

Mayor

David Allison

Council Members

Tom Bailer

Cathy Sherman

Kasey Kinsman

Wendy Ranney

Dave Zastrow

Kristin Carpenter

Ken Jones

City Manager

Samantha Greenwood

City Clerk

Susan Bourgeois

Deputy Clerk

vacant

**City Council Work Session
October 16, 2024 @ 6:00 pm
Cordova Center Education Room
Agenda**

A. Call to order

B. Roll call

Mayor David Allison, Council members Tom Bailer, Cathy Sherman, Kasey Kinsman, Wendy Ranney, Dave Zastrow, Kristin Carpenter, and Ken Jones

C. Work Session topics

1. Ordinance 1221, Title 5 re-write regarding City sales tax
 - a. Memo..... (page 1)
 - b. Informative worksheets..... (pages 3-9)
 - c. Ordinance 1221 approved 1st reading 10/02/24..... (pages 10-36)
2. 2025 Budget:
 - a. Schedule of work sessions for FY25 budget prep..... (memo page 1-2)
 - b. Transfers to other entities, Ski Hill, Grant Matches
(materials to be provided before meeting date)

D. Adjournment

If you have a disability that makes it difficult to attend city-sponsored functions, you may contact 907-424-6200 for assistance.

All City Council agendas and packets available online at www.cityofcordova.net



AGENDA ITEMS 1 & 2
Work Session Date: 10/16/2024
CITY COUNCIL COMMUNICATION FORM

FROM: Susan Bourgeois, City Clerk
DATE: 10/11/24
ITEM: Sales Tax (Ordinance 1221) and FY 25 Budget prep

Ordinance 1221 Sales Tax: A lot was accomplished at the October 2, 2024, work session. Ordinance 1221 was approved on first reading at the regular meeting following that work session. Council had many questions still and City Attorney Holly Wells has adjusted the language in a few of the handouts she provided at the last work session and has provided additional worksheets that will assist Council and the public in understanding the nuances of the sales tax exemptions. Included here are:

1. Sales Tax on Transportation in the City – understanding what is taxed and when
2. Sales Tax on “Construction Materials and Services” – understanding the changes to Cordova’s construction materials and services tax break
3. Understanding Bundled Transactions (updated)
4. Clarifying the City’s Tax Cap: when and how is the tax cap applied
5. Optional amendments to Ordinance 1221
6. Ordinance 1221 as approved at first reading on 10/2/24

2025 Budget Preparation Schedule:

City Manager Greenwood provided the following as a proposed budget schedule. I have added in proposed start times for the work sessions, basically, before a regular meeting would be 5pm start, on a day without a regular meeting would be 6pm start. One Council member suggested different dates for 2 of the work session – Council should decide if a majority want to make those changes or not tonight, the request was to switch 11/6 to 11/7 and switch 11/20 to 11/19. Staff would prefer as many work sessions on regular meeting days as possible.

- 10/16/24 – 6pm start, 2-hour work session - review of “Transfers to Other Entities” the 902 section of the general fund budget; ski hill budget; FY 25 grant matches
- 10/23/24 – 5pm start, 2-hour work session GF expenses prior to regular meeting
- 10/30/24 – 6pm start, 2-hour work session GF revenue and expenses
- 11/6/2024 – 5pm start, 2-hour work session Enterprise funds revenue and expenses, fee schedule prior to regular meeting

- 11/13/2024 – 6pm start, 2-hour work session to finalize budget
- 11/20/24 – 5pm start, 2-hour work session to finalize budget prior to regular meeting
- 12/4/2024 Budget approved; Fee Schedule approved!! 😊
 - Work session or discussion agenda item addressing Cash flow issues.

CITY SALES TAX ON TRANSPORTATION IN THE CITY

UNDERSTANDING WHAT IS TAXED AND WHEN

WHAT IS TAXED NOW?

Fishing and hunting expeditions, except for air transportation for those expeditions.

WHAT IS EXEMPT FROM TAXATION NOW?

Proceeds from air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation.

Gross receipts or proceeds from the transportation (including freight and shipping charges), loading, unloading, or storing of cargo from marine vessels or aircraft in foreign, interstate, or intrastate commerce.

WHAT CHANGES UNDER THE PROPOSED CHANGES TO SALES TAX EXEMPTIONS?

The portions of a sale that are charged for recreational flightseeing or air/water/shore excursion travel or adventure services are not exempt, unless otherwise exempted by AS 29.45.820.

WHAT THAT REALLY MEANS?

Flights that take off and land in Cordova or boat charter services for shore excursions or adventure services are not exempt from taxation unless these services involve landing in another taxing jurisdiction.

WHY THE CHANGE?

The City sales tax exemptions are designed to implement specific policy objectives. Businesses providing for-profit services should be taxed to the greatest extent of the law per the City's purpose statement. The presumption was made that it is unfair to subject a local tour company giving land tours to tax but not a company providing flight or boat tours. The limitations to the tax reflect limitations in State and federal law.

SALES TAX ON “CONSTRUCTION MATERIALS AND SERVICES”

Understanding the Changes to Cordova’s Construction Materials and Services Tax Break

HOW ARE CONSTRUCTION MATERIALS AND SERVICES TAXED NOW?

1. The sales tax cap is applied to all sales of construction materials and services exceeding \$5,000 paid for by a single purchaser in any 12-month period so long as the purchaser has obtained a building permit before starting construction and all receipts for construction materials and services clearly show the building permit number.
2. Construction materials are those items “becoming a permanent part of the structure.”
3. The Purchaser has two options: 1) Prepay \$350 (7% on \$5k) for all “construction materials and services”; or 2) get an exemption card or pay all sales tax owed and apply for a refund.
4. Purchasers applying for a refund must apply for a refund for the previous year by February 1st of each year. If a refund is selected, they must attach a copy of the project’s building permit and all receipts. If a project is not completed within one year, the purchaser must submit an affidavit with the sales tax refund form stating that the work on the same project is continuing in order to obtain a refund for the following year. One project cannot exceed four years.

HOW ARE CONSTRUCTION MATERIALS AND SERVICES TAXED UNDER THE PROPOSED REVISIONS TO TITLE 5?

1. Purchasers obtaining a building permit are subject to \$350 in tax on “construction sales and services” but must file a refund application to get the exemption. **The exemption card option has been removed.**
2. A definition for “construction materials and services” was added applying to both goods *and services* that become a permanent part of the structure.
3. The refund application period was reduced from 4 to 2 years but the filing deadline was extended to October.

WHY & HOW ARE “CONSTRUCTION MATERIALS AND SERVICES” TREATED DIFFERENTLY THAN ALL OTHER GOODS AND SERVICES?

Unlike all other goods and services:

1. Construction materials and services are not exempt from tax, they are just treated as a “bundled transaction” and then the single item/single service tax cap is applied to that bundled transaction. The result is no tax on the majority of all items. This is almost like a “payment in lieu of taxes.”
2. Construction materials and services are eligible if they become a permanent part of the structure.
3. This special tax treatment only benefits the purchaser that obtained the building permit.

WHAT IS THE PURPOSE OF THE PROPOSED CHANGES?

1. It clarifies who is eligible for the refund. The current treatment is confusing. It appears to only apply to the purchaser that applies for the building permit but that means all other purchasers for the same project are paying tax on the same type of materials and services for the same project that are ultimately “purchased” by the same person. As proposed, contractors purchasing construction materials or providing services to a property owner would charge the property owner for the tax and the property owner would file for a refund, getting the refund on all eligible purchases. All purchasers applying for the permit are getting taxed in exactly the same way.
2. It clarifies what goods and services are covered. Currently, the special tax treatment extends to services but does not make it clear what services are included. There are no limitations on the

services provided on the project, which may include the installation of materials that are not eligible for tax exemption.

3. It can be enforced. Under the current Code, it is hard to uniformly enforce the scope of the exemption when an exemption card is issued. The new method ensures the exemption is applied to the intended goods and services and that the purchaser gets the benefit of the exemption for all of the purchases made for a given project.
4. Burden on the purchaser, not the seller. Sellers are no longer required to record and apply the exemption; The purchaser now bears the burden to gather receipts and submit for the refund.

WHY DOES CORDOVA HAVE SPECIAL TAX TREATMENT FOR CONSTRUCTION MATERIALS AND SERVICES?

It appears the purpose of the special tax treatment of construction materials and services is to:

1. Encourage the construction of new buildings and infrastructure in the City.
2. Provide relief to property owners from the high cost of constructing new buildings in the City given its remote location.

To the extent the exemption was intended to encourage property owners to “buy local,” the exemption applies to remote sellers as well as local sellers equally, as required by law. It does not eliminate the ability for buyers to physically go to another jurisdiction to get products.

UNDERSTANDING BUNDLED TRANSACTIONS

In its latest round of revisions to the Remote Sellers Tax Code, the Alaska Remote Sellers Commission adopted a definition for “bundled transactions” and the City of Cordova has proposed the incorporation of and specific treatment of “bundled transactions” in the Cordova Municipal Code.

WHAT EXACTLY IS A “BUNDLED TRANSACTION”?

A “bundled transaction” means the retail sale of two or more products¹ when: 1) the products are “distinct and identifiable” and 2) the products are sold for one non-itemized price. Exceptions to this basic rule are provided in Proposed CMC 5.10.085. If the customer cannot identify what the price is for each separate product or choose to buy one but not the other, but the products are distinct and identifiable, it’s probably a “bundled transaction.”

EXAMPLES

Bundled: Hotel charges \$300/night and offers courtesy water taxi services to guests

Unbundled: Hotel charges \$250/night but offers water taxis to guests for \$50

Bundled: Caterer sells taco platters with tableware for \$30/person

Unbundled: Caterer sells taco patters for \$20/person plus an extra \$10/person for tableware

Bundled: \$10,000 deal that includes flight/hotel/car rental/ flight seeing and walking tour

Unbundled: Each part of the travel package is priced separately

BREAKING IT DOWN: THE IMPACT OF THE PRICING OF PRODUCTS

SCENARIO: How do I tax the gravel I sell delivered to a work site in truckloads? Is the delivery and the gravel a bundled transaction?

Answer to Scenario 1: The answer to this question depends on the reality of the sale and your business operations.

- A. If you price the gravel by the yard and the price is the same whether its delivered or picked up by the customer, it is *not* a bundled transaction because delivery is free of charge. *See* PCMC 5.10.030(A)(2). Each yard of gravel will be treated as a single item with the tax cap applied to each yard.
- B. If you charge for the gravel by the yard and there is a different price for gravel delivered, each yard of delivered gravel is a “bundled transaction.” The sale will not be subject to the sales tax cap *unless* you can demonstrate the separate products through its records and applies the tax cap accordingly.
- C. If you charge for the gravel by the yard and there is a separate delivery fee; The products are separate and distinct but are not for one itemized price so the delivery and each yard of gravel are not a “bundled transaction”...that’s just a transaction.

¹ It does not include the sale of real property and services to real property.

CLARIFYING THE CITY'S TAX CAP: WHEN AND HOW IS THE TAX CAP APPLIED?

While the City of Cordova has always had a single item/single transaction of service tax cap, the lack of direction in the City's current Code provisions has made it difficult for many sellers to decipher when and how to apply that cap. Ordinance 1221 proposes language that makes clear:

1. That the tax cap applies to single items and single transactions of service
2. That "bundled transactions" are not subject to the tax cap.

WHAT IS A "SINGLE ITEM"?

Q: Isn't every item a "bundled transaction" on some level? For example, a chair is made up of the wood and the workmanship that turns it into a chair, and the price for the chair reflects the cost of the raw materials (the wood) as well as the carpentry. Is that a "bundled transaction"?

A. The "bundled transaction" definition and provision deals with separate and distinct items and transactions that are "bundled" together; Not products that are brought together to create something new. If, however, a store sells all the parts to create something new but sells the service to compile them for a separate identified fee, the service fee will be taxed as a single transaction of service and each of the parts will be taxed as a single item, all separately subject to the tax cap. In short, if a seller wants the sales tax cap to apply to the item with the service fee rolled in, the seller will need to hold the product out as a single item. By comparison, if you go to buy a gallon of milk, the processing fee for the milk is not separately identifiable. You pay one price for the gallon of milk with all the services and parts, or ingredients, rolled into the single product. That is clearly a single item.

DOES THE DETERMINATION REGARDING A "SINGLE ITEM" IMPACT THE APPLICATION OF THE MANUFACTURING EXEMPTION?

No; the manufacturer exemption exempts sales of raw materials *to* a manufacturer located or making sales inside the City of Cordova and registered with a Cordova business license when those raw materials become a part of a manufactured product or are consumed in the manufacturing process. The manufactured item is still subject to tax unless another exemption applies to the sale of that product. Whether or not that item constitutes a single product, or more than one product is a separate analysis that depends, in part, how the item is priced and sold.

EXAMPLES

1. **Single Item:** Engine
Multiple Single Items: Engine parts sold and priced separately, and time of mechanic sold and priced separately to assemble the parts into an engine
2. **Single Item:** Shed when sold for one non-itemized price
Multiple Single Items: A shop sells the lumber and parts to build a shed and charges a fee for the construction of the shed.

Optional Amendments to Ordinance 1221

Option 1

“Construction materials and services” means items that become a permanent part of the structure being constructed and services rendered in constructing the permanent part of the structure. It does not include personal property that can be removed or replaced in a structure without impairing the integrity of the structure. Personal property that can be removed or replaced in a structure without impairing the integrity of the structure includes, but is not limited to, appliances, ~~flooring, light fixtures, and cabinetry.~~ **alarm systems, and furniture.** **“Construction materials and services” do not include materials added or services rendered to maintain, repair or update a structure after it has been constructed.**

Note: This option expands the scope of the initially proposed definition to apply the tax to appliances such as refrigerators, microwaves, dishwashers, laundry machines, and stoves while including flooring, lights, toilets, sinks, cabinets, and so on in the exemption.

Option 2

“Construction materials and services” means items that become a permanent part of the structure being constructed and services rendered in constructing the permanent part of the structure. It does not include personal property that can be removed or replaced in a structure without impairing the integrity of the structure. Personal property that can be removed or replaced in a structure without impairing the integrity of the structure includes, ~~but is not limited to, appliances, flooring, light fixtures, and cabinetry.~~ **all property that is not typically required to obtain a certificate of occupancy for the structure. The city will maintain a policy document that lists appliances and fixtures that do and do not qualify for the exemption.**

Note: This option bases the scope of the exemption on the existing requirements for a certificate of occupancy and its requirements and gives the City flexibility while creating the policy document.

Option 3

“Construction materials and services” means items that become a permanent part of the structure being constructed and services rendered in constructing the permanent part of the structure. It does not include personal property that can be removed or replaced in a structure without impairing the integrity of the structure except **appliances, cabinetry, fixtures, hardware, and flooring installed in the structure at the time of construction.** ~~Personal property that can be removed or replaced in a structure without impairing the integrity of the structure includes, but is not limited to, appliances, flooring, light fixtures, and cabinetry.~~

Note: This proposed amendment to the definition expands the scope of the definition and the exempted materials but emphasizes that this exemption only applies to those items installed at the time of construction.

Option 4

Council may also want to amend the “construction materials and services” definition as proposed in Ordinance 1221 to add the following sentence at the end of the definition:

“Construction materials and services” do not include construction materials and services for the construction of accessory buildings, including but not limited to sheds or greenhouses.

Additional Amendment for Council Consideration Regarding “Construction Materials and Service” Refund

Currently, and as proposed in Ordinance 1221, the “construction materials and services” refund is available for construction of both residential and commercial buildings. Does Council want to limit the exemption to residential buildings or rather buildings constructed for use as a dwelling. If so, Council may want to adopt an amendment to Section 5.10.240 that reads as follows:

I move to amend Section 5.10.240(A) to read as follows:

- A. *Except as limited by this section, a purchaser who obtains a building permit for a construction project may apply for a refund for sales tax paid to the City above \$350 on purchases of “construction materials and services-” **for construction of a building that contains at least one dwelling unit.***

Potential and Recommended Amendment for Definitions (Adding “Single Item” Definition)

Based upon discussions during the last work session, we would recommend the addition of a definition for “single item” to further clarify the application of the tax cap. Specifically, add that definition could be presented as follows:

I move to amend Section 5.10.030 “Definitions” to add the following:

“Single item” means an item sold in a single sale consisting of integrated and interdependent component parts affixed or fitted to one another in such a manner as to produce a functional whole. Services shall only be considered part of the functional whole if the services are necessary to create the functional whole and the services are not sold by the seller as a separate service.

This definition derives from the definition adopted by Juneau but adds language regarding the taxation of “service” when used to create an item.

**CITY OF CORDOVA, ALASKA
ORDINANCE 1221**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA ENACTING CHAPTER 5.01 “DISBURSEMENT AND INVESTMENT OF CITY FUNDS”; AMENDING AND RENAMING CHAPTER 5.04 “WARRANTS” TO “SIGNATURE REQUIREMENTS” AND CLARIFYING THE SIGNATURE PROCESS ON CITY FUND DISBURSEMENTS; AMENDING, RENUMBERING, AND RENAMING CHAPTER 5.44 “CORDOVA GENERAL RESERVE FUND” TO CHAPTER 5.02 “CORDOVA PERMANENT FUND (GENERAL RESERVE FUND)”; REPEALING CHAPTER 5.40 “SALES TAX” AND ENACTING CHAPTER 5.10 “SALES TAX” TO ADOPT A REGISTRATION PROCESS FOR SELLERS; UPDATE THE SALES TAX RETURN, IMPLEMENTATION, ENFORCEMENT, PROTEST, AND COLLECTION PROCEDURES; REMOVE THE SALES TAX EXEMPTIONS FOR TRAVEL AGENCIES, PROFESSIONAL SERVICES COMMISSIONS AND FEES, AND RECREATIONAL FLIGHTS; TO CLARIFY THE EXEMPTION FOR NONPROFIT ENTITIES AND EXPRESSLY EXCLUDE RENTALS FROM THE EXEMPTION; AND TO REQUIRE PURCHASERS TO FILE A REFUND APPLICATION FOR THE SALES TAX EXEMPTION ON CONSTRUCTION MATERIALS AND SERVICES

WHEREAS, the City of Cordova has not substantively revised many of its Cordova Municipal Code Title 5 “Revenue and Finance” provisions in over 30 years; and

WHEREAS, the City has experienced numerous requests regarding interpretation and scope of Title 5 “Revenue and Finance” in the last few years and determined it was in the City’s best interest to revise this title to ensure clear provisions governing the City’s tax regime; and

WHEREAS, City Council has reviewed the exemptions afforded buyers in the City and determined that exemptions for travel agencies, certain recreational flights, and commissions, rates, and fees for professional services are not justified by City policies and objectives; and

WHEREAS, it is in the City’s best interest to preserve the exemption on “construction materials and services” to incentivize housing development within the City while updating the Code to require purchasers to file a refund application for sales tax payments on “construction materials and services”; and

WHEREAS, the refund application process for purchasers claiming the construction materials and services exemption ensures that this exemption is only applied to qualifying purchases and assists the City in understanding the cost of this exemption to the City for future consideration by Council; and

WHEREAS, the adoption of a registration process that incorporates registration for sales tax collection into the business license application process provides the City a way to identify sellers in Cordova and the nature of their sales,

NOW, THEREFORE, be it ordained by the Council of the City of Cordova, Alaska,

Section 1. Removal of Cordova Municipal Code Title 5 Chapter 5.12 “Purchases”, Chapter 5.14 “Sale of City Personal Property”, Chapter 5.16 “Tidelands”, Chapter 5.22 “Disposal of Real Property”, Chapter 5.23 “Acquisition of Real Property”, Chapter 5.24 “Abandoned Property”, Chapter 5.28 “Use of City

Equipment”, and Chapter 5.29 “Local Hire for Public Improvements” from Title 5 “Revenue and Finance” and relocation of the chapters into Title 7 “City Property” is being proposed by Ordinance 1222.

Section 2. The Cordova Code of Ordinances of Cordova, Alaska Title 5 “Revenue and Finance” is renumbered and re-titled as follows:

TITLE 5 “REVENUE AND FINANCE”

Chapters

5.01 Disbursement and Investment of City Funds

5.02 Cordova Permanent Fund (General Reserve Fund)

5.04 Warrants **Signature** Requirements

5.05 Property Tax

5.06 Property Tax Exemptions and Deferrals

5.07 Property Tax Exemption and Deferral Criteria 5.12 Purchases

5.14 Sale of Personal Property

5.16 Tidelands 5.22 Disposal of Real Property

5.23 Acquisition of Real Property

5.24 Abandoned Property

5.28 Use of City Equipment

5.29 Local Hire for Public Improvement

5.40 **10** Sales Tax

5.41 **15** Raw Fish Tax

5.35 Signature Requirements

5.38 Biennial Motor Vehicle Registration Tax

5.32 **40** Special Assessment Districts for Local Improvements

5.08 **45** Business with Persons Indebted to the City

5.44 Cordova General Reserve Fund

Section 3. Title 5 of the Cordova Code of Ordinances of Cordova, Alaska is hereby amended by adding a chapter, to be numbered Chapter 5.01, which said chapter reads as follows:

Chapter 5.01 DISBURSEMENT AND INVESTMENT OF CITY FUNDS.

5.01.010 Disbursement of City Funds.

5.01.020 Investment of City Funds.

5.01.010 Disbursement of City Funds.

The City Manager may adopt policies for the disbursement of funds subject to approval by City Council and in compliance with Article V of the City Charter.

5.01.020 Investment of City Funds.

The City Manager may adopt policies for the investment of funds subject to approval by City Council and in compliance with Article V of the City Charter.

Section 4. Chapter 5.44 of the Cordova Code of Ordinances, Alaska is hereby amended to read as follows:

Chapter 5.445.02 CORDOVA GENERAL RESERVE FUND-PERMANENT FUND (GENERAL RESERVE FUND)

Sections

5.4402.010 Cordova Permanent Fund(General Reserve Fund)-Established.

5.4402.020 Cordova Permanent Fund-Purpose.

5.4402.030 Deposits to the Cordova Permanent Fund.

5.4402.040 Management of Cordova Permanent Fund.

5.4402.050 Cordova Permanent Fund-Income and Distribution.

5.4402.060 Cordova Permanent Fund-Principal.

5.4402.010 Cordova Permanent Fund (general reserve fund) Established.

There is established as a separate fund within the finances of the City a fund to be known as the **Cordova Permanent Fund or the Cordova General Reserve Fund**, general reserve fund (hereinafter referred to as "the fund" or the "city permanent fund"). The Cordova **Permanent general reserve fund** shall be administered in accordance with the provisions of this Chapter **and Section 5-22 of the City Charter**.

5.4402.020 Purpose.

The purpose for establishment of the **Cordova Permanent fund** is to provide a continuing source of funding for the capital and operating expenses of the City. The City Council may not consider any revenue from the **Cordova Permanent fund** as anticipated revenues for the purpose of funding operating expenses when approving the budget. The establishment of the **Cordova Permanent fund** is intended to assist in minimizing the tax burden to the citizens of Cordova, and preserve in trust assets of the **City** for the benefit of present and future generations of Cordova residents.

5.4402.030 Deposits to the Cordova Permanent Fund.

The City Council may, from time to time, make deposits to the **Cordova Permanent Fund** in the same manner as it makes other appropriations. Any funds received by the City from any source may be deposited into the **Cordova Permanent Fund**; provided, however, it shall be the policy of the Council that any windfall funds from legal settlements received by the **City** shall be deposited into the **Cordova Permanent Fund** to fulfill the purpose as set forth in Section 5.4402.020 **of this Chapter**.

5.4402.040 Management of Cordova Permanent Fund.

An investment policy consistent with the Prudent Investor Act shall be adopted by the **City Council** by resolution, and may be amended as necessary by resolution. The **City Treasurer** shall follow the investment policy adopted by the Council for investment and management of amounts in the **Cordova Permanent Fund**.

5.4402.050 Cordova Permanent Fund-Income and distribution.

- A. In conjunction with the audit of the City's financial statements each year, the City Treasurer shall prepare a report for the City Council which shows, as of the last day of the preceding fiscal year, the nature of each outstanding investment, including the purchase date, purchase price, and estimated net yield rate at the time of purchase, and the income earned from each investment from the initial date of purchase to the date of the report. The report shall be delivered to the Council in conjunction with the audited financial statements.
- B. In conjunction with audit of the City's financial statements each year, the net income of the **Cordova Permanent Fund** shall be determined as of the last day of the preceding fiscal year in accordance with this section and utilizing generally accepted accounting principles. The City Treasurer shall

report such determination to the City Council in conjunction with delivery of the audited financial statements.

- C. For the purposes of determining the net income of the **Cordova Permanent Fund**, "net income" means the total income yielded from investment of the principal of the **Cordova Permanent Fund** for the preceding fiscal year, less any amounts needed;
1. To reimburse the **Cordova Permanent Fund** principal in the event a transaction results in an actual dollar loss in principal;
 2. To offset any reduction in ~~fund~~ **the principal of the Cordova Permanent Fund** due to administrative costs;
 3. To offset any depletive effect of inflation on the ~~fund~~ **principal of the Cordova Permanent Fund** during the fiscal year, as may be determined by a nationally recognized inflation index.
- D. The net income of the **Cordova Permanent Fund** is unrestricted general income of the **City**.

5.4402.060 Cordova Permanent Fund-Principal.

- A. **The Cordova Permanent** Fund principal may be appropriated only by ordinance. A public hearing shall be held on the introduction and first reading of such ordinance. The procedure for passage of any such ordinance shall be governed by subsection B of this section.
- B. No ordinance to appropriate principal from the **Cordova Permanent Fund** shall be passed, except upon the favorable roll call of all seven City Council Members, or six City Council Members and the Mayor, the results of which shall be entered in the minutes of the meeting. The Mayor shall be allowed to vote only if exactly six of the City Council Members vote in favor of any such appropriation.

Section 5. Chapter 5.04 of the Cordova Code of Ordinances, Alaska is hereby amended to read as follows:

Chapter 5.04 ~~WARRANTS SIGNATURE REQUIREMENTS~~

Sections

5.04.010 Signature requirements.

5.04.020 Facsimile signature.

5.04.010 - Signature requirements.

Every warrant or other order for disbursement of money by the City shall be signed by at least two signers employed by the City and designated by City Council. City Council shall adopt a resolution identifying at least five designated signers for purposes of this section. The resolution shall include the City Manager as one of the five designated signers. ~~Every warrant or other order for disbursement of money shall be signed by both the city manager and the city clerk, or in the absence of either the city manager or city clerk, the public works director. The mayor and city council members shall by resolution be authorized to sign said warrant or other order for the disbursement of money in the event that both the city manager and city clerk are unavailable; but under no circumstances shall the mayor or city council members sign a warrant or other order for the disbursement of money on behalf of both the city manager and city clerk.~~

5.04.020 - Facsimile signature.

Nothing in this Chapter shall be construed to prohibit the use of facsimile or electronic signatures of officers authorized in Section 5.04.010 to sign warrants or other orders for the disbursement of money.

Section 6. Chapter 5.40 of the Cordova Code of Ordinances of Cordova, Alaska is hereby repealed.

Section 7. The Cordova Code of Ordinances of Cordova, Alaska is hereby amended by adding Title 5, Chapter 5, which said chapter reads as follows:

Chapter 5.10 SALES TAX

Sections

- 5.10.010 Purpose and intent.
- 5.10.020 Interpretation and general presumptions of taxability.
- 5.10.030 Definitions.
- 5.10.040 Supplemental definitions.
- 5.10.050 Imposition—Rate.
- 5.10.060 Alaska Uniform Remote Seller Sales Tax Code—adopted.
- 5.10.070 Title to collected sales tax.
- 5.10.080 Maximum tax per transaction-the tax cap.
- 5.10.085 Bundled transactions.
- 5.10.090 Person-based exemptions.
- 5.10.100 Product-based exemptions.
- 5.10.110 Wholesale/Manufacturer/Resale Exemptions and limitations of exemptions.
- 5.10.120 Rules applicable to particular businesses or occupations.
- 5.10.130 Payment and collection.
- 5.10.140 Sales tax collection-registration requirement.
- 5.10.170 Business operation injunction-failure to file or pay taxes.
- 5.10.180 Protests.
- 5.10.185 Protest of tax by buyer.
- 5.10.190 Limit of liability.
- 5.10.200 Tax receipts.
- 5.10.210 Exemption application and exemption authorization card.
- 5.10.220 Revocation of exemption status.
- 5.10.230 Refunds.
- 5.10.240 Construction materials and services exemption and refund.
- 5.10.270 Disposition of proceeds.
- 5.10.280 Tax return—Payment to City.
- 5.10.290 Record keeping and investigation.
- 5.10.300 Estimated tax.
- 5.10.310 Recovery of taxes—Delinquency date.
- 5.10.315 Penalties and interest for late filing.
- 5.10.320 Lien.
- 5.10.325 Violations.
- 5.10.330 Penalty for violations.
- 5.10.340 Repayment plans.
- 5.10.350 Additional regulations enacted when.
- 5.10.360 Delinquent sales tax roll confidentiality.

5.10.010 Purpose and intent.

It is the purpose of the tax levied under this Chapter to raise revenues. To that end, the scope of the tax levied shall be broadly interpreted, and exemptions shall be allowed only when falling clearly within an exemption as defined or incorporated in this Chapter.

5.10.020 Interpretation and general presumptions of taxability.

- A. In order to prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person engaging in business in the City are subject to sales tax.
- B. The application of the tax to be collected under this Chapter shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax to be collected under this Chapter shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Chapter.
- D. For purposes of this Chapter, except as expressly provided otherwise in this Chapter, the sales price or purchase price of property is based on the date the property or product was sold or the date the service rendered was received.
- E. Remote sales, marketplace facilitators and remote sellers must comply with the provisions of the Remote Sellers Tax Code and all other applicable provisions in this Chapter.

5.10.030 Definitions.

When used in this Chapter, unless expressly defined otherwise for purposes of a specific section, the following words and phrases shall have the meanings set forth in this section:

"Alcoholic beverage" shall have the meaning given in section 6.12.010 of this Code.

"Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where 1) the products are otherwise "distinct and identifiable" and 2) the products are sold for one non-itemized price. For purposes of this definition, a "bundled transaction" does not include the sale of any products in which the "sales price" varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

- A. As used in this definition, "distinct and identifiable" does not include:
 - 1. Packaging-such as containers, boxes, sacks, bags, and bottles-or other materials-such as wrapping, labels, tags, and instruction guides-that accompany the "retail sale" of the products and are incidental or immaterial to the "retail sale" thereof; or
 - 2. A product provided free of charge with the required purchase of another product. A product is "provided free of charge" if the "sales price" of the product purchased does not vary depending on the inclusion of the product "provided free of charge."
- B. As used in this definition, the term "one non-itemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.
- C. A transaction that otherwise meets the definition of a "bundled transaction" as defined above, is not a "bundled transaction" if it is:
 - 1. The "retail sale" of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service; or
 - 2. The "retail sale" of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service; or

3. A transaction that includes taxable products and nontaxable products and the “purchase price” or “sales price” of the taxable products is de minimus.

"Business" means and includes all activities or acts, personal, professional or corporate, engaged in or caused to be engaged in, including but not limited to receipts from advertising services, construction, process or manufacturing and the sale of any goods or services upon which sales tax is required to be paid under this Chapter. The giving or supplying of services as an employee and the furnishing of property, services, substances or things, by persons who do not hold themselves out as regularly engaging in such transactions, does not constitute business within the meaning of this Chapter.

"Buyer" or “purchaser” means a person to whom a sale of property or product is made or to whom a service is furnished.

"Casual, occasional or isolated sales or services" means a sale made or service provided by a person who is not engaged in a business as further defined in Section 5.10.100 of this Chapter. Sales or services meeting the Threshold Criteria for taxation under the Remote Sellers Tax Code does not fall within the definition of "casual, occasional or isolated sales or services."

"Cigarette" means a roll for smoking of any size or shape, made wholly or partly of tobacco, whether the tobacco is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco.

“Commission” means the Alaska Remote Sales Tax Commission established by agreement between local government taxing jurisdictions within Alaska.

“Commission rate” means the percentage or fixed payment associated with a certain amount of a sale or service. It includes fees paid for services rendered in selling real property and fees charged for finding potential employees for a person.

“Construction materials and services” means items that become a permanent part of the structure being constructed and services rendered in constructing the permanent part of the structure. It does not include personal property that can be removed or replaced in a structure without impairing the integrity of the structure. Personal property that can be removed or replaced in a structure without impairing the integrity of the structure includes, but is not limited to, appliances, flooring, light fixtures, and cabinetry.

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

“Delivery network company” means a business that facilitates, through the use of an Internet website or mobile application, the delivery of products or services.

“Digital good” means any product delivered electronically (whether downloaded, streamed or subscribed to). A digital good generally takes the form of a license to use or store in a digital or electronic format. Digital goods are generally intangible property for purposes of this Chapter.

“Digital service” means any service delivered electronically that uses one or more software applications. Digital service includes any service that primarily involves the application of human effort by the seller,

and the human effort originated after the customer requested the service, provided the service is delivered electronically.

“Entity-based exemption” or “person-based exemption” means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption or a person-based exemption.

“Finance Director” means the City Treasurer or an individual designated to serve as the Finance Director by the City Manager. Except as otherwise prohibited by this Code or the City Charter, the designee may be an employee of the City, an accountant or other person who is not an employee of the City, a certified public accounting firm or other person.

“Goods,” “fixtures,” “investment securities,” “general intangibles,” “accounts,” “chattel paper,” “documents,” “instruments” and “money” and their singulars have the meanings given the terms by the Alaska Uniform Commercial Code, AS 45.01 *et seq.*, as amended.

"Goods for resale" means:

- A. The sale of goods by a manufacturer, wholesaler 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.

"Local sale" or "local sales" means a sale or sales by a seller with a physical presence in Cordova where the point of delivery is a location within Cordova.

“Marijuana” shall have the meaning given in section 8.40.020 of this Code.

“Marijuana concentrate” shall have the meaning given in section 8.40.020 of this Code.

“Marijuana products” shall have the meaning given in section 8.40.020 of this Code.

“Marketplace” means a physical or electronic place, platform or forum, including a store, booth, Internet website, catalog or dedicated sales software application where productions or services are offered for sale.

"Marketplace facilitator" means a person that contracts with marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the marketplace seller’s property, product 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 the buyer and marketplace seller;
 - 2. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and marketplace sellers together;

3. Providing a virtual currency that buyers are allowed or required to use to purchase products from the marketplace seller; or
 4. Software development or research and development activities related to any of the activities described in Subsection B of this definition, 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
 8. Providing customer service or accepting or assisting with returns or exchanges.

“Marketplace seller” means a person that makes retail sales through any physical or electronic marketplace that is operated by a marketplace facilitator.

“Monthly” means occurring once per calendar month.

“Person” means an individual, partnership, cooperative, association, joint venture, society, corporation, estate trust, business, receiver, or any entity, group or combination of any such persons acting as a unit.

"Physical presence in Cordova" means a seller who establishes any one or more of the following within the boundaries of Cordova:

- A. Has any office, distribution or sales house, warehouse, storefront or any other place of business within the boundaries of Cordova
- B. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of Cordova or engages in activities in Alaska that are significantly associated with the seller’s ability to establish or maintain a market for its product in Cordova
- C. Provides services through an employee, agent, salesman or other representative or holds inventory within the boundaries of Cordova
- D. Rents or leases property located within the boundaries of Cordova

A seller that establishes a physical presence in Cordova in any calendar year will be deemed to have a physical presence within Cordova 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 of a remote seller in Cordova, 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 of a Remote Seller in Cordova, the sale is considered to have been made in Cordova if the purchaser is present in Cordova, even if delivery of the product takes place in another member jurisdiction of the Commission as that term is defined in the Remote Sellers Tax Code. Such sales are reported and tax remitted directly to the City.

- C. When a service is not received by the purchaser at a business location of a remote seller, the service is considered delivered to the location where the purchaser receives the service.
- D. For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.

“Product-based exemptions” means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

“Professional services” means services, including but not limited to, services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment, and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations that require a professional license under Alaska Statute.

"Property" and “product” and “good” mean both tangible and intangible property. "Tangible" property means an item that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. "Intangible" property is 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; or
- 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.

“Recreational flight” means any flight that takes off from Cordova and returns to Cordova without landing in any other taxing jurisdiction unless that flight is solely for emergency medical transport, military transport, government operations or ancillary to a use otherwise exempt from sales tax under this Code.

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

"Remote seller" means a seller or marketplace facilitator making sales of goods, services or bundled transactions for delivery within Cordova without having a physical presence in Cordova.

"Remote Sellers Tax Code" means the Alaska Uniform Remote Sellers Sales Tax Code as adopted and amended by The Alaska Remote Seller Sales Tax Commission.

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

“Resale” means to sell again and is limited to items which are resold per se or are physically present in a final product which is sold and is subject to tax at the time of final sale. The item must be easily and readily identifiable in the final product.

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

"Sale" or “retail sale” means any transfer of property or product or any provision of service(s) for consideration for any purpose other than for resale.

"Sales price" or "purchase price" means the total amount of consideration, including cash, credit, property, products, and services, for which property, products, services or bundled transactions are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property or product sold;
- 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. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges; and
- F. Credit for any trade-in, as determined by State law.

"Seller" means a person making sales of property, products or services or a marketplace facilitator facilitating sales on behalf of a seller, excluding services rendered by employees for their employer, but including services for remuneration for which an Alaska Business License and/or City business license is required.

"Services" means all services of every manner and description, which are performed or furnished for compensation, and delivered in-person, electronically or otherwise within the boundaries of Cordova, including but not limited to:

- A. Professional services;
- B. Services in which a sale of property or product may be involved, including property or products made to order;
- C. Utilities and utility services not constituting a sale 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;
- D. The sale of transportation services;
- E. Services rendered for compensation by any person who furnishes any such services in the course of that person’s trade, business, or occupation;
- F. Advertising, maintenance, recreation, amusement, and craftsman services
- G. Digital services
- H. Rentals of real and personal property

"Special annual public events" means those events which are annually scheduled and open to the public.

“Taxing jurisdiction” means another jurisdiction that imposes a sales tax.

"Tobacco product" means:

- A. A cigar;
- B. A cheroot;
- C. A stogie;
- D. A perique;
- E. Snuff and snuff flour;
- F. Smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette;
- G. Chewing tobacco, including cavendish, twist, plug, scrap, and tobacco suitable for chewing; or
- H. another article or product made of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or
- I. Any noncombustible device that provides a vapor of liquid nicotine to the use or relies on vaporization of any liquid or solid nicotine, including devices manufactured as e-cigarettes, e-cigars, e-pipes, or any other product name.

“Transferred electronically” means obtained by the purchaser by means other than tangible storage media.

"Transient lodging services" or "public accommodation services" means providing, for consideration, members of the public with temporary or transient sleeping accommodations and related services for a period of less than 30 consecutive days in any building or facility, including room or house rentals, hotels, motels, lodges, tourist homes, houses or courts, lodging houses, resorts, campgrounds, inns, rooming houses, boarding houses, bunkhouses, bed and breakfasts, trailer houses or motels, apartment hotels, and any other facility in which rooms, beds or sleeping facilities or space are furnished for consideration.

“Travel agency services” means arranging or booking for a commission, fee or other consideration, vacation or travel packages, rental car, tours or other travel reservations or accommodations, tickets for domestic or foreign travel by air, ship, rail, bus or other medium of transportation, or hotel or other lodging accommodations.

5.10.040 Supplemental definitions.

Supplemental definitions in the Remote Sellers Tax Code shall apply to this Chapter so long as they are not in conflict with or contrary to the definitions set forth in this Chapter.

5.10.050 Imposition—Rate.

- A. To the fullest extent permitted by law, a sales tax is hereby levied and assessed on all retail sales and all services, including rentals, within the City unless specifically exempted from taxation under this Chapter.
- B. The tax rate added to the sale price shall be:
 - 1. 13 percent on transient lodging
 - 2. 13 percent on motor vehicle rentals, excluding watercraft
 - 3. 13 percent on sales of marijuana, marijuana concentrates, and marijuana products
 - 4. 13 percent on sales of cigarettes and other tobacco products
 - 5. 13 percent on sales of alcoholic beverages

6. Seven percent for all other local and remote sales and services equal to or more than .20 cents.
- C. The applicable tax rate shall be added to the sales price. The tax rate shall be added based on the date the property or product was sold or the date the service rendered was received.

5.10.060 Alaska Uniform Remote Seller Sales Tax Code—adopted.

- A. The City adopts the Alaska Uniform Remote Seller Sales Tax Code of the Alaska Remote Seller Sales Tax Commission and any future amendments to that code. The Alaska Uniform Remote Seller Sales Tax Code may be referred to as the “Remote Sellers Tax Code” throughout this Chapter.
- B. In the event of conflict between the provisions of this Chapter and the Remote Sellers Tax Code, the provisions of this Chapter shall govern unless otherwise required by law.
- C. Provisions of this Chapter shall be interpreted to be consistent with provisions in the Remote Sellers Tax Code.

5.10.070 Title to collected sales tax.

Notwithstanding provisions regarding title in the Remote Sellers Tax Code, upon collection by the seller, title to sales tax vests in the City. The seller holds collected sales tax in trust for the City and is accountable to the City for that tax. Upon collection by the remote seller or marketplace facilitator, title to collected City sales tax vests in the Commission in trust for the City.

5.10.080 Maximum tax per transaction-the tax cap.

- A. *Maximum Tax on a Single Item or Single Transaction of a Service.* Except as otherwise provided in this section, only the first \$5,000.00 of the sales price of a single item or single transaction for a service shall be subject to sales tax. This maximum tax per single transaction may be referred to as the “tax cap” or, when applied to a service, “the single service tax cap” or when applied to an item, “the single item tax cap.”
- B. *Extended Services and Deliveries.* Payment for services to be rendered or personal property to be delivered over a period of more than one month shall be treated as separate transactions occurring one each month over the period of time that the service is rendered or property delivered. The purchase price shall be allocated pro rata to each month in which the service is rendered or the property delivered with the tax cap applied to the first \$5,000 of each monthly transaction and subject to taxation until the service is no longer performed or the property is fully delivered.
- C. *Rentals rendered over more than a month.* Except as otherwise provided in this Chapter, the payment of rent, whether for real or personal property that is for more than one month shall be treated as a separate transaction each month the property is rented with the tax cap applied to the first \$5,000.00 of each monthly transaction until the end of the rental term.
- D. *Rentals rendered over less than one month.* Except as otherwise provided in this Chapter, the payment of rent, whether for real or personal property, that is for less than one month shall be treated as a separate transaction each day the property is rented with the tax cap applied to the first \$5,000 of each nightly transaction subject to taxation.

5.10.085 Bundled transactions.

- A. If the sales price of a bundled transaction is attributable to both products or services that are taxable and products or services that are nontaxable, the portion of the sales price attributable to the nontaxable products may be subject to tax unless the seller can identify the nontaxable portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.

- B. Except as otherwise authorized in this Chapter, a bundled transaction does not qualify for exemption under Cordova's single item tax cap or single service tax cap and thus the full sale price of the bundled transaction shall be subject to tax unless the following conditions are met:
1. The seller separates the respective portions of a bundle for purposes of applying the tax cap to each respective portion; and
 2. The seller identifies the sales price attributed to each portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes, on the sales tax return containing the sale for which the tax cap was applied.

5.10.090 Person-based exemptions.

Sales and services by the following persons are exempt from the tax levied under this Chapter only in accordance with the exemptions, and limitations on such exemptions, provided for in this Chapter:

- A. *Credit unions.* Sales to or by federally chartered credit unions or credit unions organized under AS 06.45 are exempt.
- B. *The U.S. Postal Service.* Sales by the U.S. postal service are exempt.
- C. *Governments.* Except as otherwise provided in this section, gross receipts or proceeds derived from sales to the United States Government, the State, a political subdivision of the State or any political department of the United States Government, the State or a political subdivision of the State are exempt.
1. This exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering of services for sale to governments or government units on a contract bid award. In this case, the contractor shall be deemed the buyer and subject to the payment of the tax.
 2. A sale or rental to an employee of the State, its political subdivisions, or the federal government is exempt only when the government employee provides proof that the sale is for government business by paying for the sale with a government voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for government business exempt under this subsection.
- D. *Federally Recognized Tribal Entities.* A sale or rental by or to a federally recognized tribe, but only when the tribal employee provides proof that the sale is for tribal government business and pays for the sale with a tribal voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for tribal government business.

5.10.100 Product-based exemptions.

The following sales and services are exempt from the tax levied under this Chapter only in accordance with the exemptions, and limitations on such exemptions, provided for in this Chapter:

- A. *Casual and isolated sales, services or rentals.* Proceeds from casual, occasional or isolated sales which are easily identified as the sale of tangible personal property or goods at such functions as moving, garage, yard, food and bake sales, markets or fairs, the sale of private vehicles when the seller is not a dealer in used vehicles or services such as babysitting or house-sitting provided the seller does not regularly engage in the business of selling such goods or services or rentals are exempt, except that:

1. The sale of goods and services occurring for more than 10 days in a calendar year, whether or not these days are consecutive, are not exempt;
 2. Sale of goods and services made through a dealer, broker, agent or consignee are not exempt;
 3. The rental of personal tangible property for more than 60 days in a calendar year, whether or not those days are consecutive, is not exempt;
 4. Sales or rentals made pursuant to a business license or by sellers representing themselves to be in the business of making sales, rentals or services are not exempt; and
 5. The rental of real estate is not exempt.
- B. *Banking.* The following fees, sales and services charged by banks, savings and loan associations, credit unions, and investment banks are exempt:
1. Fees for the sale, exchange or transfer of currency, stocks, bonds, and other securities;
 2. The principal amount of loans, the interest charged for loaning money, escrow collection services, and any fees associated with the loaning of money
 3. Services associated with the sale, exchange or transfer of currency, stocks, bonds, and other securities;
 4. Pass-through charges on loan transactions which includes sales tax; and
 5. Sale of insurance policies, bonds of guaranty and fidelity and the commission on these sales (AS 21.09.210(f); 21.79.130, 21.80.130).
- C. *Transportation.*
1. *Commercial flights.* The sale of passenger seat tickets by a commercial airline is exempt. Recreational flights are not exempt, unless otherwise exempted by AS 29.45.820.
 3. *Vehicles for hire.* The lease or rental of vehicles is not exempt.
- D. *Interstate commerce, wharfage, and shipping.*
1. *Fish Shipments.* Gross receipts or proceeds derived from servicing, freezing, storing, handling or wharfing of fisheries commodities awaiting shipment or in the process of being shipped;
 2. *Shipping.* Gross receipts or proceeds from the transportation (including freight and shipping charges), loading, unloading or storing of cargo from marine vessels or aircraft in foreign, interstate or intrastate commerce.
- E. *Charitable and Public assistance.*
1. *Nonprofit organizations.* A sale of goods or services to any nonprofit entity that, at the time of sale, can produce a sales tax exemption card and that has a duly authorized federal tax-exempt status pursuant to IRS Regulations, Section 501(c)(3), (4) or (19) is exempt; provided, that any income from the exempt sale is also exempt from federal taxation. This exemption does not apply to the rental of real property, personal property or space by or to nonprofit entities that otherwise qualify for an exemption under this subsection. Such rentals remain subject to sales tax under this Chapter.
 2. *Public Assistance.* Purchases made with food coupons, food stamps, or other type of certificate issued under 7 USC Sections 2011 through 2025 (“Food Stamp Act”) or other certificates issued under 42 USC Section 1786 (“Special Supplemental Food Program for Women, Infants and Children”) are exempt.
 3. *Home heating oil.* Home heating oil purchased for use in a dwelling is exempt so long as at least 50 percent of the floorspace of the dwellings is used as a residence and not for commercial or business activities.
- F. *Medical care.*

1. *Medical professional services.* Professional services of a person in the field of medicine, integrated medicine or the healing arts and sciences, including therapy, counseling, surgery, veterinary care, dentistry, optometry, and chiropractic care are exempt.
 2. *Assisted living.* Assisted living services provided in accordance with an assisted living plan and in an assisted living home licensed by the State are exempt.
 3. *Medical equipment.* Fees for supplies, equipment, and services provided by a hospital, medical clinic, assisted living facility or dental clinic for patient treatment including laboratory and x-ray services are exempt.
 4. *Prescription drugs.* Gross receipts or proceeds of the retail sale of prescription drugs are exempt.
 5. *Medical Facility Meals.* Sales of food at hospital cafeterias and lunchrooms which are operated primarily for staff and patients and which are not operated for the purpose of sale to the general public for profit;
- G. *Cemetery goods and services.* Sale of cemetery plots, caskets, funeral and burial related items and the services by a funeral home.
- H. *Dues.* Dues or fees to clubs, labor unions or fraternal organizations solely for the privilege of membership.
- I. *School.*
1. *Student Activities.* Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations;
 2. *Student sales.* Sales by any student organization, parent/teacher organization or booster club recognized by the school or educational organization in which it operates, which proceeds are utilized to further the purposes for which the organization was formed;
 3. *School Sales and services.* Sales and services by schools or other educational organizations made in the course of their regular functions and activities, which proceeds are utilized to further the purposes for which such organization was formed;
 4. *School cafeteria sales.* Sales of food at an educational facility provided primarily for staff and/or students, and which is not operated for the purpose of sale to the general public for profit.
 5. *Childcare services.* Proceeds from contract services provided by a state-licensed child care contractor or from contract services provided by a person for the purpose of taking temporary care of minors for another person.
- J. *Required exemptions.* Sales, rentals or services which the city is prohibited from taxing by the Constitution or statutes of the United States or the state of Alaska.

5.10.110. Wholesale/Resale/Manufacturer Exemptions and limitations of exemptions.

- A. The following transactions are exempt from sales tax so long as the buyer presents to the seller at the time of the sale transaction a valid exemption card issued under Section 5.10.210 of this Chapter and meets the requirements of this section:
1. *Wholesale/Resale.* Sales to a 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 where the subsequent sale is subject to the City sales tax.
 2. *Manufacturer.* Sales of raw material to a manufacturer located or making sales inside the city and registered with a city business license, which raw material becomes an ingredient or component part of a manufactured product or a container of that manufactured product, or is consumed in the manufacturing process.

- B. Food products that are purchased for resale must be purchased and sold “as is” or prepared in a kitchen that is DEC-certified in order to qualify for a sales tax exemption under this section. Proof of certification must be available upon request.
- C. *Construction resale.* Services that are provided by a subcontractor to a contractor for a third party are considered services for resale and are exempt from taxation.
- D. *Limitation for Bundled Transaction.* Goods, wares or merchandise that are provided as part of a bundled transaction and are not offered for sale as separate and individual items do not constitute a resale and are not exempt under this section as a resale, wholesale or manufactured product. For example, the goods, wares, and merchandise that make up a bed and breakfast stay or a fishing or hunting charter service are not exempt under this section.

5.10.120 Rules applicable to particular businesses or occupations.

- A. *Commission rates and fees.*
 - 1. Commission rates and fees on sales of real property located in the City are subject to sales tax, regardless of the location of the person to whom the commission is payable.
 - 2. Commission rates and fees received as a result of professional services performed within the City, including travel agency services, are subject to sales tax regardless of the location of the person to whom the commission rate or fee is payable when the subject of the services occurred within the City.
- B. *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.

5.10.130 Payment and collection.

- A. It shall be the duty of each seller making sales taxable under this Chapter to collect the taxes imposed by this Chapter from the buyer at the time of each sale, or with respect to a credit transaction, at the time of collection, and to 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 of the tax to the City.
- B. When a sale is made and services are rendered or the product is delivered but payment for the services or product is made over time, the applicable sales tax shall be collected on each payment but the sales tax shall be calculated at the sales tax rate in effect at the time the sale was made and any applicable tax cap shall be applied at the time of the sale. If the service or delivery will not be completed within one month from the date of payment, payments shall be made and the sales tax cap applied in compliance with Section 5.10.080(B) of this Chapter.

5.10.140 Sales tax collection-registration requirement.

- A. No person may engage in any taxable transactions within the City without first procuring a sales tax collection certificate from the City through and as part of the business license application process under Title 6 of this Code.
- B. A new business shall apply for a sales tax collection certificate concurrently with the new business license application that must be obtained before commencing business.
- C. Sales tax collection certificates shall expire at the same time as the establishment’s business license and must be renewed concurrently.
- D. Where the application or City records indicate that applicant is currently in violation of filing and/or remittance requirements of the City’s sales tax provisions, the City Manager or the City Manager’s designee may deny the application for a sales tax certificate until the applicant enters into binding agreement setting out a method by which full compliance will be attained.

- E. The sales tax collection certificate of any seller will be suspended when such seller fails to pay delinquent taxes, penalties and interest within 30 days after the postmark date of the notice of delinquency.

5.10.170 Business operation injunction-failure to file and pay.

In addition to all other rights and remedies available to the City under law, a proceeding requesting the issuance of an injunction prohibiting a business from continuing to conduct business within the City may be filed by the City in the Superior Court 30 days after providing notice either by hand delivery or by regular mail to any business which has failed to file a sales tax return or has failed to pay the sales taxes due.

5.10.180 Protests.

- A. If a seller wishes to dispute a finding of the City involving taxable sales, sales taxes or penalties or interest, the seller must file a written protest with the City Clerk within 30 calendar days of the date of the written notice of the City's findings. The protest must set forth:
 - 1. The seller's justification for reducing or altering the taxes, penalties or interest due; or
 - 2. The seller's reasons for challenging the City's findings.
- B. In processing the protest, the City Manager, or the City Manager's designee, may hold an informal meeting with the seller either on its own or upon request of the seller and may also require the seller to submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.
- C. The City Manager shall make a final written determination on the seller's protest and mail a copy of the determination to the seller.
- D. If a written protest is not filed within 30 days of the date of the written notice of the City Manager's findings, then the findings shall be final, due and payable to the City.

5.10.185 Protest of tax by buyer.

- A. If a seller adds the tax levied under this Chapter to the selling price, service charge or rent in a transaction that the buyer believes is exempt from taxation under this Chapter, the buyer may remit the tax to the seller with a statement that the tax is paid under protest, and requesting that the seller mark any receipt, invoice or other evidence of the sale to indicate that the tax is paid under protest. A buyer who fails to remit the tax at the time of the sale with a statement that the tax is paid under protest waives the right to protest the tax or otherwise to challenge the imposition of the tax. The seller shall include with the seller's sales tax return for the tax reporting period in which the protested tax was paid a copy of the receipt, invoice or other evidence of the sale marked to reflect the payment of the tax under protest. The seller shall pay the protested tax to the City with any other sales tax that is due for the reporting period.
- B. A buyer who has remitted sales tax under protest in accordance with subsection A of this section shall file with the Finance Director a statement of protest on a form provided by the Finance Director accompanied by a copy of the receipt or invoice for the sale no more than 30 days after the date of the sale. The buyer shall state on the form the terms of the sale, the amount of the sale, the goods, rental or services purchased, the location from which the seller fulfilled the order, and all other information necessary to support the exemption of the transaction from taxation. A buyer who fails to make a timely filing of a completed statement of protest waives the right to protest the tax or otherwise to challenge the imposition of the tax.
- C. A buyer who files a statement of protest under subsection B of this section bears the burden of proving that a transaction is exempt from taxation. In addition, the Finance Director may investigate the facts related to the claim of exemption. The Finance Director shall issue a written decision,

stating the reasons for granting or denying the protest. The ruling will be mailed to the buyer and the seller at the addresses given on the protest.

- D. If a protest is granted, the City shall refund the protested tax amount to the buyer upon receipt of protested tax from the seller.
- E. If a protest is denied, the buyer may appeal the denial by filing an appeal to the City Manager, and providing a copy of the appeal to the Finance Director, within 30 days after the date of mailing of the notice of denial. The decision of the City Manager shall be the final decision of the City on the protest.

5.10.190 Limit of liability.

- A. Questions regarding the applicability of this Code, its interpretation, forms or any other matter relating to sales taxes shall be submitted in writing to the Finance Director. Oral statements are not binding on the City. Only written interpretations, properly requested, may be relied upon. The authority granted to the Finance Director shall not create an obligation or duty requiring the Finance Director to take any action to protect or notify any seller or buyer within the City regarding their tax rights. The City assumes no liability for loss or damage caused by individual interpretation and application of this Code or forms related to it.
- B. *Electronic Transactions.* To the extent that the City sends and accepts electronic records and electronic signatures, those electronic records and electronic signatures are governed by the Uniform Electronic Transactions Act, AS 09.080.010 et seq.

5.10.200 Tax receipts.

A. 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.

F. *Exempt Sales.* If any part of the sale is exempt, it must be shown on the sales receipt. Exempt sales can only be made upon showing of a valid exemption card or certificate. For each such sale, the seller shall:

1. Record the date of the sale; and
2. Record the exempt card/certificate number presented (when applicable); and
3. Record the expiration date for the exempt card/certificate presented (when applicable); and
4. Record the name of the person making the exempt sale; and
5. Record the name of the entity/business claiming the exemption; and
6. Record the receipt number for the sale.

5.10.210 Exemption application and exemption authorization card.

A. Any person claiming an exemption under this Chapter shall apply to the City for an exemption authorization card on a form provided by the Finance Director within one month of operating or conducting business or sales or performing services within the City in the first year in which sales are made, and thereafter shall apply by December 15th of each year for the following calendar year. Numbered exemption authorization cards will be issued by the City. The exemption authorization card must be shown to all sellers or the number must be recorded on a list provided by the City for all sales and must be recorded at the time of sale by the seller. The exemption is valid only for those items that are purchased for resale as described under Section 5.10.110 or are purchased by agencies and organizations that are exempted by City, state or federal law. Any person that believes an attempt to purchase unauthorized items as tax exempt is being made at that person's place of business may refuse to accept the exemption card.

- B. Purchasers of “construction materials and services” are not eligible for an exemption card for such purchases.
- C. Exemption cards may not be assigned or transferred.

5.10.220 Revocation of exemption status.

- A. The City Manager may revoke any exemption authorization, card or other authority to obtain an exemption if the person holding the exemption has been found to have used the exemption authorization card to obtain an exemption to which the holder or any other person is not entitled. The burden of proving an exemption shall be on the person claiming an exemption.
- B. Upon a determination by the City Manager that an exemption holder has misused or permitted another to misuse the sales tax exemption authorization issued to the holder, the City Manager may revoke the sales tax exemption authorization of such person by sending written notice via certified mail to the exemption holder. Before sending a notice of revocation under this chapter, the City Manager shall send a written notice of violation via certified mail to the exemption holder advising the holder of the violation and the potential for revocation. Upon written request filed with the Finance Director by the holder, the City Manager shall meet with the holder to discuss the alleged violations. If the City Manager determines a violation of this Chapter has occurred by the holder, the City Manager shall revoke the exemption card. If an exemption holder does not respond to a notice of violation issued under this section within 30 calendar days of receipt of a notice of violation, the exemption card shall be revoked.
- C. The revocation shall be permanent unless the City Manager provides for a shorter period in the revocation order.

5.10.230 Refunds.

- A. A claim for a refund of a payment of sales tax which is made more than six months from the date on which the tax was paid or became due and payable is forever barred, except for a refund for “construction materials and services” as set forth in this Chapter.
- B. A claim for refund of payment shall be made by filing a request for refund with the City Manager on a form provided by the Finance Director, specifying the date the tax was imposed, the amount of refund claimed, and the basis upon which the claim for refund is made. The decision of the City Manager shall be the final decision of the City.
- C. Any appeal of the City's decision must be filed in the superior court for the state of Alaska in Cordova within 30 days of the final decision of the City Manager in accordance with the Alaska Rules of Appellate Procedure. Failure to file an appeal within the time period waives any claims to a sales tax refund.

5.10.240 Construction materials and services exemption and refund.

- A. Except as limited by this section, a purchaser who obtains a building permit for a construction project may apply for a refund for sales tax paid to the City above \$350 on purchases of “construction materials and services.”
- B. The total time period eligible for refund of sales tax under this section is two years. A separate application for refund must be submitted for each year.
- C. An exemption under this section requires the purchaser to pay sales tax as otherwise required under this Chapter and submit a request for refund under this section. If no application for refund is filed or the purchaser is not eligible for a refund under the requirements of this section, sales tax on “construction materials and services” shall be due and owing without exemption.

- D. A purchaser seeking a refund for “construction materials and services” shall file a complete “construction materials and services” tax refund application with the Finance Director no later than October 1st for sales tax paid in the prior year. The application must include:
 - 1. Identification of the construction project for which the application is filed and the building permit number for that specific project
 - 2. A copy of the building permit issued for that specific construction project
 - 3. Proof of \$350 in sales tax paid to the City for “construction materials and services” on the specified construction project for that year
 - 4. Itemized receipts showing sales tax paid to the City for all purchases of construction materials and services for which the purchaser is seeking a refund with the building permit number included on each of the receipts.
 - 5. A signed statement attesting to the use of the purchased materials and services for the specified construction project.
- D. Once an application is filed, the City will notify the applicant that it has received the application and indicate whether or not it is complete. If it is not complete, the City will notify the applicant of the missing information. If incomplete, the applicant will have 30 days to update the application. Incomplete applications that are not completed within 30 days from the date of notification will be rejected.
- E. Once an application has been deemed complete, the City Manager shall review the application and issue a written decision granting or denying it. Refunds will be issued no more than one year from the date awarded. If denied, the written decision must include the reasons for denial. The City Manager’s decision is final.

5.10.270 Disposition of proceeds.

- A. The revenue received by the City under this Chapter shall be first applied by the Finance Director in accordance with the provisions of any outstanding bond or other evidence of indebtedness secured by a pledge of such revenue and consistent with the ordinances creating the same.
- B. Sales tax revenue received by the City which is not obligated as security for the payment of bonded indebtedness of the City shall be deposited in the general fund of the City.

5.10.280 Tax return—Payment to City.

- A. Every seller required by this Chapter to collect sales tax shall file a tax return each quarter. A tax return shall be filed on or before the last day of the month of the month immediately following the end of the quarter. A tax return must be filed for each quarter. Every seller shall pay the tax due for each quarter at the time the tax return is due for that quarter.
- B. The tax return shall include, but not be limited to, the following information:
 - 1. Gross sales
 - 2. The amount of gross sales claimed exempt or nontaxable and the basis of each exemption
 - 3. Computation of taxes to be remitted
 - 3. The amount of sales tax credits accruing as a result of uncollectible accounts receivable
 - 4. The amount of all taxable sales and services for the preceding quarter and amount of tax on those sales and services
 - 5. Any other information required on the form.
- C. Every person holding a City business license must file a sales tax return form even if there is no reported gross revenue for that period of time.

- D. Each tax return filed with the City shall be signed by an authorized and responsible individual who shall attest to the completeness and the accuracy of the information contained in the tax return. Tax returns shall be filed with the Finance Director.
- E. The preparer of a sales tax return shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases. Documentation for exempted sales must include the number of the exemption authorization card presented by the buyer at the time of purchase; the date of purchase; the name of the person making the purchase; the organization making purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the City upon request. Failure to provide this documentation may invalidate that portion of the claim of exemption for which no documentation is provided.
- F. The City Manager may require that a seller or any person performing services make out a return on a monthly basis and file the return on the last day of each calendar month if the seller has been in business for less than 12 consecutive calendar months, or if a seller has been late in filing sales tax returns or transmitting sales taxes collected two or more times within the preceding two-year period.

5.10.290 Record keeping and investigation.

- A. It shall be the duty of every seller engaged or continuing in business in the City to keep and preserve suitable records of all sales made, and such other books or accounts as may be necessary to determine the amount of tax for collection for which the seller is liable, including records of the gross daily sales, together with invoices of purchases and sales, bills of lading, bills of sale or other pertinent records and documents that are relevant to the accuracy of a tax return. In the event the seller allows an exemption pursuant to this Chapter, the seller shall reserve a copy of the bill of sale therefor. It shall be the duty of every such seller to keep and preserve for a period of three years from the date of filing any return, all such books, invoices and other records as may be necessary, all of which shall be subject to examination by the city treasurer or any authorized employee or agent thereof who is engaged in checking or auditing the records of any seller required to make a return under the provisions of this Chapter.
- B. For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax collected or which should have been collected, the Finance Director, or the Finance Director's duly authorized agent, may hold investigations and hearings concerning any matters covered by this Chapter, and may examine any relevant books, papers, records or memoranda of any seller, or may require the attendance of any seller, or officer or employee of seller.
- C. City Council shall have the power to issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda under this Chapter.

5.10.300 Estimated tax.

- A. In the event the City is unable to ascertain taxes due under this Chapter due to the failure of the seller to keep accurate books, allow inspection or file a return, the City may make an estimate of the tax due based on any evidence in its 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.
- C. A seller's tax liability under this Chapter may be determined and assessed for a period of three 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 three-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 three-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 sales tax that is due from the seller. 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 the amount of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within 30 calendar days after service of notice of the 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 tax amount.
- F. 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 issued by the City are:
 - 1. The identity of the seller is in error;
 - 2. 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
 - 3. The seller disputes the denial of exemption(s) for certain sales.
- G. 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 50 dollars for each calendar month or partial month for which the amount of sales tax that is due has been determined.

5.10.310 Recovery of taxes—Delinquency date.

- A. Taxes due but not paid may be recovered by the City by an action at law against the buyer. Taxes collected by the seller but not transmitted to the City or which should have been collected by the seller but were not may be recovered by an action at law against the seller, and sales tax returns shall be prima facie proof of tax collected but not transmitted.
- B. Taxes shall be considered delinquent if not received by the City Manager or the City Manager's designee by the due date for transmission of the seller's tax return for each quarter as required by Section 5.10.280 of this Code.

5.10.315 Penalties and Interest for late filing.

- A. Late filing fee. A seller who has made sales in the City, and who thereafter fails to file a sales tax return, as required by this Chapter, shall incur a late filing fee of 50 dollars for each month, or fraction thereof, that the return is late. Fees under this subsection shall not exceed 150 dollars per return.
- B. Late payment penalty. A seller who has collected taxes and who thereafter fails to transmit the collected taxes, as required by this Chapter, shall incur a civil penalty of five percent of the taxes for each month of delinquency, or any fraction thereof, from the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed a total of 20 percent of the amount of the taxes due to be transmitted. The penalty does not bear interest.
- C. Interest on delinquent taxes. Delinquent sales tax bear interest at the rate of 15% per annum until paid from the date of delinquency until paid for sellers and from the date of sale until paid for buyers.

- 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, and 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 City Manager upon written application of the taxpayer accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed to the City, within 45 calendar days after the date of delinquency. A seller may not be granted more than one waiver of penalty under this subsection in any one calendar year. The City Manager shall report any waivers of penalty to City Council in writing.

5.10.320 Lien.

- A. The tax, penalty and interest, as imposed by this Chapter, together with all administrative and legal costs incurred, shall constitute a lien in favor of the City upon all the seller's real and personal property. The lien arises upon delinquency, and continues until the liability for the amount is satisfied, or the property is sold at a foreclosure sale. The lien has priority as allowed by AS 29.45.650(e).
- B. The City may cause a sales tax lien to be filed and recorded against all real and personal property of a seller where the seller has:
 1. Failed to file sales tax returns for two consecutive filing periods required by this Chapter;
 2. Failed within 60 days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement authorized and approved by the City Manager
- C. Before filing a sale tax lien, the City shall cause a written notice of intent to file to be mailed to the last known address of the delinquent seller.

5.10.325 Violations.

- A. A seller that fails to file a sales tax return or remit sales tax when due, or to comply with exemption requirements under this chapter, in addition to any other liability imposed by this Code, shall pay to the City all costs incurred by the City to determine the amount of the seller's liability 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 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. Notwithstanding any other provision of law, and whether or not the City may bring a declaratory judgment action against a seller believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state, and federal law. The action shall be brought in the judicial district of Cordova.
- D. In addition to all other remedies available, the City may bring a civil action to:
 1. Enjoin a violation of this Chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
 2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.

3. Foreclose a recorded sales tax lien as provided by law.
- E. All remedies are cumulative and are in addition to those existing at law or equity.

5.10.330 Penalty for violations.

- A. A buyer or seller who knowingly or negligently submits false information in a document filed with the City under this Chapter is subject to a penalty of \$500.
- B. A seller who knowingly or negligently submits false information in a document filed with the City pursuant to this Chapter is subject to a penalty of \$500.
- C. A seller who knowingly or negligently falsifies or conceals information related to its business activities with the City is subject to a penalty of \$500.
- D. A person who knowingly or negligently provides false information when applying for an exemption is subject to a penalty of \$500.
- 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 times any deficiency found or estimated by the City with a minimum penalty of \$500.
- F. A seller who falsifies or misrepresents any record filed with the City is guilty of an infraction and subject to a penalty of \$500 per record.
- G. Misuse of an exemption card is a violation and subject to a penalty of \$50 per incident of misuse.
- H. Except as otherwise provided, each act or omission in violation of this Chapter, and each day in which the act or omission occurs, is a separate violation of this Chapter.
- I. 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 any seller. The City may also recover attorney's fees in any action against a delinquent seller.

5.10.340 Repayment plans.

- 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.
- 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 calendar years.
- C. The repayment plan shall include a secured promissory note that substantially complies with the following terms:
 1. The seller agrees to pay a minimum of ten percent 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 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 years.
 3. Interest at a rate of 15 percent per year 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 or more payments in accordance with the terms of 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 under the law.

5.10.350 Additional regulations.

Council may promulgate by resolution regulations as may be found necessary from time to time to carry out the purpose of this Chapter.

5.10.360 Delinquent sales tax roll confidentiality.

- A. During the third week of June of each year, the City Manager shall publish a notice with the names of those sales tax accounts that are delinquent for the quarter ending March 31st; and successively in September, those sales tax accounts that are delinquent for the second quarter ending June 30th; in December, those sales tax accounts that are delinquent for the third quarter ending September 30th; in March, those sales tax accounts that have become due and delinquent for the fourth quarter ending December 31st. The City Manager shall include in the notice the names of those sales tax accounts which remain delinquent from any preceding quarter. For the purposes of determining delinquency for publication, an account shall be considered delinquent if the account is delinquent as defined by Section 5.10.310 of this Code and no agreement has been reached by the seller with the city for other means of payment. The publication of such delinquent sales tax accounts shall not be considered a disclosure within the provisions of this section.
 - 1. All returns filed with the City for the purpose of complying with the terms of this Chapter, all data obtained for such returns, and all books, papers, record or memoranda obtained under the provisions of this section are declared to be confidential, and shall be exempt from inspection of all persons except the City Treasurer, City Manager and City Attorney, or any authorized employee thereof; provided, however, the City Manager may present to the City Council in executive session any return or data obtained therefrom; provided, the purpose of such presentation is informational or concerning legal action against the person whose return or tax remittance is in question.
 - 2. All returns referred to in this Chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection, except as provided otherwise in this section; provided, however, nothing in this section shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return or report filed by him or her, nor to prohibit the publication of notices provided for in this section.
- B. The use of tax returns in a criminal or civil action brought to enforce the terms of this Chapter against any person shall not be deemed a violation of this section, and the City, in the prosecution of any such action, may allege, prove and produce any return theretofore filed by and on behalf of any such defendant, including any data obtained from any such return or returns, other provisions of this Chapter to the contrary notwithstanding.

Section 6. Chapter 5.45 “Self-Insurance Trust Fund” of the Cordova Code of Ordinances of Cordova, Alaska is hereby repealed.

Section 7. Section 1.28 of the Cordova Code of Ordinances of Cordova, Alaska is hereby amended to read as follows:

CODE REF	CODE TITLE	FINE PER DAY
5.10.330(A)	Buyer or seller knowingly or negligently submitting false information in a document filed with the City	\$500.00

<u>5.10.330(B)</u>	Seller who knowingly or negligently submits false information in a document filed with the City	<u>\$500.00</u>
<u>5.10.330(C)</u>	Seller knowingly or negligently falsifies or conceals information related to its business activities with the City	<u>\$500.00</u>
<u>5.10.330(D)</u>	Person knowingly or negligently provides false information when applying for an exemption	<u>\$500.00</u>
<u>5.10.330(F)</u>	Seller falsifies or misrepresents any record filed with the City	<u>\$500.00</u>
<u>5.10.330(G)</u>	Misuse of an exemption card	<u>\$50.00</u> <u>per misuse</u>

Section 8. This ordinance shall be effective January 1, 2025 conditional upon the passage and approval of Ordinance No. 2022 and in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska.

1st reading: _____, 2024
 2nd reading and public hearing: _____

PASSED AND APPROVED THIS _____ DAY OF _____, 2024.

 David Allison, Mayor

ATTEST:

 Susan Bourgeois, CMC, City Clerk

DRAFT