

**LEGISLATIVE HISTORY**

Introduced by: City Manager Wallace  
Date: March 10, 2020  
Public Hearing: March 24, 2020  
Action: Adopted  
Vote: Unanimous

Yes: No:

Berberich  
Best  
Carrington  
L. Combs  
S. Combs  
DeVries  
Valerius

CITY OF PALMER, ALASKA

**Ordinance No. 20-002**

**An Ordinance of the Palmer City Council Amending Palmer Municipal Code Chapter 3.16 Sales Tax and Adopting Remote Seller Sales Tax Code, By Reference, to Create Uniform Provisions for Collection and Remittance of Sales Tax**

WHEREAS, the inability to effectively collect sales tax on sales of property, products or services transferred or delivered into Alaska is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and

WHEREAS, the harm from the loss of revenue is especially serious in Alaska because the State has no income tax, and sales tax revenues are one of the primary sources of funding for services provided by local governments; and

WHEREAS, the failure to collect sales tax on remote sales creates market distortions by creating an unfair tax advantage for businesses that limit their physical presence in the taxing jurisdictions but still sell goods and services to consumers, which becomes easier and more prevalent as technology advances; and

WHEREAS, the failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy as well as burdening local infrastructure and services; and

WHEREAS, delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and,

WHEREAS, given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska taxing jurisdictions; and

WHEREAS, due to a recent decision by the United States Supreme Court and the lack of a state sales tax it is appropriate for the municipalities to collectively amend their sales tax codes to account for remote sellers who do not have a physical presence either in the State of Alaska or in a specific taxing jurisdiction, but do have a taxable connection with the State of Alaska or taxing jurisdiction; and

WHEREAS, this ordinance is not retroactive in its application; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales in Alaska; and

WHEREAS, amending local sales tax codes reflects the 2018 Supreme Court "*Wayfair*" decision to allow for the application of the taxing jurisdiction's sales tax code requirements to sellers without a physical presence in the State of Alaska or taxing jurisdiction; and

WHEREAS, the intent is to levy municipal sales tax to the maximum limit of federal and state constitutional doctrines; and

WHEREAS, through the adoption of Resolution No. 19-020, the City of Palmer has entered into a cooperative agreement with other local governments called the Alaska Intergovernmental Remote Seller Sales Tax Agreement ("the Agreement"); and

WHEREAS, the terms of the Agreement require adoption of certain uniform provisions for collection and remittance of municipal sales tax applicable to sales made by remote sellers similar to the Streamlined Sales and Use Tax Agreement; and

WHEREAS, on February 12, 2019, the City Council authorized AM No. 19-021 for the city manager to contribute \$5,000.00 to the Alaska Municipal League to support a working group charged with establishing a centralized sales tax administrator for remote sellers; and

WHEREAS, on November 12, 2019, the City Council passed Resolution No. 19-020 authorizing the City of Palmer to join the Alaska Remote Seller Sales Tax Commission (the Commission) for purpose of developing, implementing and enforcing a remote sellers sales tax code.

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 provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Palmer Municipal Code is hereby amended to read as follows (new language is underlined and deleted language is stricken):

## Chapter 3.16 Sales Tax

### Sections:

- 3.16.010 Authority.
- 3.16.020 Definitions.
- 3.16.030 Tax levied – Rate.
- 3.16.033 Maximum tax per transaction.
- 3.16.035 Sales tax application. Transactions in the city.
- 3.16.040 Rules applicable to particular businesses or occupation. ~~Examples of taxed transactions.~~
- 3.16.050 ~~Exceptions~~ Exemptions.
- 3.16.055 Sales tax certificate of exemption.
- 3.16.056 Determination whether transaction is exempt.
- 3.16.065 Collection of sales tax. ~~Application of sales tax payments.~~
- 3.16.070 Seller accountability.
- 3.16.080 Taxable sales and sales tax returns.
- 3.16.081 Alaska State Fair and special events sales tax returns.
- ~~3.16.083 Taxes levied and interest for delinquency.~~
- ~~3.16.085 Information to be confidential.~~
- ~~3.16.087 Tax records— Inspection and audit.~~
- 3.16.090 Estimated tax. ~~Tax records— Final tax return.~~
- ~~3.16.095 Liability of third parties.~~
- 3.16.100 Returns – filing contents. ~~Collection upon sale.~~
- 3.16.110 Refunds.
- 3.16.120 Amended returns. ~~City manager regulation promulgation authority.~~
- 3.16.130 Extension of time to file tax return.
- 3.16.140 Audits.
- 3.16.150 ~~Protest.~~ Public statement of tax required— ~~Exception for coin-operated machines.~~
- 3.16.160 Penalties and interest of late filing. ~~Liability for payment— Protest of tax.~~
- 3.16.170 Repayment plans. ~~Tax return— Extension of time.~~
- 3.16.180 Seller record retention. ~~Estimated tax.~~
- 3.16.190 Cessation or transfer of business. ~~Delinquent taxes— Notice.~~
- 3.16.200 Use of information on tax returns. ~~Lien for tax, interest and administration costs and penalties.~~
- 3.16.210 Violations. ~~Delinquent taxes— Foreclosure— Time limit.~~
- 3.16.220 Penalties for violation. ~~Delinquent taxes— Foreclosure— Sale of property— Redemption.~~
- ~~3.16.230 Certificate of sale— Other than real property.~~
- ~~3.16.240 Certificate of sale— Real property.~~
- 3.16.250 City manager regulation promulgation authority. ~~Delinquent taxes— Seizure of additional property Chapter nonexclusive.~~
- ~~3.16.260 Violation— Remedies.~~
- ~~3.16.270 Refund of sales tax— Interest.~~ 3.16.280— Appeal.
- 3.16.300 Alaska Uniform remote seller sales tax code adopted by reference.

### **3.16.010 Authority.**

This sales tax is imposed and collected pursuant to the authority granted by the Alaska Constitution, Art. X and this code.

### **3.16.020 Definitions.**

A. ~~“Bulk sales” means sale of unpackaged items in large quantities.~~

B. ~~“Buyer or purchaser” means a includes persons whom a sale are purchasers of property or~~

product is made or to whom ~~and~~ a services ~~and~~ is furnished. lessees of property.

C. "Calendar year" means the period from January 1st through December 31st or any portion thereof ending December 31st.

D. "Distraint" means to seize and hold property as security for a debt.

"Delivered Electronically" means delivered to the purchaser by means other than tangible storage media.

"Food Stamps" means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

"Gaming" means a right to participate in a game of chance regulated under AS 5.15, including without limitation a right to participate that is represented by a pull-tab, bingo card, or raffle or lottery ticket.

"Goods for resale" means:

A. The sale of goods by a manufacturer, wholesale or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.

B. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

E. "Mail order sales and sales made by personal solicitation" means sales to consumers made by mail order houses or other sellers having a place of business within the city or having a place of business elsewhere, but who solicit sales within the city, are taxable if the order is accepted within the city and delivery is made by the seller at such place of business or elsewhere within the city.

"Marketplace facilitator" means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller's property or services through a physical or electronic marketplace operated by the person, and engages:

A. Directly or indirectly, through one or more affiliated persons in any of the following:

1. Transmitting or otherwise communicating the offer or acceptance between buyer and remote seller;

2. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;

3. Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or

4. Software development or research and development activities related to any of the activities described in (B) of this subsection, if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

B. In any of the following activities with respect to the seller's products:

1. Payment processing services;

2. Fulfillment or storage services;

3. Listing products for sale;

4. Setting prices;

5. Branding sales as those of the marketplace facilitator;

6. Order taking

7. Advertising or promotion; or

1-8. Providing customer service or accepting or assisting with returns or exchanges.

F. "Medical services" means hospital services and those professional medical services rendered

performed by the following persons duly licensed under the laws of by the state of Alaska to practice for the providing of such services: medicinal doctors, surgery, dentistrys, osteopathics, optometryists, chiropracticers, podiatry, and psychologists and other professional services rendered by a licensed midwife, certified registered nurse, practioners, and psychiatric and mental health nurse clinical specialists, and appliances, ; retail sales of medicinal preparations, drugs, medicines, supplies and nursing care necessary in connection with the services, or the expense for services, appliances, drugs, medicines, supplies and care, as may be specified in any nonprofit medical service plan. or appliances under a written prescription from one of the foregoing.

"Monthly" means occurring once per calendar month.

"Newspaper" means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

"Nonprofit organization" means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an associate, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

"Periodical" means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one of a series.

G. "Person" means includes an individuals, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or other legal entity. and every person recognized in law, and every group of the aforesaid who act as a unit.

"Physical presence" means a seller who establishes any one or more of the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in the state;
3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;
4. Rents or leases property located within the boundaries of the local taxing jurisdiction. A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

"Point of delivery" means the location at which property or product is delivered or service rendered.

- A. When the product is not received or paid for by the purchaser at a business location in the city, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller;
- B. When the product is received or paid for by a purchaser who is physically present at a business location in the city, the sale is considered to have been made in the city

where the purchaser is present even if delivery of the product takes place in another Taxing Jurisdiction. Such sales are reported, and tax remitted directly to the city;

- C. For products transferred electronically, or other sales where the delivery of the purchase address is unknown, the point of delivery shall be the billing address of the buyer.

"Property" and "Product" means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).

"Quarter" means trimonthly periods of a calendar year; January – March, April – June, July – September, and October – December.

"Receive or receipt" means

- A. Taking possession of property;
- B. Making first use of services;
- C. Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include temporary possession by a shipping company on behalf of the purchaser.

"Remote Sales" means sales of goods, or services by a remote seller or marketplace facilitator.

"Remote Seller" means a seller or marketplace facilitator making sales of goods or services delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

"Resale of services" means sales of intermediate services to a business the charge for which will be passed directly by that business to a specific buyer.

~~H. "Rentals" means any transfer of the right to use or occupy includes every letting or renting of property for consideration.~~

"Residential rentals" means rental of a dwelling designed for living or sleeping purposes.

~~I. "Sale" or "Retail sale" means any the transfer of title to tangible personal property for consideration for any purpose other than use, and not for resale, in substantially the same form or condition. "Retail sale" includes every sale of property, regardless of quantity or price, except the following:~~

~~1. Sales to wholesale and retail dealers in the property sold, for the purpose of resale within the city by such dealer;~~

~~2. Sales of tangible personal property as raw materials to a person engaged in manufacturing for sale, which property becomes an ingredient or component part of the manufactured product or a container thereof, or enters directly into the manufacturing container thereof, or enters directly into the manufacturing process. A building or construction contractor or subcontractor is not a "person engaged in manufacturing."~~

~~J. "Sale or purchase price" includes all retail sales, rentals and all services. Installment, credit and conditional sales are included within the term.~~

~~K. "Sales or purchase price" means the total amount of consideration including cash, credit, property, product and services, for which paid by the buyer in terms of money and, in the case of a sale involving an exchange of property, product, or services sold, leased, or rented, the fair market value in money, whether received in money or otherwise, without deduction for the following: of the property exchanged, all without any deduction for delivery costs, taxes or any other expenses whatsoever; provided, however, seller's cash discount at the time of payment in exchange for a coupon having a cash value of no more than one twentieth of one cent is not part of the sales price.~~

A. The seller's cost of the property or product;

B. 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;

C. Changes by the seller for any services necessary to complete the sale, other than delivery and installation changes;

D. Delivery charges;

E. Installation charges; and

F. Credit for any trade-in, as determined by state law.

~~L. "Seller" means includes a persons making sales or their agents who are vendors of and lessors of property, products, or and persons furnishing services, or a marketplace facilitator facilitating sales on behalf of a seller, and every person making sales.~~

~~M. "Services" means includes all services of every manner and description which are performed or furnished for compensation, whether delivered physically or electronically, and, by way of illustration, includinges but not limited to: the following:~~

~~1A. Professional services;~~

~~2B. Services in which a product or sale of property may also be involved, including personal property made to order;~~

~~3C. Utilities and utility services not constituting a sales of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and, repair, natural gas, cable or satellite television, and Internet services; construction, transportation, banking, advertising, maintenance, recreation, amusement, contracting and craftsmen's services;~~

~~D. The sale of transportation services;~~

~~4E. Services rendered for compensation by any person who furnishes any such service or services in the course of his trade, business or occupation, including all services rendered for commission; who has a state or city business license and whose gross revenue exceeds \$1,500 during the calendar year of January 1st to December 31st;~~

~~5F. Advertising, maintenance, recreation, amusement and craftsman Sservices; wherein labor and materials are used to accomplish a specified result;~~

~~6. Services dispensed by machines and amusement devices including those which are coin-operated;~~

~~7G. "Services" does not include services rendered to an employer by his employee.~~

"Transferred electronically" means obtained by purchaser by means other than tangible storage media

### **3.16.030 Tax levied – Rate.**

A. A sales tax shall be established by the city council and adopted as a part of the city budget.

B. ~~The adopted sales tax shall be levied by this chapter applies to on the sales price or charge for all sales, rentals and services made within the city, except those that this chapter expressly exempts from tax. Exemptions from the tax levied by this chapter are to be construed narrowly. The buyer shall pay the tax to the seller for the use and benefit of the city; provided, however, that the seller need not collect sales tax but the seller must in any event pay the tax to the city whether collected or not.~~

### **3.16.033 Maximum tax per transaction.**

~~CA. *Maximum Tax.* The adopted sales tax shall be applied Only to the first \$1,000.00 of each separate sale of an item or items, rent or service transaction shall be subject to sales tax; provided, that a single payment for the sale or rental of property or rendering of a service, The payment of rent, whether for real or personal property, in excess of \$1,000 and for more than 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 \$1,000.00 of the price allocated to each such period shall be subject to sales tax. treated as several separate transactions covering the rental for one month each. A transaction involving payment for services or personal property to~~

~~be rendered or delivered over a period of more than one month for a consideration in excess of \$1,000 shall be treated as several separate transactions occurring one each month over the period of time that the service or property is rendered or delivered.~~

B. The payment of rent, whether for real or personal property, in excess of \$1,000.00 and for more than one month shall be treated as separate transactions covering the rental for one month each. A transaction involving payment for services to be rendered or delivered over a period of more than one month for a consideration in excess of \$1,000.00 shall be treated as a separate transaction occurring one month over the period of time that the service is rendered.

C. Each night of each individual room rental shall be considered a separate transaction and therefore the maximum tax computation shall be calculated on a per room per night basis.

D. Capital leases. Contract to purchase the property at the end of a lease shall be treated as a sale on the effective date of the contract and are subject to the maximum tax per transaction pursuant to subsection (A) of this section.

E. Other lease types. Leases that have an option to purchase at the end of the lease are taxed on the principle amount of each lease payment for the term of the lease. If the purchase is made at the end of the lease, the purchase transaction would be treated as another separate transaction. Interest and financing charges related to the lease payment are not subject to tax.

F. Installment payments. When payments for a single transaction are made on an installment basis the sales tax on the transaction shall be collected on the first payment.

### **3.16.035 Sales Tax Application. Transactions in the city.**

Sales tax is applicable to both local sales and remote sales if delivery occurs within the city. The following rules determine whether a transaction is made within the city:

A. Local Sales. The seller has a physical presence in the city, under this chapter, that establishes one or more of the following and a point of delivery in the city: A sale or rental is made within the city if delivery occurs in the city and the seller either:

1. Has an office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of ~~Maintains a place of business, or an agent or employee, in the city; or~~
2. Solicits business or receives orders through any employee, agent, salesman, or other representative within the boundaries of the city or engages in activities in the city that are significantly associated with the seller's ability to establish or maintain a market for its products in the city; or Regularly or repeatedly promotes sales or rentals in the city by means such as advertising, promotional events or solicitation of sales.
3. Provides services or holds inventory within the boundaries of the city; or
4. Rents, sells or leases property located within the boundaries of the city; or
5. Constructs, repairs, renovates, improves real property if the property is located within the boundaries of the city.

A seller that establishes a physical presence and point of delivery within the city in any calendar year will be deemed to have a physical presence within the city for the following calendar year.

B. Remote Sales. Remote Seller or marketplace facilitator without a physical presence in the city, that makes sales of products, rentals or provides services transferred electronically or delivered to a point of delivery located within the city shall be subject to the Alaska Uniform Remote Seller Sales Tax Code as provided in PMC3.16.300.

B.—A service is made within the city if all or a substantial part of the service is rendered 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.

**3.16.040 Rules applicable to particular businesses or occupations. Examples of taxed transactions.**

**A. Real Estate Sales Commissions.**

1. Commissions and/or realtor fees for the sale, rental or management of real property located in the city are subject to sales tax, regardless of the location of the person to whom the commission and/or fee is payable.

2. Commission and/or fees for the sale, rental or management of real property payable to a person who maintains an office in the city are subject to sales tax, regardless of the location of property.

**B. Gaming.** An amount equal to the gross receipts of the seller from sales of games of chance, less the cost of the prize awarded on each series, set of games or contest for which the game of chance has been sold, shall be subject to sales tax.

**C. Sales from coin-operated machines.** An amount equal to the gross receipts from each coin-operated machine that the seller operates in the city shall be subject to sales tax.

~~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, roominghouses, 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.~~

### **3.16.050 Exemptionsexceptions.**

~~A. The following transactions are exempt from sales tax: The tax levied shall not apply to the following:~~

~~1. Sales of real property and interest in real property.~~

~~A2. Casual and isolated sales of goods or services and not made in regular course of business, ie: garage sales not exceeding \$50.00 and not made in the regular course of business;~~

~~B3. Sales of securities, insurance and bonds of guaranty, fidelity and surety.;~~

~~C4. Gross receipts or proceeds derived from funeral charges and services., medical or dental services rendered and hospital services;~~

~~D5. Gross receipts or proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles.;~~

~~E6. Gross receipts or proceeds derived from the sSales of food in public, common, high school or college cafeterias or lunchrooms in elementary, secondary or post-secondary schools that are operated primarily for the convenience of school students and faculty public and not operated for profit.;~~

~~F7. Gross receipts or proceeds derived from sSales 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;~~

~~G8. Gross receipts or proceeds derived from carrier sales made directly to consumers or users Sales of newspapers or any other periodicals.;~~

~~H9. Gross receipts or proceeds derived from sSales, rentals and services by or to the United States Government, or the state of Alaska, or any of their agencies, instrumentalities or any political subdivisions and federally recognized Indian tribes. This exemption does not apply to the following: 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;~~

~~A. Sales of gaming by federally recognized Indian tribes, political subdivision, and municipalities; or~~

~~B. Retail sales, services, or rentals by the city as follows:~~

~~1. Sewer and water utility sales, services and rentals;~~

2. Palmer Municipal Airport sales, services and rentals;

3. Palmer Museum and visitor sales;

1.4. Rents for commercial properties owned by the city.

~~10. Dues or fees to nonprofit clubs, labor unions or fraternal organizations.;~~

~~J. 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(C);~~

~~K11. Sales of admission 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. Retail sales by a school sanctioned activity group raising funds for its approved purpose. This exemption does not apply to sales of gaming.~~

~~L12. Bulk sale of feed, seed and fertilizer to farmers.;~~

~~M13. Sales of air, train, boat, cruise line or bus tour transportation, car rentals, or accommodations, or admission to entertainment events, where the service is provided outside the city, and fees or commission related to such sales, where the underlying service is provided outside the city, and commissions related to such sales;~~

14. 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).

~~N15. Medical services. Receipts from filling of doctors' prescriptions by licensed pharmacists;~~

16. Medical equipment and supplies and prescribed by a health care provider licensed to practice in the state of Alaska. Sales and rentals of hearing aids, crutches, wheelchairs and personal apparatus specifically manufactured for a patient.

~~O17. Prescription Sales of drugs prescribed by a health care provider licensed to practice in the state of Alaska for human consumption, and medicines for use in hospitals and clinics;~~

18. 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).

19. 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;

20. U.S. postage; and shipping and freight hauling services that originate in the city, but the end destination is outside the city limits. Excluding warehouse, storage services, and delivery services that begin and end within the city.

21. Sales of transportation service by taxicabs, limousine companies, and rideshare companies.

22. Sales of goods and services provided under warranty or service contract, whether performed by the manufacturer or authorized representative of the manufacturer, and charged to a third-party warrantor for repairs, major maintenance, or both. The initial purchase of warranty or service contract would be taxed at the time of purchase. Any portion of repair paid by the customer through a deductible or other means would not be exempt under this section.

23. 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;

24. Sales of aviation fuel (Jet A, Jet B, low lead and others) at the Warren "Bud" Woods Palmer Municipal Airport.

B. The following transactions are exempt from sales tax; provided; that the buyer presents to the seller at the time of the sale transaction a valid certificate of exemption applicable to the transaction, issued to the buyer under PMC 3.16.055.

1. Sales to wholesale or retail dealer in the property sold, for the purpose of resale by the dealer located or making sales inside the city and registered with a city business license.
2. Sales of raw material to manufacturer located or making sales inside the city and registered with a city business license, which raw materials becomes an ingredient of component part of a manufactured product or 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 or services by a licensed contractor under AS 8.18, to an owner of real property for use in the original construction of, or renovations to, improvements to real property located in the city. This exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in the repairing or maintaining real property.
4. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment or services by a licensed contractor under AS 8.18, to a person licensed as a contractor under AS 8.19 for use in the original construction, or renovations to, improvements to real property. The 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.

~~P5. Subject to PMC 3.16.055(A), sSales 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 food service such establishments;~~

~~Q6. Subject to PMC 3.16.055(A), sSales of food supplies to hospitals, institutions housing children's homes having six or more residents charges, recreational camps and schools located inside the city and registered with a city business license.~~

~~R. 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;~~

~~S. 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;~~

~~T. 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);~~

~~U. 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;~~

~~7. Sales, rentals and services to a church that is organized as a nonprofit corporation under the laws of the state of Alaska.~~

~~8. Services sold for resale when the services are directly integrated into services or goods sold by the buyer located within the city and registered with a city business license, to another purchaser in the normal course of business; provided, that the services are purchased separately for resale, and the services is identified, charged for and billed separately without markup from any other services.~~

~~V. 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;~~

~~W9. Subject to PMC 3.16.055(A), sSales, services and rentals to a person buyer that the Internal Revenue service recognizes as an organization described in Section 501(c)(3) or 501(c)(4) or 501(c)(6) 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 the term is defined in Section 513 of the Internal Revenue Code Service;~~

~~X10. Subject to PMC 3.16.055(A), sSales, services and rentals made by a person seller that the Internal Revenue Service recognizes as an organization described in Section 501(c)(3) or 501(c)(4) of has a current, valid 501(c)(3) or 501(c)(4) exemption ruling from the Internal Revenue Code Service; provided, that this exemption does not apply to the following:~~

- ~~1. Sales, services, rentals, and gaminges of chance including pull tabs occurring at the fairgrounds of the Alaska State Fair (a fair with annual attendance over 50,000 people), and or~~
- ~~2. Sales, services or rentals made on a regular basis from a fixed location that is open more than 20 hours per week, and or~~
- ~~3. Sales, rental or services is not part of an "unrelated trade or business" as the term is defined in section 513 of the Internal Revenue Code.~~

~~Y. 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;~~

~~Z. Sales of aviation fuel (Jet A, Jet B, low lead and others) at the Warren "Bud" Woods Palmer~~

Municipal Airport.

### **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 a certificate of exemption.

~~BA.~~ A person ~~shall~~ may apply to the ~~director of finance~~ director for a certificate of exemption that is required for an exemption from sales tax under PMC 3.16.050(B) on a form approved by the ~~director of finance~~ director. This application shall be accompanied by any applicable fee that is required in the current adopted budget. The ~~director of finance~~ director may require additional information ~~from~~ of the applicant as necessary to determine whether the application should be granted, including without limitation documentation of Internal Revenue Service recognition of the applicant as an exempt organization, or the organization of a church as a nonprofit corporation under the laws of the state of Alaska. A certificate of exemption is issued for a calendar year, and expires on December 31 of the calendar year for which is was issued.

~~CB.~~ The ~~director of finance~~ director may revoke a certificate of exemption after notice to the holder of the certificate and a hearing, if the ~~director of finance~~ director 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.

~~DC.~~ Prior to revocation of a certificate of exemption, the holder of the certificate shall be provided a notice of the alleged violation not less than 15 days prior to the proposed effective date of revocation of the certificate. The person or entity to whom the certificate was issued may request a hearing before the city manager regarding the alleged violation by filing a written request with the city prior to the effective date for revocation. If requested, the hearing shall be held within 20 days after the date of receipt of the request, and the certificate shall not be revoked prior to the hearing date. If the ~~director of 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.

~~D.~~ A decision under subsection (C) of this section revoking a certificate of exemption may be appealed to the superior court as provided in the Alaska Rules of Appellate Procedure.

~~E.~~ If a certificate of exemption is revoked, a new certificate may not be issued to the same person or entity for a period of one year from the date of revocation.

~~EF.~~ If the ~~director of finance~~ director revokes a person's certificate of exemption license, that person must pay sales tax, interest, penalties, etc., on all sales made to or by the person which were not ~~duly~~ exempt.

~~D.~~ 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.

~~E.~~ 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.

**3.16.056 Determination whether transaction is exempt.**

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 uncollected tax.

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 the tax by paying the tax at the time of the sale and filing a written statement of protest with city no later than 30 days after the date of the sale. The seller shall collect the protested tax at the time of the sale.

C. If the seller determines that a sale is exempt, the seller can request a determination on whether a sale is exempt by filing a written statement of protest with the city, no later than 30 days after the date of the sale. The seller shall continue to collect the tax at the time of the sale until the seller receives a determination from the city.

D. The finance director will rule on each protest by sending to the buyer or seller a written determination on the protest. If the protest is allowed, a refund of the sales tax paid will be remitted to the seller with the determination.

E. Either the buyer or seller may appeal the finance director's determination by requesting a hearing within 15 days after service of the notification of determination under subsection (D) of this section. A hearing requested shall be conducted before the city manager. After the hearing, the city manager conducting the hearing shall serve the decision on the protestor by delivering the notice to the protestor's address of record.

**3.16.065 Collection of sales tax. ~~Application of sales tax payments.~~**

A. Pursuant to this Code, taxes imposed shall be due and paid by the buyer to the seller at the time of the sale of property or product or date service is rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of each seller to collect the taxes from the buyer and hold those taxes in trust for the city. Failure by the seller to collect the tax shall not affect the seller's responsibility for payment to the city.

~~A. Payments on sales tax accounts shall be applied to the earliest delinquent amount due, first to accrued penalty, second to accrued interest and then to sales tax payments owed by the seller.~~

B. Sales tax may be collected in one of two methods and notice of the sales tax collection must be posted at seller's premises:

1. The seller shall add the sales tax to the price or charge for the sale, rental or services, showing the tax as a separate and distinct item on any receipt, invoice, statement of account, or other records of transaction. The sales tax on more than one separately priced item may be shown as a total on the aggregate price of all items sold or rented, or services rendered, in a single transaction.

2. The seller shall include the tax in the sale or purchase price and remit to the city an amount equal to the seller's gross receipts divided by 1.0(sales tax number) and multiplied by the sales tax percent in lieu of stating sales tax separately and adding it to the sales price. If a seller chooses this method, a notice to customers must be displayed, stating, "All prices includes the (percent) of City of Palmer sales tax".

C. 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.

D. Sales tax on sales of gaming 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 PMC 3.16.040.

~~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.~~

**3.16.070 Seller accountability.**

Upon collection by the seller of the taxes imposed in this chapter, title to the collected taxes shall vest in the city. All taxes collected are city moneys, and the seller holds the money in trust for the city and is at all times accountable to the city for such moneys. Collection of any tax or taxes, interest, administrative costs and penalties due and payable to the city under this chapter may be enforced through civil action brought in any court of competent jurisdiction. Every sale which is made within the city, unless explicitly exempted by this chapter or a subsequent ordinance, shall be presumed to be subject to the tax imposed under this chapter in any action to enforce the provisions of this chapter.

**3.16.080 Taxable sales and sales tax returns.**

A. A seller shall prepare a sales tax return for each calendar month on forms provided by the city. The sales tax return shall state the total amount of 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 the 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 tax return. The seller shall sign the return, and transmit the return, with the amount of sales that it shows to be due, to the city. *Taxable Sales:*

B. If a seller has sales from prior year's taxable revenue within the city under \$150,000.00 and has remitted timely filings for one calendar year; that seller may request a change in filing status on forms provided by the city. This request must be approved by the finance director before the status can be changed to a quarterly filer.

C. The completed

1. ~~Except as provided in subsections (B) and (C) 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, on or before the last business day of each month, shall make out a return for the preceding month.~~

~~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 5:00 p.m. on the last business day of the month immediately following the month for which the return was prepared.~~

~~b. 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. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:~~

~~Quarter 1 (January – March) April 30~~

~~Quarter 2 (April – June) July 31~~

~~Quarter 3 (July – September) October 31~~

~~Quarter 4 (October – December) January 31~~

D. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday or city holiday, the due date will be extended until the next business day, immediately following, however, not later than 5:00 p.m.

E. Any seller holding a city of Palmer business license shall file a sales tax return even though no tax may be due. The return shall show why no tax is due.

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/quarterly.

G. The preparer of the sales tax return shall keep and maintain all documentation supporting

any and all claims of exempted sales and purchases. Documentation for exempted sales should include the number of the exemption authorization card presented by the buyer at the time of the purchase; the date of the purchase; the name of the person making the purchase; the organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided.

~~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 of 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 5:00 p.m. 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 5:00 p.m. 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.~~

### **3.16.081 Alaska State Fair and special events sales tax returns.**

~~BA. 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 sales tax return and related remittance of sales tax, is shall be due and must be received, not merely postmarked, by the city not later than 5:00 p.m. on or before the tenth day of October in the year of the sales, on tax returns provided by the city. Each Alaska State Fair business license holder shall file a sales tax return even though no tax may be due.~~

~~CB. Special Events and Seasonal Events Business License. For all sellers only operating at special events inside Palmer city limits, 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 5:00 p.m. on and seasonal events, the tax return shall be due on or before the last business day of the month immediately following the month the special event(s) occurred. Every Special Event business license holder shall file a sales tax return even though no tax may be due.~~

#### ~~*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 transmit 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.~~

~~3.16.083~~ — Taxes levied and interest for delinquency.

~~A. Late Filing Fee.~~ Sales tax return late filing fee will be assessed as established in the current, adopted 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. Delinquency Costs.~~ 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 the interest established in the current, adopted budget.~~

~~2. In addition, delinquent sales tax shall be subject to a late payment penalty established in the current, adopted budget.~~

~~D. Penalty.~~ The 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.~~

~~3.16.085~~ — Information to be confidential.

~~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 deducible from such filed returns, reports and information shall be kept confidential and are not subject to public inspection. Except upon court order, such returns, reports and information shall be made available only to employees and agents of the city whose job responsibilities are directly related to such returns, reports and information; to the person supplying such returns, reports, and information; and to persons authorized in writing by the person supplying such returns, reports and information. The following information shall be made available to the public: The name and address of current business license holders; whether a business license holder is more than 30 days delinquent in filing returns and in remitting sales tax; and if so delinquent, the amount or estimated amount of sales tax due and the number of returns not filed. The city manager or his designee may, from time to time, publish the names of sellers delinquent in remitting sales taxes and the amount thereof. Information may also be made available to the public in the form of statistical reports if the identity of particular sellers is not revealed by the reports.~~

~~3.16.087~~ — Tax records — Inspection and audit.

~~The records that a seller is required to maintain under this chapter 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. 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 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.~~

**3.16.090** Estimated Tax records — Final tax return.

A. In the event the city is unable to ascertain the tax due from a seller by reason of failure of the seller to keep accurate books, allow inspection, or file a return, or by reason of the seller filing a false or inaccurate return, the city may make an estimate of the tax due based on any evidence in their possession.

B. Sales taxes may also be estimated based on any information available, whenever the city has reasonable cause to believe that any information on a sales tax return is not accurate. The estimate of gross revenue shall be derived from past returns of the seller, the general economic level of the business community and, if available, returns of comparable businesses.

C. A seller's tax liability under this chapter may be determined and assessed for a period of six (6) years after the date the return was filed or due to be filed with the city. No civil action for the collection of such tax may be commenced after the expiration of the six (6) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the six (6) year period, unless the seller waives the protection of this section.

D. The city shall notify the seller in writing, that the city has estimated the amount of the sales tax that is due from the seller including late fees, penalty and interest as applicable. 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. A seller who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

E. The city's estimate of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within 30 calendar days after service of the notice of estimated tax:

1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes interest, penalties, costs and other charges due; or
2. Files a written notice with the city appealing the estimated amount in accordance with the appeal procedures; or
3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:
  - a. The identity of the seller is in error; or
  - b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or
  - c. The seller disputed the denial of exemption(s) for certain sales.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars (\$50) for each calendar month or partial month for which the amount of sales tax that is due has been determined.

~~It shall be the duty of every seller required to make a return and pay over any tax under this chapter to keep and preserve suitable records of the gross daily sales together with invoices of purchases and sales, bills of lading, bills of sales and other pertinent records and documents which may be necessary to determine the amount of tax due under this chapter and such other records of goods, wares, merchandise and other subjects of taxation under this chapter as will substantiate and prove the accuracy of such returns. It shall also be the duty of every seller who makes exempt sales to keep records of such sales, which shall be subject to examination by the city or any authorized employee thereof while engaged in checking or auditing the records of any seller required to make a report under the terms of this chapter. All such records shall remain in the city and be preserved for a period of three years after payment of the taxes, unless the city has authorized, in writing, their destruction or disposal at an earlier date, and shall be open to examination at any time by the city or any authorized employee or agent thereof while engaged in checking such records. The burden of proving that a sale, rental or service was not taxable shall be upon the seller.~~

~~Any seller who 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. This return shall show why no tax is due~~

and, if the business is sold, the name of the person to whom it was sold. If any seller sells, leases or otherwise disposes of his business, he shall make a final sales tax return within 15 days after the date of sale.

~~3.16.095~~ ——— ~~Liability of third parties.~~

~~A. If any seller sells, assigns, transfers, conveys, leases, forfeits, abandons or otherwise disposes of the business or accounts receivable, then the purchaser, successor, transferee, lessee, assignee, creditor or secured party shall withhold a sufficient portion of the purchase money or loan to pay the amount of such sales taxes, penalties, administrative costs and interest as may be due and unpaid to the city and to pay such to the city. If the purchaser, assignee, transferee, lessee, successor, creditor or secured party fails to withhold from the purchase money or loan, or fails to otherwise provide for or make the payment of the taxes, interest, administrative costs and penalties owed by the business as provided in this chapter, then the purchaser, assignee, transferee, lessee, successor, creditor or secured party shall be personally liable, jointly and severally with the seller, for the payment of the taxes, penalties, administrative costs and interest accruing and unpaid to the city on account of the operation of the business of any former owner, owners, operators or assigns. This section is in addition to any rights of the city arising under AS 45.06.101 et seq.~~

~~B. Upon termination, dissolution or abandonment of a corporate business, any officer having control or supervision of sales tax funds collected or who is charged with the responsibility for the filing of returns or the payment of sales tax funds collected, shall be personally liable for any unpaid taxes, interest, administrative costs, and penalties on those taxes, if such officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for said amounts. The officer shall be liable only for taxes collected which became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation. This section does not relieve the corporation of other tax liabilities or otherwise impair other tax collection remedies afforded by law.~~

**3.16.100**        **Returns – filing contents.** ~~Collection upon sale.~~

A. Every seller required by this chapter to collect sales tax shall file with the city upon forms furnished by the city a return setting forth the following information: ~~The tax levied under this chapter shall be paid by the buyer, and it shall be the duty of every seller to collect from the buyer the full amount of the tax, except that the tax on receipts or proceeds from various mechanical devices as provided in PMC 3.16.150 shall be paid by the operator thereof.~~

1. Gross sales;
2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;
3. Computation of taxes to be remitted;
4. Such other information as may be required by the city.

B. Each tax return remitted by a seller shall be signed by a responsible individual who shall attest to the completeness and accuracy of the information on the tax return. ~~Every seller shall add the amount of the tax levied by this chapter to the total sale price, and the tax shall be stated separately on any sales receipts or slips, rent receipts, charge tickets, invoices, statements of account or other tangible evidence of sale. When so stated, the tax shall constitute a part of such price and shall be a debt from the buyer to the seller until paid and shall be recoverable at law in the same manner as other debts.~~

C. The city reserves the right to reject a filed return for failure to comply with the requirements of the Chapter. The city shall give written notice to a seller that a return has been rejected, including the reason for the rejection. ~~Seller shall be charged the fee established in the adopted budget for failure to collect the tax required by this chapter.~~

**3.16.110 Refunds.**

- A. No sales tax refund shall be made unless the claimant complies with the requirements to obtain a sales tax refund set out in this section.
- B. A claim for a refund of sales taxes paid for exempt sales shall be denied unless the claimant complies with PMC 3.16.120.
- C. A claim for refund of sales taxes over collected must be requested by the claimant in writing to the city within one year of the date of the sale; and if the claimant is a seller, and the tax refund is owed to any buyer, the seller submits, and city approves, a refund plan to all affected buyers.
- D. A claim for refund overpaid in error because of a mistake on the face of a sales tax return must be requested by the claimant in writing to the city within one year of the due date of the return and the claimant files an amended return pursuant to the requirements of this chapter.

**3.16.120 Amended returns.** ~~City manager regulation promulgation authority.~~

- A. A seller may file 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; and
  - 2. The seller provides a written justification for requesting approval of the amended return; and
  - 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
  - 4. The seller agrees to submit to an audit upon request of the city.
- B. The city shall notify the seller in writing if it rejects an amended return, including the reasons for any rejection.

~~The city manager may take any action necessary or appropriate to the implementation of this chapter by promulgation of regulations which may include the adoption of forms. Such regulations or any proceedings adopted by the city manager are effective at the time indicated by him, but are subject to revision or repeal by the city council at the next meeting following their effective date or at the time that the council acts thereon.~~

**3.16.130 Extension of time to file tax return.**

Upon written application of the seller, stating the reasons therefor, the finance director may grant an extension of time for filing a sales tax return and remitting the sale tax if the seller, provides 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; and
- 2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the seller; and
- 3. The seller has a reasonable plan to cure the problem that caused the seller to apply for an extension, the seller agrees to proceed with diligence to cure the problem; and
- 4. At the time of the application, the seller is not delinquent in filing any other sales tax returns or in remitting sales tax to the city.
- 5. No such extension shall be made retroactively to cover existing delinquencies.

**3.16.140 Audits.**

- A. Any seller who has a business license with the city, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary audit at any time. The purpose of such an audit is to examine the business records of the seller in order to determine whether appropriate amounts of sales tax revenue have been collected by the seller

and remitted to the city.

B. The city is not bound to accept a sales tax return as correct. The city may make an independent investigation of all retail sales or transactions conducted within the city.

C. The records that a seller is required to maintain under this chapter 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.

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

E. 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 two (2) years of the original due date for the return.

F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the city may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any seller at any reasonable hour on the premises of the seller and require the attendance of any officer or employee of the seller. Upon written demand by the city, the seller shall present for examination, in the office of the finance director, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the city and the person upon whom the demand is made agree to presentation of such materials at a different place.

G. The city may issue a subpoena to compel attendance or to require production of relevant books, papers, records or memoranda. If any seller refuses to obey any such subpoena, the city may refer the matter to the city's attorney for an application to the district or superior court for an order requiring the seller to comply therewith.

H. Any seller or person engaged in business who is unable or unwilling to submit their records to the city shall be required to pay the city for all necessary expenses incurred for the examination and inspection of their records maintained outside the city.

I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.

J. In the event the City, upon completion of an audit, discovers more than five hundred dollars (\$500) in additional sales tax due from a seller resulting from a seller's failure to accurately report sales and taxes due thereupon, the seller shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the city at the time of the conclusion of the audit.

**3.16.150 Protest.** ~~Public statement of tax required—Exception for coin-operated machines.~~

A. If the seller wishes to dispute the amount of the estimate, or the results of an examination or audit, the seller must file a written protest with the finance director, within thirty (30) calendar days of the date of the notice of estimated tax or results from an audit or examination. The protest must set forth:

1. The seller's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated: or
2. The seller's reasons for challenging the examination or audit results.

B. Upon receipt of the protest, the finance director shall present the protest to the city manager for processing.

C. The city manager shall advise the seller of a date certain for an informal meeting or hearing with the seller and informally review the protest, make written findings and state reasons for the decision. The city manager may require that the seller submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.

D. The city manager shall make a final written determination on the seller's protest and mail a

copy of the determination to the seller by certified mail, return receipt requested, to the last known mailing address of the seller.

E. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination shall be final, due and payable to the city.

~~A seller shall not advertise or hold out or state to the public or to any buyer, directly or indirectly, that the tax payment or any part thereof imposed by this chapter will be assumed or absorbed by the seller or that it will not be added to the sales price or that it will be refunded or absorbed in whole or in part. The seller shall, whenever feasible, separately state the tax to the buyer on each taxable transaction. When not feasible to state separately, the seller shall prominently display a sign indicating the imposition of the tax. The revenue from a coin-operated machine shall be treated in gross on a monthly basis, without reference to the amount paid or played on a particular transaction.~~

**3.16.160 Penalties and interest of late filing.** ~~Liability for payment—Protest of tax.~~

A. A late filing fee of twenty-five dollars (\$25) per filing period shall be added to all late-filed sales tax reports in addition to interest and penalties. 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. Delinquent sales tax bear interest at the rate of fifteen percent (15%) per annum until paid. 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 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 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 finance is final.

C. In addition, delinquent sales tax shall be subject to an additional penalty of 5% per month, or fraction thereof, until a total of 20% of delinquent tax has been reached. The penalty does not bear interest.

D. Fees, penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to fees, penalties and interest, second to past due sales tax.

E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing of no return.

F. A penalty assessed under this section for the delinquent remittance of sales tax or 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, within forty-five (45) calendar days after the date of delinquency. A seller may not be granted more than one (1) waiver of penalty under this subsection in any one calendar year.

G. All subsequent payments shall be applied first to penalty, then to accumulated interest, and then to the oldest tax owed.

**3.16.170 Repayment plans.** ~~Tax return—Extension of time.~~

~~The city manager may, in his discretion, upon written application duly made, grant an extension~~

~~of time for filing returns and remitting the tax each month to any seller, provided:~~

~~A. The city may agree to enter into a repayment plan with a delinquent seller. No repayment plan shall be valid unless agreed to by both parties in writing. That such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon such seller; and~~

~~B. A seller shall not be eligible to enter into a repayment plan with the city if the seller has defaulted on a repayment plan in the previous two (2) calendar years. That such seller is not delinquent in any payment of tax or filing of returns or otherwise in violation of this chapter; and~~

~~C. The repayment plan shall include a secured promissory note that substantially complies with the following terms: Provided further, that no such extension shall be for more than 21 days each month.~~

~~1. The seller agrees to pay a minimum of ten percent (10%) down payment on the tax, interest, and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the oldest tax owed.~~

~~2. The seller agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.~~

~~3. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.~~

~~4. If the seller is a corporation or a limited liability entity the seller agrees to provide a personal guarantee of the obligations under the repayment plan.~~

~~5. The seller agrees to pay all future tax bills in accordance with the provisions of this chapter.~~

~~6. The seller agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the city at the time the repayment plan is signed. The seller shall be responsible for the cost of recording the tax lien.~~

~~D. If a seller fails to pay two (2) or more payments as required by the repayment plan agreement, the seller shall be in default and the entire amount owed at the time of default shall become immediately due. The city will send the seller a notice of default. The city may immediately foreclose on the sales tax lien or take any other remedy available by law. No such extension shall be made retroactive to cover existing delinquencies.~~

### **3.16.180 Seller record retention.** ~~Estimated tax.~~

~~A. A seller shall maintain records of transactions supporting the information that the seller submits on 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 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 for a period not less than three full calendar years, except to the extent that the city has authorized in writing their destruction or disposal at an earlier date.~~

~~B. If insufficient detail exists within a seller's business records to substantiate retail sales exemptions, such sales will be reclassified as taxable sales and subject to sales tax collection and remittance.~~

~~C. The seller shall immediately notify the city of any fire, theft or other casualty which prevents the seller's compliance with this chapter. The casualty constitutes a defense to any penalty and/or fee provided in this chapter if determined to be the proximate cause of the failure to comply for a given reporting period but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense against the penalties and/or fees of this chapter.~~

~~A. In the event that the city is unable to ascertain the tax due to be remitted by a seller by reason of seller's failure to keep accurate books, to allow inspection, or to file a return or seller's falsification of records, the city may make an estimate of the tax due based on any information~~

available to it. Notice of the estimate of tax due shall be furnished the seller, and the amount therein stated shall become final 33 days thereafter for the purposes of determining liability of seller to the city, unless the seller earlier files an accurate return, supported by satisfactory records, indicating a lesser liability, or unless the city proves a greater liability within six years from the date the final estimate is established. A seller shall immediately notify the city of any fire, theft or other casualty which would prevent his complying with this chapter. Such casualty constitutes a defense to any penalty provided in this chapter but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense under this section.

B.— Nothing in this section shall prevent the city from filing and maintaining an action to collect any taxes collected or which should have been collected in addition to any penalty assessed. In such action, the estimated tax due made by the city shall be prima facie evidence of the amount payable.

**3.16.190 Cessation or transfer of business.** Delinquent taxes— Notice.

A. A seller that ceases to engage in business in the city without a transfer of business shall file with the city a business license closure form, 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 thirty (30) calendar days after that date. 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.

B. A seller that transfers its business in the city shall provide the transferee with written notice of the transferee's obligations, if any, to the city not less than 15 days before the effective date of the transfer, but neither the seller's failure to give notice nor the transferee's failure to receive notice shall relieve the transferee of any such obligations. The seller shall file with the city a business license closure form, 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 30 days after the effective date, and provide a copy of the return to the transferee. The seller shall also file proof that it provided the transferee with written notice of any obligations owed to the city. 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.)

C. The transferee of a business, with written consent of the owner, shall obtain from the city before the effective date of the transfer an estimate of the delinquent sale tax, penalty and interest, if any, owed by the seller as of the date of the transfer, and shall withhold that amount from 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 the delinquent sales tax, penalty and interest due from the seller as of the date of the transfer, and the amount that the transferee was required to withhold.

D. In this section, the term "transfer" includes the following:

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

**3.16.200 Use of information on tax returns.** Lien for tax, interest and administration costs and penalties.

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.

~~The tax, interest, penalties and administrative costs imposed under this chapter shall constitute a lien in favor of the city upon the assets, including all real and personal property, of every person making taxable sales within the city. The lien arises upon delinquency and continues until the liability for the amount is satisfied or the property of the delinquent person is sold at foreclosure sales. When recorded, the sales tax lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien.~~

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. may file a notice of lien in the manner provided for federal tax liens under AS 40.19; provided, that in addition to the rights afforded thereunder, the city's sales tax lien shall attach to all seller's personal property, whether tangible or intangible, located in the recording district in which the lien is filed regardless of where the seller resides. The city may record subsequent notices of lien for amounts due after the recording of a previous notice of lien. The city may also record amended notices of lien to correct any errors or to provide notice of the then-current principal amount owing.

C. Notwithstanding subsection (A) of this section, the following information is available for public inspection: The notice of lien for real property shall set out:

1. The name and address of a the seller who holds a current city business license;
2. Whether a business license holder is more than 30 days delinquent in filing a return or remitting sales tax; and if so delinquent the number of returns not filed. The principal amount owing at a stated date; and
3. ~~A statement that penalty, interest and administration costs are also owing.~~

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 collection, provided that no information identifiable to a particular seller is disclosed. Within 10 days after filing the notice of lien or amended notice of lien, the city shall mail a copy of the notice by certified mail, return receipt requested, to the last known address of seller; provided failure to so mail the copy shall not void the lien nor lessen its priority.

### **3.16.210** Violations. ~~Delinquent taxes—Foreclosure—Time limit.~~

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

B. 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.

C. Pursuant to AS 29.45.650, the city may cause a sales tax lien to be filed and recorded against all 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 city finds that the seller is delinquent in remitting sales tax to the city. The notice shall state of 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. Within 10 days after filing the notice of lien, the 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.

- D. In addition to other remedies discussed in this chapter, 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 sale tax, penalty, interest, fees and costs of collection, either before or after estimating the amount of sales tax due under PMC 3.16.090.
  3. Recover a civil penalty of \$1,000.00 for each violation of this chapter.
  4. Foreclose a recorded sales tax lien as provided by law.

E. All remedies hereunder are cumulative and are in addition to any others existing at law or in equity.

~~The city attorney, at the request of the city council, may file an action to foreclose the lien of the city for the tax upon property and rights to property, real or personal, and sell the same, applying the proceeds thereof to the payment of the tax, interest, penalty, administration costs and the costs of foreclosure. The action shall be commenced and pursued in the manner provided for the foreclosure of liens by AS 09.45.170 through 09.45.220; provided, however, upon commencement, the city shall provide written notice of the action to all persons having an interest of record in the property being foreclosed or persons in possession of the property. The action may be commenced at any time within six years after the lien arises.~~

**3.16.220 Penalties for violations.** ~~Delinquent taxes—Foreclosure—Sale of property—Redemption.~~

~~A. A buyer or seller who knowingly or negligently submits false information in a document filed with the city is subject to a fine as established in the current, adopted budget. The city council may collect taxes, with interest and penalties, by distraint, seizure and private sale of the property of the seller who fails to pay them within 10 days after service or mailing of the notice of delinquency. The council may levy upon, or, by warrant issued by it, authorize any peace officer to levy upon, seize or sell all property, except that upon which the seller claims an exemption pursuant to law, belonging to the seller, for the payment of the amount due, with interest and penalty for nonpayment, and also of a further amount sufficient for the fees, costs and expenses of the levy.~~

~~B. A seller who knowingly or negligently falsifies or conceals information related to its business activities with the city is subject to a fine as established in the current, adopted budget. When distraint is made as provided in this section, the peace officer charged with the collection shall make or have made an account of the property distrained, a copy of which, signed by owner or possessor of the property, or at his dwelling or usual place of business, if a person of suitable age and discretion can be found, or if the taxpayer is a corporation or other type of organization, then with an officer, manager, general agent, or agent for process, with a note as to the amount demanded and the time and place of sale. The peace officer shall immediately publish a notice of the time and place of sale, together with a description of the property distrained, in a newspaper published in the city and, in the discretion of the council, have the notice publicly posted in three public places within five miles of the place where the sale is to be held, one of the notices to be posted at the post office nearest the place where the sale is to be made. The time of sale shall be not less than 10 nor more than 60 days from the date of the notification to the owner or possessor of the property, and the place proposed for the sale shall not be more than five miles from the place of making the distraint. The sale may be adjourned from time to time by the peace~~

officer if he considers it advisable, but not for more than 90 days in all. When the property is advertised for sale under the distraint, the peace officer making the seizure shall proceed to sell the property at public auction, offering the property for sale at not less than a fair minimum price as established by the city manager, to the highest cash bidder, but reserving the right, if the amount bid is less than the fair minimum price so established, to declare the property to be purchased by him for the city. Property so purchased by him may thereafter be sold under regulations prescribed by the city, or otherwise used for city purposes.

C. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a fine as established in the current, adopted budget. The property distrained shall be restored to the owner or possessor if, before the sale, payment of the amount due is made to the peace officer charged with the collection, together with the fees and other charges; but in case of nonpayment, the peace officer shall proceed to sell the property at public auction. The owner of real property sold under this section, his heir, executor, administrator or successor or a person in his behalf may redeem the real property sold or a particular tract of the real property at any time within two years after the sale thereof; the property or tract may be redeemed upon payment to the purchaser or, if he cannot be found, then to the city for the use of

the purchaser, his heirs or assigns, the amount paid by the purchaser and interest on it at the rate of eight percent per year. In the case of property sold, the peace officer conducting the sale shall give to the purchaser a certificate of sale on payment in full of the purchase price. In the case of real property, the certificate shall set out the real property purchased, the amount of taxes for which the same was sold, the name of the purchaser and the price paid for it. In the case of real property sold under this section and not redeemed in the manner and within the time provided in this chapter, the city manager shall execute to the purchaser of the real property at the sale a tax deed to the real property so purchased by him, reciting the facts set forth in the certificate. Such tax deed shall be delivered to the purchaser (including the city when it is the purchaser) upon demand after the period of redemption has expired.

D. A seller who fails to file a return by the due date required under this chapter, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a fee of \$25.00 for each sales tax return not timely filed.

E. A seller who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the city a penalty equal to three (3) times any deficiency found or estimated by the city with a minimum fine established in the current, adopted budget.

F. A seller who falsifies or misrepresents any record filed with the city is guilty of an infraction and subject to a penalty fine as established in the current, adopted budget.

G. Misuse of an exemption card is a violation and subject to a fine as established in the current, adopted budget.

H. Nothing in this chapter shall be construed as preventing the city from filing and maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a seller. The city may also recover attorney's fees in any action against a delinquent seller.

### 3.16.230 — Certificate of sale — Other than real property.

In all cases of sale of property under this chapter, other than real property, the certificate of sale:

A. — Is prima facie evidence of the right of the peace officer to make the sale, and conclusive evidence of the regularity of his proceedings in making the sale;

B. — Transfers to the purchaser all right, title and interest of the delinquent in and to the property sold;

C. — When the property consists of shares of stock, is notice (when received) to the corporation, company, or association to record the transfer on their books and records in the same manner as if the stock were transferred or assigned by the party holding the stock in lieu of an original or prior certificate, which original or prior certificate is void, whether cancelled or not;

~~D.—Where the subject of the sale is security or other evidence of debt, is a good and valid receipt to the person holding it, as against a person holding or claiming to hold possession of the security or other evidence of debt.~~

~~3.16.240 ——— Certificate of sale — Real property.~~

~~In the case of a sale of real property under this chapter:~~

~~A.—The deed of sale given under the provisions of this chapter is prima facie evidence of the facts stated in it; and~~

~~B.—The deed is considered and operates as a conveyance of all the right, title and interest that the party delinquent had in and to the real property sold as of the time of the lien of the city attached to it.~~

**3.16.250 City manager regulation promulgation authority.** ~~Delinquent taxes—Seizure of additional property—Chapter nonexclusive.~~

~~The city manager may take any action necessary or appropriate to the implementation of this chapter by promulgation of regulations which may include the adoption of forms. Such regulation or any proceedings adopted by the city manager are effective at the time indicated by him, but are subject to revision or repeal by the city council at the next meeting following their effective date or at the time that the council act thereon.~~

~~If property seized and sold under distraint is not sufficient to satisfy the claim of the city for which distraint or seizure is made, the peace officer may, thereafter, and as often as is necessary, proceed to seize and sell in like manner any other property liable to seizure of the delinquent party against whom the claim exists until the amount due from the delinquent party, together with all expenses, is fully paid. A person in possession of property or rights to property which is subject to distraint upon which a levy is made shall, upon demand by the peace officer making the levy, surrender the property or rights to the peace officer, unless the property or right is, at the time of the demand, subject to a previous attachment under judicial process. A person who fails or refuses to so surrender the property or rights is personally liable to the city in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes, penalty, interest and costs. All persons shall, on demand of a peace officer about to distraint or having distrained on property, or rights of property, exhibit all books containing evidence or statements relating to the subject of distraint or the property or rights of property liable to distraint for the tax due. The provisions of this chapter are not exclusive but are in addition to all other existing remedies provided by law for the enforcement of a levy and collection of taxes of the city.~~

~~3.16.260 ——— Violation — Remedies.~~

~~A.—The seller who fails to timely remit sales tax to the city shall pay the city all costs of collection, to include without limitation, actual reasonable attorney's fees, costs and audit fees incurred for collection, whether or not court action is commenced. This amount of fees and costs is in addition to the fee set out in subsection (C) of this section.~~

~~B.—Each of the following acts or omissions, when intentional, constitutes an ordinance violation and subjects the violator to a civil penalty. Such an act or omission is intentional when it continues after notice from the city to the seller or seller's agent that such act or omission is an ordinance violation. Each act or omission set forth in this section constitutes a separate violation, and each day that a violation of this chapter continues constitutes a separate violation:~~

- ~~1.—Failure to obtain a current business license by a seller;~~
- ~~2.—Making sales either without a current, valid business license or while the seller's business license is suspended;~~
- ~~3.—Failure to file a sales tax return or failure to remit sales taxes when due;~~
- ~~4.—Falsification or misrepresentation of any record or fact provided to the city under this~~

- chapter or required to be kept by this chapter, if used to mislead the city tax authorities;
- 5. Failure to correct a falsification or misrepresentation of any record or fact provided to the city concerning sales tax;
- 6. Failure of a seller to allow the inspection at reasonable times of records required to be kept by this chapter; and
- 7. Failure of a seller to keep and preserve records required to be kept under this chapter.

C. For continuing violations, the fee established in the current, adopted budget shall be paid to the city.

D. The city may request the court to enjoin a seller from violating any provision of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction.

E. All remedies hereunder are cumulative and are in addition to those existing at law or equity.

### ~~3.16.270 — Refund of sales tax — Interest.~~

~~A. If, through error or otherwise, a taxpayer pays to the city sales taxes to which the city is not entitled by law, the taxpayer may, within one year from the due date of the tax, apply in writing to the city director of finance for a refund.~~

~~B. If the application for refund of tax, and where applicable interest at eight percent per annum as well, does not exceed in the aggregate \$500.00, the city director of finance may, upon approval by the city attorney and an audit of the applicant's account, refund to the applicant the said tax, and, where applicable, interest as well.~~

~~C. If the city director of finance determines a refund is not due or is not due in the amount claimed, then the taxpayer may appeal to the city manager within 30 days as provided in PMC 3.16.280.~~

~~D. The procedure set forth in this section is the recognized procedure whereby a refund may be made; and the taxpayer must first duly comply with this section and PMC 3.16.280 as conditions precedent to bringing a suit to recover said taxes. Any person who has not timely availed himself of these procedures shall be deemed to have waived any right to such refund as well as the right to recover said tax and interest.~~

~~E. Any claim for refund shall be filed with the city director of finance within one year from the date of payment of the tax. The failure to file a claim for refund within the time allowed shall forever bar the claim. (Ord. 15-022 § 4, 2015; Ord. 10-019 § 12, 2010; Ord. 445 § 13, 1992)~~

### ~~3.16.280 — Appeal.~~

~~A taxpayer may appeal a decision of the director of 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 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 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 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 finance;~~
- ~~2.—Brief opening statement by the taxpayer, which is optional;~~
- ~~3.—Presentation of evidence by director of finance;~~
- ~~4.—Presentation of evidence by taxpayer;~~
- ~~5.—Rebuttal as necessary;~~
- ~~6.—Argument by director of finance;~~
- ~~7.—Argument by taxpayer;~~
- ~~8.—Rebuttal argument by director of 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.~~

**3.16.300 Alaska uniform remote seller sales tax code adopted by reference.**

The city adopts by reference the Alaska Uniform Remote Seller Sales Tax Code (code) and Supplemental Definitions of the Alaska Remote Sellers Sales Tax Commission, as the code currently exists, and as may be further amended.

Section 4. Effective Date. Ordinance No. 20-002 shall take effect upon adoption by the city of Palmer City Council.

**Passed and approved** this 24<sup>th</sup> day of March, 2020.

  
Edna B. DeVries, Mayor

  
Norma I. Alley, MMC, City Clerk