales tax on all nonexempt sales to the city, regardless of whether the seller collects the sales tax from the buyer.
- B. Except as provided in subsection C or D of this section:
1. The seller shall add the sales tax to the price or charge for the sale, rental or service, showing the tax as a separate and distinct item on any receipt, invoice, statement of account, or other record of the transaction. The sales tax on more than one separately priced item may be shown as a total tax on the aggregate price of all items sold or rented, or services rendered, in a single transaction.
  2. The amount of sales tax to be added to the price of a sale, rental or service shall be determined by multiplying 3% times the sales price, rounded to the nearest penny.
  3. A seller may not assume, fail to add to the price or charge for a sale, rental or service, or refund to the buyer all or part of the sales tax, or advertise or represent to any person that the seller will do so.
- C. Sales tax on sales of gaming property and sales from coin-operated machines is not added to the sales price and collected with each transaction, but is computed and paid as provided in Section 74-306.
- D. When it is not feasible for the seller to show the sales tax on each transaction as a separate and distinct item, the seller may elect to remit to the city an amount equal to the seller's gross receipts divided by 1.03 and multiplied by 0.03 in lieu of stating sales tax separately and adding it to the sales price. A seller makes this election for a calendar year by so indicating on its

application for a city business license. A seller who has made this election shall include in each sign that displays prices to its customers a notice, in type no smaller than the type in which prices are displayed, stating, "All prices include 3% City of Fairbanks general sales tax."

#### **74-312 Title to collected sales tax.**

Title to sales tax vests in the city upon collection by the seller. The seller holds collected sales tax in trust for the city, and is accountable to the city therefore.

#### **74-313 Tax returns—Contents—Penalty for delinquency.**

A. A seller shall prepare a sales tax return for each calendar month. The sales tax return shall state the total amount of the seller's sales, rentals and services; the amounts of the seller's exempt and taxable sales, rentals and services; and the amount of sales tax that is due from the seller. The seller shall submit on or with the return such additional information as the city may require to determine the amount of sales tax due for the month. The seller shall prepare the return and remit sales tax to the city on the same basis, cash or accrual, that the seller uses in preparing its federal income tax return. The seller shall sign the return, and transmit the return, with the amount of sales tax that it shows to be due, to the city.

B. A seller that filed or should have filed a sales tax return for the prior month shall file a return for the current month even though no tax may be due. The return shall show why no tax is due.

C. A sales tax return, and the related remittance of sales tax, is due, and must be postmarked or received by the city, not later than five p.m. on the 15<sup>th</sup> day of the month immediately following the month for which the return was prepared. The failure of the U.S. Postal Service or any private delivery service to make timely delivery of a sales tax return or the related remittance of sales tax shall not excuse an untimely filing or remittance.

D. Sales tax that is not received on or before the time when due is delinquent. Delinquent sales tax bears interest at the rate of fifteen (15) percent per annum until paid. In addition, delinquent sales tax shall be subject to a late payment penalty equal to five percent of the amount of the delinquent sales tax multiplied by the number of calendar months (or portions thereof) that elapse until the delinquent sales tax, interest and penalty are paid in full; provided, that the amount of penalty shall not exceed one hundred percent (100%) of the amount of the delinquent sales tax. The penalty does not bear interest.

E. A seller who timely files a correctly completed sales tax return, and the related remittance of sales tax, may retain two percent of the amount of the sales tax to be remitted, up to a maximum retainage of one hundred dollars (\$100.00).

F. The finance director may require a seller that fails to submit a sales tax return or remit taxes when due to submit tax returns and remit taxes more frequently than monthly.

#### **74-314 Application of sales tax payments.**

- A. Except as this section provides otherwise, payments on sales tax accounts shall be applied to the amount due for each calendar month, in chronological order, and within the amount due for each calendar month first to accrued penalty, second to accrued interest and then to sales tax payments owed by the seller.
- B. Payments on sales tax accounts submitted with sales tax returns shall be applied to the most current return period, first to accrued penalty, second to accrued interest and then to sales tax payable under the return. Any remaining moneys shall be applied as provided in subsection A of this section.
- C. Amounts of delinquent sales tax, interest or penalty that have been reduced to judgment, are the subject of a confession of judgment, or are the subject of a written payment agreement between the city and the seller are payable as provided in the judgment, confession of judgment or payment agreement, respectively, and, except as provided otherwise in the judgment, confession of judgment or payment agreement, thereafter cease to be subject to the further accrual of interest or penalty under this chapter.

#### **74-315 Duties upon cessation or transfer of business.**

- A. A seller that ceases to engage in 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 business in the city, not later than fifteen (15) days after that date.
- B. 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. 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 fifteen (15) days after the 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. 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 date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the seller has produced a receipt from the city showing that all tax obligations imposed by this chapter have been paid. 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 was required to withhold.
- D. In subsections B and C of this section, the term "transfer" includes the following:

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
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.

#### **74-316 Amended returns.**

A. A seller may file with the city an amended sales tax return with supporting documentation, and the city may accept the amended return, but only in the following circumstances:

1. The amended return is filed within one year of the original due date for the return;
2. The seller provides a written justification for amending the return;
3. The seller held a current city business license for the period for which the amended return was filed and filed an original return for that period; and

B. The city shall notify the seller in writing whether it accepts or rejects an amended return, including the reasons for any rejection.

#### **74-317 Tax return—Extension of time.**

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

1. For reasons beyond the seller's reasonable control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return;
2. The seller has a reasonable plan to cure the problem that caused the seller to apply for an extension, the seller will commence and proceed with diligence to cure the problem, and the problem will be cured within a reasonable time; and
3. At the time of the application, the seller is not delinquent in filing any other sales tax return or in remitting sales tax to the city.

B. A penalty assessed under Section 74-313(D) for the delinquent remittance of sales tax or under Section 74-320(F) for failure to file a sales tax return may be waived by the finance director, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city, within forty-five (45) business days after the date of delinquency. A seller may not be granted more than one waiver of penalty

under this subsection in any period of twenty-four (24) consecutive months. The finance director shall report all such waivers of penalty to the council in writing, at least once each calendar quarter.

#### **74-318 Use of information on tax returns.**

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the city under this chapter, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the city whose job responsibilities are directly related to such returns, reports and information;
2. The person supplying such returns, reports and information; and
3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The city will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of a person who holds a current city business license; and
2. Whether a holder of a city business license is more than thirty (30) days delinquent in filing a return or remitting sales tax; and, if so, the number of returns not filed.

D. The city may publish the name of any seller that is delinquent in remitting sales tax, and the delinquent amount thereof. The city also may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular seller is disclosed.

#### **74-319 Tax records—Additional information from seller—Audits.**

A. A seller shall maintain records of transactions supporting the information that it submits on its sales tax returns, including without limitation records of daily gross receipts from sales, rentals and services, invoices of purchases and sales, bills of lading and bills of sale. A seller also shall maintain records of transactions that are exempt from sales tax, including information that will substantiate the claim of exemption. The seller shall maintain all such records at a location within the city. The seller shall maintain all such records for a period not less than three years after the date of payment of the sales tax to which they pertain, except to the extent that the city has authorized in writing their destruction or disposal at an earlier date.

B. The records that a seller is required to maintain under subsection A of this section shall be subject to inspection and copying by authorized employees or agents of the city for the purpose of auditing any return filed under this chapter, or to determine the seller's liability for sales tax where no return has been filed.

C. In addition to the information required on returns, the city may request, and the seller must furnish, any information deemed necessary for a correct computation of the tax.

D. The city may adjust a return for a seller if, after investigation or audit, the city determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the city adjusts the return within three years of the original due date for the return.

### **74-320 Estimated tax.**

A. If a seller fails to file a sales tax return, or if the city has reasonable cause to believe that any information on a sales tax return is not accurate, the city may estimate the sales tax due based on any information available.

B. The city shall notify the seller in writing that the city has estimated the amount of sales tax that is due from the seller under subsection A of this section, stating the estimated amount. The city shall serve the notice on the seller by delivering the notice to the seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address.

C. The city's estimate of the amount of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within fifteen (15) days after service of notice of the estimated sales tax, gives the city a written request for a hearing.

D. A hearing requested under subsection C of this section shall be conducted before the mayor or the mayor's designee, who may be a city employee or a committee appointed by the Mayor and confirmed by the City Council. At the hearing, the seller shall have the burden of proving, by testimony or documentary evidence, that the amount of sales tax that is due is less than the amount that the city estimated. After the hearing, the person conducting the hearing shall issue a decision determining the amount of sales tax that is due from the seller. The city shall serve the decision on the seller by delivering the notice to the seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address.

E. A decision under subsection D of this section determining the amount of sales tax that is due may be appealed to the superior court as provided in the Alaska Rules of Appellate Procedure.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty as provided in Section 74-313, from the date that the sales tax originally was due, plus an additional civil penalty of two hundred fifty dollars (\$250.00) for each calendar month for which the amount of sales tax that is due has been determined.

## **74-321 Violations—Remedies.**

- A. Each of the following is a violation of this chapter:
1. A buyer failing to pay sales tax to a seller as required by this chapter.
  2. A seller failing to collect sales tax from a buyer as required by this chapter.
  3. A seller failing to file a sales tax return or remit sales tax when due.
  4. A buyer or seller knowingly submitting false information in a document filed with the city under this chapter.
  5. A seller falsifying or concealing information related to its business activities in the city for the purpose of avoiding payment of sales tax.
  6. A seller failing to permit the city to inspect records of the seller as required by this chapter.
  7. 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.
  9. A seller failing to notify a transferee of the seller's business of the transferee's withholding obligation under Section 74-315(C) or the transferee failing to withhold the amount required by Section 74-315(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 subsections (A)(1) through (9) of this section.
- B. A person who is convicted of a violation of this chapter described in this section shall be subject to a fine of not more than one thousand dollars (\$1,000.00) plus any surcharge required to be imposed by AS 29.25.074, imprisonment for not more than ninety (90) days, or both such fine and imprisonment.
- C. 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. A seller that fails to file a sales tax return or remit sales tax when due, in addition to any other liability therefore 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. 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 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. 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 74-320.
3. Recover a civil penalty of one thousand dollars (\$1,000.00) for each violation of this chapter.
4. Foreclose a recorded sales tax lien as provided by law.

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

### **74-322 Regulations.**

Subject to approval of the City Council by Motion or Resolution, the mayor may adopt, amend and repeal regulations to implement, interpret or make specific the provisions of this chapter, or prescribe forms to be used under this chapter.

### **74-323 Use of sales tax revenues.**

The three percent general sales tax levy is expressly conditioned upon the terms adopted by the voters at the 2009 general election:

A. To fund the following additional City services, as allowed by Section 6.5(B)(3) of the City Charter:

- (1) additional street maintenance and street reconstruction services above 2009 levels, not to exceed the sum of \$4 million dollars a year above the City 2009 Public Works budget, adjusted annually by the full year change in the Anchorage Consumer Price Index (CPI-U); and
- (2) additional Public Safety services above 2009 levels, not to exceed the sum of \$4 million dollars a year above the City 2009 Public Safety budget adjusted annually by the full year change in the Anchorage Consumer Price Index (CPI-U).

B. The proceeds of the sales tax provided in section (a) shall be applied:

- (1) First, to reduce the City 4.9 base mill levy to 0 mills in the following fiscal year,
- (2) Then, for additional City service as stated in subsections (a)(1) and (a)(2).

C. The sales tax shall be suspended annually if sufficient funds are received to fully fund subparagraphs (b)(1) and then (b)(2) and any excess proceeds shall be carried forward to the next fiscal year subject to the same limits on use and appropriation.