

Introduced by: City Manager Griffin
 Date: June 12, 2012
 Public Hearing: June 26, 2012
 Action: Postponed to July 10, 2012
 Date: July 10, 2012
 Vote: Unanimous

Yes:	No:
Best	
Combs	
DeVries	
Hanson	
Johnson	

CITY OF PALMER, ALASKA

Ordinance No. 12-012

An Ordinance of the Palmer City Council Amending Sections of Palmer Municipal Code Chapter 3.16 Sales Tax

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 4. Palmer Municipal Code Section 3.16.035 hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.035 Transactions in the city.

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

- A. A sale or rental is made within the city if delivery occurs in the city and the seller either:
 - 1. Maintains a place of business, or an agent or employee, in the city; or
 - 2. Regularly or repeatedly promotes sales or rentals in the city by means such as advertising, promotional events or solicitation of sales.
- B. A service is made within the city if:
 - 1. All or a substantial part of the service is rendered in the city, ~~or~~
 - 2. ~~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.~~
- C. A rental of real property is made in the city if the real property is located in the city.
- D. 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.

Section 4. Palmer Municipal Code Section 3.16.040 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.040 Examples of taxed transactions.

Illustrative examples of transfers of ownership or possession, and rendering of services, which are taxed under this chapter include, but are not limited to, the following:

- A. Rentals of all tangible personal property, including vending machines, typewriters, office furniture and equipment, tools, automobiles, construction equipment and aircraft, including all maintenance and repair contracts in connection therewith;
- B. Supplying natural or artificial gas, electricity, ice, steam, water and all services by a public or private utility;
- C. Transportation for hire of persons by common carrier within the city or to the city from another location, including motor transportation, taxicab companies and all other means of transportation for hire;
- D. Service by telephone companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with telephone service, but shall not include deposits;
- E. Printing or printed matter of all types, kinds and characters and the service of printing or overprinting;
- F. Renting rooms or living quarters or offices or other commercial space of whatever name or nature by hotels, apartments, rooming houses, public lodging_houses or by firms or individuals renting single- or multiple-unit residences or offices or other commercial space, including state or federally subsidized rentals. For purposes of computing the maximum tax, a rental of property for a period in excess of one month shall be deemed as a series of rentals with each rental transaction terminating as a rental payment is made. The maximum sales tax payable shall be applicable to each deemed rental with tax payments to accrue and become payable at the time of filing the next monthly return to be submitted following receipt of the rental;
- G. Foods, confections, and all liquors, beverages and drinks sold and dispensed by retail stores, restaurants or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;
- H. Advertising of all kinds, types and characters contracted for or sold in the city, including any and all devices used for advertising purposes and the servicing of advertising devices;
- I. Gross proceeds derived from the operation of punchboards, slot machines, marble machines, jukeboxes, merchandise-vending machines, pull-tabs, games of chance, or amusement devices of any kind, and self-service laundry and dry_cleaning machines;
- J. The sale of tickets or admissions to places of amusement, entertainment, recreational or athletic events, or dues or fees for the privilege of having access to or use of amusement, entertainment, athletic or recreational facilities, including free or complimentary passes and tickets, admissions dues or fees. Such free or complimentary passes and tickets, dues or fees are declared to have a value equivalent to the sale price or value of the tickets, passes, admissions dues or fees;
- K. Subject to PMC 3.16.050(S), sales of tangible personal property and services made for the purpose of developing and improving real estate, even though such real estate is intended for resale as real property;
- L. Services of drycleaners, laundries (including self-service laundry and dry_cleaning machines), garages, barbershops, beauty shops and cold storage and locker plants;
- M. Retail sales of motor fuels, oils and lubricants;

- N. The provision of services rendered by lawyers, accountants, shoe repair shops, carpenters and cabinetmakers, house painters and decorators, tinsmiths and sheet iron workers, watchmakers, radio and television advertising, photographers (including all film development), computer programmers, printing establishments, garages, mechanics and machinists, plumbers and electricians, welders and stove cleaners, and services of all other tradesmen, craftsmen and professional practitioners and service fees (except commissions) charged by travel agencies; and
- O. The provision of electrical, telephone, water, garbage, sewer, natural gas and cablevision utility services including the installation and connection charges and fees.

Section 5. Palmer Municipal Code Section 3.16.050 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.050 Exceptions.

The tax levied shall not apply to the following:

- A. Casual and isolated sales not exceeding \$50.00 and not made in the regular course of business;
- B. Sales of insurance and bonds of guaranty, fidelity and surety;
- C. Gross receipts or proceeds derived from funeral charges and services, medical or dental services rendered and hospital services;
- D. Repealed by Ord. 517;
- E. Gross receipts or proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles;
- F. Gross receipts or proceeds derived from the sale of food in public, common, high school or college cafeterias or lunchrooms operated primarily for the public and not operated for profit;
- G. Gross receipts or proceeds derived from sales or services which the municipality is prohibited from taxing under the laws of the state or under the laws of the United States; or gross receipts or proceeds from the transportation, loading, unloading or storing of cargo from vessels or aircraft in foreign or interstate commerce, or on goods in transit or awaiting and being processed for shipment;
- H. Gross receipts or proceeds derived from carrier sales made directly to consumers or users of newspaper or any other periodicals;
- I. Gross receipts or proceeds derived from sales to the United States Government or the state or any political subdivision thereof, including the city; provided, however, that the exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering services for sale to such government units or agencies on a contract bid award, in which event the contractor shall be deemed the buyer, subject to the payment of the tax;
- J. Dues or fees to clubs, labor unions or fraternal organizations;
- K. Real estate agent's gross receipts received on behalf of the owner and derived from sale of real property, but excepting the real estate agent's fee earned as commission for sale of such property, which fee or commission shall be taxable up to the maximum taxable amount set out in PMC 3.16.030(B);
- L. Sales of tickets for school entertainments, school athletic events and activities (excluding, without limitation, those of the type described in PMC 3.16.040(I)) conducted for charitable purposes or community benefits;
- M. Bulk sale of feed, seed and fertilizer to farmers;

- N. Sales of air, train, boat, cruise line or bus tour transportation, car rentals, or accommodations, where the underlying service is provided outside the city, and commissions related to such sales;
- O. Receipts from filling of doctors' prescriptions by licensed pharmacists;
- P. Sales of drugs and medicines for use in hospitals and clinics;
- Q. Subject to PMC 3.16.055(A), sales of food supplies to cafes, restaurants and other establishments where food is sold to the public for use in the normal course of business of cafes, restaurants and other such establishments;
- R. Subject to PMC 3.16.055(A), sale of food supplies to hospitals, children's homes having six or more charges, recreational camps and schools;
- S. Construction Materials.
 1. Subject to PMC 3.16.055(A), sales of tangible personal property which property is to be used in the construction of or renovations to improvements to real property and is to be physically incorporated into and to become a part of the real property. Among other things, this subsection does not include tangible personal property used for repairs or maintenance (and thus materials for repairs or maintenance shall be subject to tax, unless otherwise exempted).
 2. Subject to PMC 3.16.055(A), sales of tangible personal property to a person currently and duly licensed as a contractor under AS 8.18, which property is to be used in the construction of or renovations to improvements to real property and is to be physically incorporated into and to become a part of the real property;
- T. Services by an individual which do not exceed \$1,500 per calendar year of January 1st to December 31st and are not licensed by the state;
- U. Food coupons, food stamps and other allotments issued under 7 U.S.C. 2011 through 2036 (Food Stamp Program) or food instruments, food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants and Children). For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 through 2036 (Food Stamp Program);
- V. Gross receipts or proceeds received by those schools that comply with AS 14.45.100 through 14.45.130, to include religious schools and other private schools, that are derived from the provision of educational services to children at least five years of age; provided, however, such gross receipts or proceeds for other services, to include without limitation, education services to children less than five years of age and day care for children of any age, are not exempt from the tax, except to the extent such comparable services are provided for free by the Matanuska-Susitna Borough School District to children similarly situated;
- W. Subject to PMC 3.16.055(A), purchases of utility services (other than cable television), including the installation and connection charges and fees, by an organization holding a current, valid 501(c)(3) or 501(c)(4) exemption letter from the Internal Revenue Service;
- X. Subject to PMC 3.16.055(A), sales, services and rentals to a buyer that has a current, valid 501(c)(3) or 501(c)(4) exemption ruling from the Internal Revenue Service;
- Y. Subject to PMC 3.16.055(A), sales, services and rentals made by a seller that has a current, valid 501(c)(3) or 501(c)(4) exemption ruling from the Internal Revenue Service; provided, that this exemption does not apply to the following:
 1. Sales, services, ~~and~~ rentals, and games of chance including pull tabs occurring at a fair with annual attendance over 50,000 people, and
 2. ~~Sales of pull tabs, and~~

3. 2. Sales, services or rentals made on a regular basis from a fixed location that is open more than 20 hours per week;
- Z. The following sales and services by banks, savings and loan associations, credit unions and investment banks:
 1. Services associated with any deposit accounts, including service fees, NSF fees and attachment fees,
 2. Fees for the purchase of bank checks, money orders, travelers' checks and similar products for payment,
 3. Loan fees and points associated with loan transactions,
 4. Pass-through charges on loan transactions which include sales tax, and
 5. Services associated with the sale, exchange or transfer of currency, stocks, bonds and other securities.

Section 6. Palmer Municipal Code Section 3.16.055 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.055 Sales tax certificate of exemption.

- A. No sales in the city shall be exempted from sales tax under PMC 3.16.050(Q), (R), (S), (W), (X), and (Y) unless and until the person obtains from the director of finance administration a certificate of exemption.
- B. A person may apply to the director of ~~administration~~ finance for a certificate of exemption on a form approved by the director of ~~administration~~ finance. The director of ~~administration~~ finance may require additional information of the applicant as necessary to determine whether the application should be granted.
- C. The director of ~~administration~~ finance may revoke a certificate of exemption after notice to the holder of the certificate and a hearing, if the director of ~~administration~~ finance finds that the holder of the certificate:
 1. Gave materially 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 PMC 3.16.050;
 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. Ceased to be entitled to exemption from sales tax.
- D. If the director of ~~administration~~ finance revokes a person's license, that person is not exempt from paying sales tax under PMC 3.16.050 until the person obtains a new certificate of exemption, which may not occur sooner than one year after the revocation.
- E. If the director of ~~administration~~ finance revokes a person's license, that person must pay sales tax, interest, penalties, etc., on all sales made to or by the person which were not duly exempt.
- F. A contractor duly licensed under AS 8.18 may obtain a sales tax certificate of exemption for one calendar year upon payment of the fee established in the current, adopted budget.
- G. A buyer who proposes to undertake the construction of or renovations to improvements to real property within the city may, at the time of applying and receiving the building permit, apply for a certificate of exemption and pay the sales tax in the amount established by the current, adopted budget in the year in which the building permit is issued. The buyer may renew the certificate for only one additional calendar year for an additional amount which will be collected based on the current, adopted budget, and after that year purchases for the original construction shall not be exempt.

Section 7. Palmer Municipal Code Section 3.16.080 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.080 Taxable sales and sales tax returns. ~~Contents Administration cost and interest for delinquency.~~

A. Taxable sales.

1. Except as provided in subsections B and C ~~subsection (A)(2)~~ of this section, every seller with annual taxable sales of \$250,000 or more based on the prior year's taxable revenue and new businesses, ~~shall submit a sales tax return on or before the last business day of each month, shall make out a return for the preceding month, upon forms to be provided by the city, setting forth the amount of all sales, rentals and services, all nontaxable sales, rentals and services, and all taxable sales, rentals and services for the preceding month, the amount of tax thereon, and such other information as the city may require, and sign and transmit the same to the city.~~
 - a. The sales tax return, and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5 pm on the last business day of the month immediately following the month for which the return was prepared.
 - b. Failure of the United States 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.
 2. Except as provided in subsections B and C of this section, every seller with annual taxable sales of between \$100,000 and \$249,999.99 based on the prior year's taxable revenue, shall submit a sales tax return on or before the last business day the month following the end of the quarter year ending March, June, September, and December.
 - a. The sales tax return, and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5 pm on the last business day of the month immediately following the quarter for which the return was prepared.
 - b. Failure of the United States 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.
 3. Except as provided in subsections B and C of this section, every seller with annual taxable sales of below \$100,000 based on the prior year's taxable revenue, shall submit a sales tax return on or before the last business day of the month following the end of the half year ending June and December.
 - a. The sales tax return, and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5 pm on the last business day of the month immediately following the quarter for which the return was prepared.
 - b. Failure of the United States 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.
- B. Alaska State Fair business license. For all sales made during and at the Alaska State Fair under a special city business license for sales at the Alaska State Fair only, the tax return shall be due on or before the tenth day of October in the year of the sales.

- C. Special events and seasonal events. For all sellers only operating at special events and seasonal events, the tax return shall be due on or before the last business day of the month following the event(s).
- D. Sales tax forms.
1. All returns shall be upon forms provided by the city, setting forth the amount of all sales, rentals and services, all nontaxable sales, rentals and services, all taxable sales, rental and services, the amount of tax thereon, and such other information as the city may require, and sign and transit the same to the city.
 2. All tax returns shall show such further information as the city may require enabling the City to compute correctly and collect the tax levied in this chapter.
 3. 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.
~~A sales tax return, and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5:00 p.m. on the last business day of the month immediately following the month for which the return was prepared. The failure of the United States 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.~~
- ~~2. For all sales made during and at the Alaska State Fair under a special city business license for sales at the Alaska State Fair only, the tax return shall be due on or before the tenth day of October in the year of the sales. Other than for the different date, the duties are the same as stated in subsection (A)(1) of this section.~~
- ~~B. The tax levied, whether or not collected from the buyer, shall be paid by the seller to the city at the time of transmitting the return, and, if not so paid, the tax shall immediately become delinquent.~~
- ~~C. In the event the tax is not paid before delinquency, as provided in this chapter, administration costs shall be added to the tax. Administration costs shall include nonsufficient fund charges, process server fees, actual reasonable attorney's fees, and the fee established in the current, adopted budget for any sales tax lien recorded after notice and opportunity for a sales tax hearing, and any other reasonable out-of-pocket cost to the city related to the tax delinquency.~~
- ~~D. In addition to the items described in subsection (C) of this section, administration costs shall be the greater of:~~
- ~~1. A percentage of the tax as established in the current, adopted budget for the first month or fraction thereof of delinquency, and the additional percentage established in the current, adopted budget for each additional month or fraction thereof of delinquency, until the total administration cost established in the current, adopted budget has been accrued; or~~
 - ~~2. Actual costs of administration, to include without limitation extra personnel costs related to the delinquency. The administration costs shall be assessed and collected in the same manner as the tax is assessed and collected.~~
- ~~E. In addition to the aforesaid administration costs, interest at the rate established in the current, adopted budget, per year on the delinquent tax from the date of delinquency until paid shall accrue and be collected in the same manner the delinquent tax is collected.~~
- ~~F. All tax returns shall show such further information as the city may require to enable it to compute correctly and collect the tax levied in this chapter. 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. The seller shall~~

~~compute and remit to the city the required tax due for the preceding month, and the remittance of the tax must accompany the returns herein required. If not paid when due, the tax shall be delinquent from such date, and collection shall be enforced under the terms of this chapter, as set forth in this chapter.~~

- ~~G. Penalty assessed on the delinquent remittance of sales tax or for failure to file a sales tax return shall be waived by the director of administration, 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 if:~~
- ~~1. The seller applies for a waiver of the penalty within 30 days after the delinquency; and~~
 - ~~2. The seller has not been delinquent in their sales tax remittance within the previous 24 consecutive months.~~

Section 8. Palmer Municipal Code Section 3.16.083 is hereby enacted to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.083 Taxes levied and interest for delinquency.

- A. Sales tax return late filing fee will be assessed in accordance with the fee schedule adopted in the annual budget.
- B. Taxes levied. The tax levied, whether or not collected from the buyer, shall be paid by the seller to the city at the time of transmitting the return, and if not so paid, the tax shall immediately become delinquent.
- C. In the event the tax is not paid before delinquency, as provided in this chapter, delinquency costs shall be added to the tax.
1. Delinquency sales tax shall bear interest in accordance with the fee schedule adopted in the annual budget.
 2. In addition, delinquent sales tax shall be subject to a late payment penalty assessed in accordance with the fee schedule adopted in the annual budget.
- D. Penalty assessed on the delinquent remittance of sales tax or for failure to file a sales tax return shall be waived by the director of finance, 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 if:
1. The seller applies for a waiver of the penalty within 30 days after the delinquency or the director of finance in his or her discretion may extend the 30 day period for good cause; and
 2. The seller has not been delinquent in their sales tax remittance within the previous 24 consecutive months.

Section 9. Palmer Municipal Code Section 3.16.160 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.160 Liability for payment-Protest of tax.

- A. A seller shall determine in the first instance whether a sale is exempt under this chapter; however, if the seller incorrectly determines that a sale is exempt, the seller is liable to the city for the tax just as if he had collected it.
- B. If the seller determines that a transaction is not exempt, but the buyer believes the transaction to be exempt, then the buyer may protest.

1. A buyer who protests the payment of the tax levied under this chapter shall pay the tax with the sales price and shall deliver to the city director of administration finance and to the seller a written statement of protest within five working days of the sale that identifies the sale, rental or service that is the subject of the tax protested, the amount of tax paid, the buyer's and seller's name, mailing address and telephone number and the basis for the protest.
2. The city director of administration finance, after investigation (if necessary) and after consultation with the city attorney, will rule on each protest and send to the buyer a notice that his claim has been allowed or disallowed within 30 days of receipt of the statement by the city. If the claim has been allowed, a refund will be remitted with the notice. In the event the claim is disallowed, the buyer may seek review thereof by the city manager within 30 days. Unless such review is sought within such time, the decision of the city director of administration finance is final.

Section 10. Palmer Municipal Code Section 3.16.190 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.190 Delinquent taxes – Notice.

- A. Whenever any seller fails to submit the required return, or such return is reasonably believed by the city to contain incorrect reporting, the city may notify such seller in writing by certified mail, return receipt requested, ~~that a hearing will be held upon the matter at a specified place and time, which shall not be less than 15 days after the date of such notice, at which time and place the seller shall present himself and make available to the city for inspection the seller's books, papers, records and other memoranda pertaining to gross revenue and the determination of sales tax liability, if any,~~
- B. The seller shall have 15 days to provide evidence that the seller's reporting is correct such as the seller's books, sales receipts, papers, records and other memoranda pertaining to gross revenue and the determination of sales tax liability and in the event of noncompliance by the seller the city may forthwith take such legal action as provided for in this chapter ~~and the statutes of the state.~~

Section 11. Palmer Municipal Code Section 3.16.280 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

3.16.280 Appeal.

- A taxpayer may appeal a decision of the director of administration finance to the city manager in accordance with the provisions of this section.
- A. The taxpayer has the right to a hearing before the city manager.
 - B. The taxpayer's request for a hearing must be in writing, signed by the taxpayer (or counsel therefor) and delivered to the city manager within 30 days of receipt of written notice of the director of administration's finance's decision. Taxpayer's failure to request a hearing within the time and manner provided shall be deemed a waiver of his or her appeal rights and to any appellate review to which he or she might have otherwise been entitled; and the director of administration's finance's decision becomes final.
 - C. If the taxpayer duly delivers his or her request for hearing, the city manager will hold a hearing within 15 days from the date of receipt of the request. The city manager may extend in writing the hearing date, but no extension of more than 30 days shall be

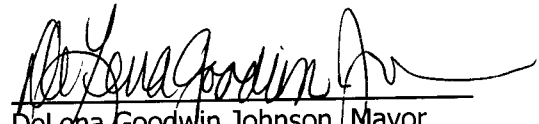
granted. The city manager shall duly notify the taxpayer of the date, time and place of the hearing.

- D. The taxpayer at his or her own expense may be represented by counsel.
- E. The hearing shall be open to the public.
- F. The city manager may attain the services of an attorney or other person to assist him or her in conducting the hearing and making the decision.
- G. All testimony shall be under oath. The proceedings shall be tape-recorded. Upon written request, the taxpayer is entitled to a copy of the tape at no charge. The taxpayer or representative and the director of administration finance or representative may examine and cross-examine witnesses. The city manager or representative may also question witnesses. Exhibits may be introduced. The rules of evidence need not be strictly followed. Irrelevant or unduly repetitious evidence may be excluded. The factual record is closed at the close of the hearing. The city manager may continue the hearing for good cause.
- H. The order of presentation will be:
 1. Brief opening statement by the director of administration finance;
 2. Brief opening statement by the taxpayer, which is optional;
 3. Presentation of evidence by director of administration finance;
 4. Presentation of evidence by taxpayer;
 5. Rebuttal as necessary;
 6. Argument by director of administration finance;
 7. Argument by taxpayer;
 8. Rebuttal argument by director of administration finance.
- I. The taxpayer must prove by a preponderance of the evidence the factual basis upon which he or she is relying.
- J. Within 10 working days from the conclusion of the hearing, the city manager shall render a written decision which shall be effective immediately or according to its terms.
- K. A taxpayer who is dissatisfied with the city manager's decision may appeal it to the superior court in Palmer only. Said appeal must be filed within 30 days of taxpayer's receipt of the decision. Taxpayer's failure to appeal within this time constitutes a waiver of his or her appeal rights and the city manager's decision becomes final.

Section 12. Effective date. Ordinance no. 12-012 shall take effect upon January 1, 2013.

Passed and approved by the City Council of the City of Palmer, Alaska, this tenth day of July, 2012.


 Janette M. Bower, MMC, City Clerk


 DeLena Goodwin Johnson, Mayor