

Code Ordinance

By: Finance Department
Introduced: February 12, 2018
First Public Hearing: February 26, 2018
Second Public Hearing: March 12, 2018
Adopted: March 12, 2018
Yes: Burney, Dryden, Graham, Harvey, Ledford, O'Barr
No: None
Absent: None

**City of Wasilla
Ordinance Serial No. 18-06**

An Ordinance Of The Wasilla City Council Amending Wasilla Municipal Code (WMC) 5.16, Sales Tax, To Enhance Administrative Procedures For The Collection Of Sales Tax And Revise Sales Tax Exemptions, WMC 6.04, Business Licenses Generally, To Establish Additional Procedures For City Business Licensing And WMC 1.20 General Penalty, To Provide Penalty For Sales Tax Violations.

Section 1. Classification. This ordinance is of a general and permanent nature and shall become part of the city code.

Section 2. Amendment of subsection. WMC 5.16.045(A), Rules applicable to particular businesses or occupations, is hereby amended to read as follows:

A. Real Estate Sales Commissions.

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

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

Section 3. Amendment of subsection. WMC 5.16.050(A), Exemptions, is hereby amended to read as follows:

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- A. The following transactions are exempt from sales tax:
1. Sales of real property and interests in real property.
 2. Casual and isolated sales, rentals or services, not made:
 - a. In the ordinary course of business; or
 - b. Pursuant to a business license; or
 - c. By sellers representing themselves to be in the business of making such retail sales, rentals or services.
 3. Sales of securities, insurance and bonds of guaranty and fidelity.
 4. The following fees charged by banks, savings and loan associations, credit unions and investment banks:
 - a. Fees associated with deposit accounts, including service fees, monthly account fees, non-sufficient funds (NSF) fees, and attachment fees.
 - b. Fees for the purchase of bank checks, money orders, travelers checks, foreign currency and similar products for payments.
 - c. Fees for, or commissions on, the sale, exchange or transfer of currency, stocks, bonds and other securities.
 - d. Fees for the use of automatic teller machines and for transactions made through automatic teller machines, notary fees and overdraft protection fees.
 - e. Loan transaction fees and escrow collection services.

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- f. Safe deposit box rentals or fees.
- 5. Contracts to transport elementary or secondary school students to and from school.
- 6. Sales of food in lunchrooms or cafeterias in elementary, secondary or post-secondary schools that are operated primarily for the convenience of school students and faculty, and not operated for profit.
- 7. 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.
- 8. Sales of subscriptions to newspapers and other periodicals.
- 9. Sales, rentals and services **by or** to the United States, the state of Alaska, and any of their agencies, instrumentalities, or political subdivisions **and federally recognized Indian tribes. This exemption does not**

apply to the following:

a. Sales of gaming by federally recognized Indian tribes, political subdivisions, and municipalities; or

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

i. Sewer and water utility sales, services and rentals;

ii. Wasilla Municipal Airport sales, services and rentals;

iii. Wasilla Museum and Visitor Center sales;

Bold & Underline, added. ~~Strikethrough~~, deleted

iv. Rents for commercial properties owned

by the city;

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

11. Sales of admission to school entertainments, school athletic events, and events conducted for the benefit of charitable or community organizations. Retail sales by a school sanctioned activity group raising funds for its approved purpose. This exemption does not apply to sales of gaming property.

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

13. Sales related to orbital space facilities, space propulsion systems, space vehicles, satellites or stations, to the extent of the exemption required by AS 29.45.650(h).

14. Sales of property purchased with food coupons, food stamps, or other certificates issued under 7 U.S.C. 2011-20~~3625~~ (Food Stamp Act) or food instruments, food vouchers, or other certificates issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants and Children).

15. Residential rentals for a term of 30 or more consecutive days.

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16. Child and adult day care services, pre-elementary school and babysitting services.

17. Sales of cemetery plots, caskets, funeral and burial-related goods and services by a funeral home.

18. Human health care services provided by a health care provider licensed by the state of Alaska under AS Title 8, and sales of property and services pursuant to a prescription or written order from such a person.

19. Sales and rentals of hearing aids, crutches, wheelchairs and personal apparatus specifically manufactured for a patient.

20. U.S. Postage; and shipping and freight hauling services that originate in the city but the end destination is outside city limits.

21. Assisted living services provided in accordance with an assisted living plan and in an assisted living home licensed as such by the State of Alaska.

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

23. Sales of commercial air transportation services.

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24. Sales of transportation services by taxicabs, limousine companies, and rideshare companies.

Section 4. Amendment of subsection. WMC 5.16.050(B), Exemptions, is hereby amended to read as follows:

B. The following transactions are exempt from sales tax; provided, that the buyer presents to the seller at the time of the sale transaction a valid certificate of exemption applicable to the transaction, issued to the buyer under WMC 5.16.080:

1. 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.**

2. 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 thereof, or is consumed in the manufacturing process.

3. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment or services by a licensed contractor under Chapter 8.18 of the Alaska Statutes, to an owner of real property for use in the original construction of, or renovations to, improvements to ~~the~~ real property **located inside the city.** This exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in repairing or maintaining real property.

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4. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment or services by a licensed contractor under Chapter 8.18 of Alaska Statutes, to a person licensed as a contractor under Chapter 8.18 of the Alaska Statutes for use in the original construction of, or renovations to, improvements to real property. This exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in repairing or maintaining real property.

5. Sales, rentals and services to a person that the Internal Revenue Service recognizes as an organization described in Section 501(c)(3), 501(c)(4) or 501(c)(19) of the Internal Revenue Code; provided, that the sale, rental or service is not for use in an “unrelated trade or business” of the person, as that term is defined in Section 513 of the Internal Revenue Code.

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

7. Sales of food supplies to food service establishments **located or making sales inside the city and registered with a city business license** for incorporation into food products to be sold to the public.

8. Sales of food supplies to hospitals, institutions housing six or more residents, recreational camps and schools **located inside the city and registered with a city business license**.

9. Services sold for resale when the services are directly integrated into services or goods sold by the buyer located within the city and

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registered with a city business license ~~the sales tax administrator~~, to another purchaser in the normal course of business, provided that the services are purchased separately for resale, and the services are identified, charged for and billed for separately without markup from any other services.

Section 5. Amendment of subsection. WMC 5.16.080(B), Certificate of exemption, is hereby amended to read as follows:

B. ~~Except as provided in this subsection, there shall be no charge for a certificate of exemption.~~ The applicant shall pay the city:

1. For a certificate of exemption issued under WMC 5.16.050(B)(1)(2)(7)(8) for the calendar year, \$10.00.

2. For a certificate of exemption issued under WMC 5.16.050(B)(6) for the calendar year, \$10.00.

~~31.~~ For a certificate of exemption issued under WMC 5.16.050(B)(3) for the calendar year, ~~\$35.00~~30.

~~42.~~ For a certificate of exemption issued under WMC 5.16.050(B)(4) for the calendar year, ~~\$250.00~~150.

Section 6. Amendment of subsection. WMC 5.16.170(A), Tax records – Additional information from seller - Audits, is hereby amended to read as follows:

A. A seller shall maintain records of transactions supporting the information that the seller submits on sales tax returns, including without limitation records of daily gross receipts from sales, rentals and services, invoices of purchases and sales, bills of lading and bills of sale. A seller shall also maintain records of transactions that are exempt from sales tax, including information that

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will substantiate the claim of exemption. The seller shall maintain all such records for a period not less than three **full calendar** years ~~after the date of payment of the sales tax to which they pertain~~, except to the extent that the city has authorized in writing their destruction or disposal at an earlier date.

Section 7. Amendment of subsections. WMC 5.16.190(A) and WMC 5.16.190(B), Violations – Remedies, are hereby amended to read as follows:

A. **Remedies and penalties for violations under this chapter are provided in WMC Chapter 1.20.** Each of the following is a violation of this chapter:

1. A buyer failing to pay sales tax to a seller as required by this chapter.
2. A seller failing to collect sales tax from a buyer as required by this chapter.
3. A seller failing to file a sales tax return ~~or remit sales tax when due.~~

4. A seller failing to remit sales tax collected on sales as required by this chapter.

~~54.~~ A buyer or seller knowingly submitting false information in a document filed with the city under this chapter.

~~65.~~ A seller falsifying or concealing information related to its business activities in the city for the purpose of avoiding payment of sales tax.

~~76.~~ A seller failing to permit the city to inspect records of the seller as required by this chapter.

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87. A seller failing to maintain records as required by this chapter.

98. A buyer giving false information when applying for a certificate of exemption, or using a certificate of exemption in a transaction that was not exempt from sales tax under the exemption for which the certificate was issued.

109. A seller failing to notify a transferee of the seller's business of the transferee's withholding obligation under WMC 5.16.130(C) or the transferee failing to withhold the amount required by WMC 5.16.130(C).

110. A person causing or permitting a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to commit a violation of this chapter described in subsections (A)(1) through (10) of this section.

B. Sales tax ~~A person who is convicted of a violations~~ are minor offenses and are punishable by the fine listed in the fine schedule in WMC Chapter 1.20 ~~of this chapter described in this section shall be subject to a fine of not more than \$1,000 plus any surcharge required to be imposed by AS 29.25.074, imprisonment for not more than 90 days, or both such fine and imprisonment.~~

Section 8. Amendment of section. WMC 5.16.215, Protest, is hereby amended to read as follows:

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A. A seller disputing the amount of the estimate, or the results of an examination or audit under WMC 5.16.170, may do so by filing a protest with the city's finance director within 30 days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:

1. The seller's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated; or

2. The seller's reasons for challenging the examination or audit results.

B. Upon receipt of a protest filed under subsection (A) of this section, the finance director shall present the protest to the mayor **or mayor's designee** for processing.

C. The mayor or mayor's designee, who may be a city employee, shall advise the seller of a date certain for an informal meeting or hearing with the seller and shall informally review the protest, make written findings and state reasons for the decision. No later than the first business day following the written decision, the mayor or mayor's designee shall mail the decision to the seller by certified mail, return receipt requested, to the last known mailing address of the seller. The written decision shall be maintained by the mayor or the mayor's designee in accordance with the city's records management policy.

D. **A decision under subsection (C) of this section may be appealed to the superior court as provided in the Alaska Rules of Appellate Procedure.** ~~The seller may appeal the written decision under subsection (C) of~~

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~~this section to an administrative hearing officer pursuant to § 5.16.220 within 15 business days from the date of mailing the written decision. Failure of the seller to appeal the decision shall be deemed to be a waiver of any right to appeal such decision.~~

Section 9. Repeal of section. WMC 5.16.220, Appeal, is hereby repealed in its entirety:

~~5.16.220 Appeal~~

~~A. Definitions. In this section, the following words and phrases shall have the meanings set forth in this section:~~

~~ADMINISTRATIVE HEARING OFFICER.~~

~~A person is appointed as an administrative hearing officer pursuant to Chapter 2.76 to hear appeals related to the decision of the mayor or mayor's designee on a sales tax audit.~~

~~APPELLANT.~~

~~A person who files an appeal application pursuant to subsection (D) of this section.~~

~~B. Hearing Officer. Appeals filed under this section shall be heard by an administrative hearing officer appointed under § 2.76.010. The administrative hearing officer shall hear and decide on appeals from a decision of the mayor or mayor's designee on the results of a sales tax audit pursuant to § 5.16.170.~~

~~C. Staff. The Office of the City Clerk shall assist the administrative hearing officer in preparing for and conducting the hearing to include making an electronic recording of the appeal hearing, preparing correspondence to include the notification of the decision of the administrative hearing officer.~~

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~~D. Application for Appeal. The appellant affected by a decision of the mayor or mayor's designee on the results of a sales tax audit pursuant to § 5.16.170, may appeal the decision to an administrative hearing officer by filing an appeal application with the Office of the City Clerk on a form provided by the Office of the City Clerk within 15 business days from the date of decision. The appeal application shall state with specificity the grounds for the appeal and include contact information for the appellant or the appellant's representative.~~

~~E. Filing Fee. A \$300 filing fee shall accompany the application for appeal. The appellant may request that the city waive payment of part or all of the fee and costs because of the appellant's indigence. The request shall include a sworn financial statement from the appellant and be submitted to the city clerk. The city clerk will grant or deny the request based on a determination whether the appellant is indigent.~~

~~F. Hearing. The administrative hearing officer shall conduct a hearing on the appeal no more than 60 days after the appeal application is filed. Records and proceedings before the administrative hearing officer shall be confidential and are not open to the public. The records related to the proceedings shall be maintained by the mayor or the mayor's designee in accordance with the city's records management policy.~~

~~G. Decision. The administrative hearing officer's authority includes the authority to recommend, in writing, that the mayor or mayor's designee compromise and abate penalties and/or interest and fees, and to recommend, that the mayor or mayor's designee negotiate and enter into payment plans for~~

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~~delinquent sales taxes, penalties, and/or interest and fees. The decision of the administrative officer shall be in writing and sent to the appellant by the city clerk on the first business day following the decision.~~

H. ~~A decision under subsection (G) of this section may be appealed to the superior court as provided in the Alaska Rules of Appellate Procedure.~~

Section 10. Enactment of section. WMC 6.04.010, Definitions, is hereby enacted to read as follows:

6.04.010 Definitions.

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

“Business” means a person engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, goods, or other property.

“Licensee” means the person to whom a business license is issued pursuant to this chapter.

“Person” means an individual, partnership, limited liability company, joint venture, association, corporation, estate trust, business trust, or any group or combination acting as a unit.

“Special Event” means an event temporary in nature lasting seven days or less where business is engaged.

“State of Alaska NAICS codes” means a list of codes used by the state of Alaska to classify business activity in the state with a number based on the North American Industry Classification System (NAICS)

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Section 11. Amendment of section. WMC 6.04.015, License required, is hereby amended to read as follows:

A. No person may engage in business in the city without a current business license issued by the city under this chapter. A person engages in business in the city if the person **maintains a permanent or temporary place of business within the city, or** makes a transaction in the city under **WMC** Section 5.16.040.

~~B. A business license is issued for a calendar year, and expires on December 31st of the calendar year for which it was issued. The city will issue one business license for all locations at which the licensee engages in business in the city.~~

Section 12. Enactment of section. WMC 6.04.020, Type and duration, is hereby enacted to read as follows:

6.04.020 Type and duration.

A. Annual business license.

1. An annual business license is issued to a person that engages in business throughout the year or portion thereof.

2. An annual business license is assessed for the calendar year, and expires on December 31 of the year in which it was issued. If an application is submitted in the month of December, the license will be issued for the remainder of the current year and the following calendar year.

3. An annual business license will be issued for each line of business within the state of Alaska NAICS codes that is operated in the city.

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4. An annual business license will be issued to each location a person operates inside the city.

B. Special event business license.

1. A special event business license is issued to a person organizing an event or that engages in business at an event temporary in nature lasting a period of seven days or less.

2. A separate special event business license is required for each special event lasting seven days or less.

3. A special event business license shall expire at the conclusion of the special event or seven days after its issuance.

4. An organizer of a special event is required to maintain a list of vendors and their email or mailing addresses participating in the event and provide the list to the city if requested.

Section 13. Amendment of section. WMC 6.04.025, Application - Fee, is hereby amended to read as follows:

A. An application for a business license is submitted to the finance director on a form approved by the finance director, and shall be accompanied by the fee required under subsection B of this section. The application shall include the following information, and any additional information that the finance director may reasonably require:

1. The name of the applicant.
2. Any other name under which the applicant will engage in business in the city.

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3. The applicant's mailing address, telephone number and email address.

4. The street address and legal description of each location in the city where the applicant will engage in business.

5. If the applicant is not a natural person, the applicant's type of organization, and the jurisdiction under whose laws the applicant was organized.

B. The fee for **an annual** business license is **\$25.00**, ~~twenty-five dollars (\$25.00); provided, that there shall be no fee for a business license that is issued to an organization described in Section 501(c)(3), 501(c)(4) or 501(c)(19) of the Internal Revenue Code.~~ The fee is not prorated if the business license is issued after the calendar year commences. The city shall waive the fee **when:** ~~if the applicant held a business license for the entire preceding calendar year, and had no sales tax payment delinquencies in that calendar year.~~

1. The business license is issued to a nonprofit organization registered under section 501(c)(3), 501(c)(4) or 501(c)(19) of the Internal Revenue Code.

2. The business license is issued for an additional location of the same name operated in the city.

3. The business license of the same name is issued for an additional line of business within the state of Alaska NAICS operated in the city.

C. The fee for a special event business license is \$10.00.

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Section 14. Amendment of section. WMC 6.04.035, Review of application, is hereby amended to read as follows:

A. The ~~f~~Finance ~~d~~Director shall issue a business license to an applicant upon finding that the application includes all required information, the applicant has paid any required application fee, and the applicant has satisfied the requirements of subsections (B) and (C) of this section.

B. The ~~f~~Finance ~~d~~Director shall review a business license application to determine whether the applicant is delinquent in paying any amount to the city for any purpose. The ~~f~~Finance ~~d~~Director shall notify the applicant in writing of any delinquency that it finds. In response to the notice, the applicant shall either:

1. Provide evidence satisfactory to the ~~f~~Finance ~~d~~Director that the delinquent amount has been paid; or
2. Provide a plan for paying the delinquent amount with security, satisfactory to the ~~f~~Finance ~~d~~Director, for the payment of the delinquent amount.

C. The ~~f~~Finance ~~d~~Director shall refer a business license application, other than an application to renew a business license, to the ~~c~~City ~~p~~Planner to determine whether any structure, or use of land or a structure, where the applicant will engage in business complies with the permitting and land use regulations ~~in does not conform to~~ WMC Title 16 and/or, ~~or~~ the terms and conditions of any rezoning, planning commission approval, or other permit administrative approval granted under WMC Title 16. The city planner shall notify the applicant

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~~in writing~~ of any such **violation** ~~nonconformity~~. In response to the notice, the applicant shall either:

1. Provide evidence satisfactory to the ~~c~~City ~~p~~Planner that the **violation** ~~nonconformity~~ has been corrected; or

2. Provide a plan **to correct** ~~for correction~~ of the **violation** ~~nonconformity~~ satisfactory to the ~~c~~City ~~p~~Planner, with security satisfactory to the ~~c~~City ~~p~~Planner **to ensure** ~~for the~~ performance of the plan. **After the violation has been satisfied or a plan for correction of the violation has been accepted, the city planner shall notify the finance director.**

D. The ~~f~~Finance ~~d~~Director may investigate the financial condition and credit history of a business license applicant. If the ~~f~~Finance ~~d~~Director finds that the financial condition, ~~or~~ credit history, **or transient nature** of the applicant indicates a substantial risk that the applicant may not make full and timely payment of sales tax as required under **WMC** Chapter 5.16, the ~~f~~Finance ~~d~~Director may require the applicant to post a bond or other security to ensure full and timely payment.

Section 15. Enactment of section. WMC 6.04.040, License - Compliance with other provisions required, is hereby enacted to read as follows:

6.04.040 License – Compliance with other provisions required.

A person engaging in a business subject to licensing provisions of a regulatory nature must, in addition to filing the regular application required by this chapter, comply with any other or additional regulatory provisions before being entitled to a license.

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Section 16. Amendment of subsection. WMC 6.04.045(C), Information on business license – Changes in information – Display of license, is hereby amended to read as follows:

C. The licensee shall display prominently the original business license at the licensee’s ~~principal~~ business location in the city, ~~and a copy of the business license at each other business location of the licensee in the city.~~ If the licensee has no regular business location in the city, the licensee shall display the business license upon the request of the ~~finance director or the finance director’s designee.~~

Section 17. Amendment of section. WMC 6.04.055, Transfer of business, is hereby amended to read as follows:

A. A business license expires upon the effective date of a transfer of the business. Not later than ~~fifteen~~ (15) days after the effective date of the transfer, the licensee shall provide written notice to the finance director of the transfer, including the name, address, form of organization and jurisdiction of organization of the transferee, and surrender the licensee’s business license to the finance director. **The successor owner shall be required to file a new application for a city business license.**

B. In subsection (A) of this section, the term “transfer” includes any of the following:

1. A change in the form of ownership or organization of the business, such as from a sole proprietor to a partnership, limited liability company, corporation or the removal or addition of a partner.

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~~21.~~ A change in voting control or in more than ~~fifty~~(50) percent of the ownership interest in a licensee that is a corporation, limited liability company or partnership;

~~32.~~ A sale of substantially all of the assets used in the business of the licensee; ~~and~~or

~~43.~~ The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the licensee's gross receipts from sales, rentals or services.

Section 18. Amendment of section. WMC 6.04.065, Suspension or revocation of business license, is hereby amended to read as follows:

A. The ~~f~~Finance ~~d~~Director may suspend or revoke a business license when the ~~f~~Finance ~~d~~Director determines that the licensee is delinquent in paying sales tax or is in violation of any requirements under WMC Chapter 5.16, or the licensee has failed to comply with the requirements of this chapter.

B. The ~~f~~Finance ~~d~~Director shall not suspend or revoke a business license without first providing notice and an opportunity for a hearing on the suspension or revocation under this subsection.

1. At least 15 calendar days before suspending or revoking a business license, the ~~f~~Finance ~~d~~Director shall mail notice of the suspension or revocation by certified mail, return receipt requested, to the last-known address of the licensee.

2. The notice of proposed suspension or revocation shall identify the licensee, state any other name under which the licensee engages in

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business in the city, and describe the sales tax payment delinquency or other cause for the suspension or revocation, state that unless a hearing is requested, the ~~f~~Finance ~~d~~Director will suspend or revoke the licensee's business license under this section upon the expiration of 15 calendar days from the date of the notice, state that the right to a hearing will be waived if not timely requested, and the contact information of the ~~f~~Finance ~~d~~Director or other city representative to be contacted concerning the proposed suspension or revocation.

3. The licensee may request a hearing on the proposed suspension or revocation in writing to the **finance director** ~~office of the City Clerk~~ not more than 15 calendar days after the date of the notice of proposed suspension or revocation.

C. **A hearing requested under subsection (B) of this section shall be conducted within 15 days of receipt of the request before the mayor or the mayor's designee, who may be a city employee. After the hearing, the person who conducted the hearing shall serve the decision on the licensee by delivering the notice to the licensee's place of business, or by mailing the notice by certified mail, return receipt requested, to the licensee's last known mailing address. The decision to suspend or revoke a business license takes effect immediately u**~~Upon issuance of the notice~~ written request by the licensee, a hearing officer designated by the City Clerk in compliance with Chapter 2.76 shall conduct a hearing on the proposed suspension or revocation within 30 calendar days after the request for hearing. The sole issue before the hearing officer shall be whether one or more of the grounds stated in subsection (A) of

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~~this section for suspending or revoking the business license has occurred and is continuing. The hearing officer shall conduct the hearing in an informal manner. The licensee may appear, present evidence, and witnesses. The hearing shall be recorded. Within 10 calendar days after the conclusion of the hearing, the hearing officer shall prepare a written decision whether to suspend or revoke the business license, and provide a copy of the decision to the licensee and the Finance Director.~~

D. **A decision under subsection (C) of this section to suspend or revoke** ~~A hearing officer's decision suspending or revoking a business license shall include an order that the licensee immediately cease and desist from engaging in business in the city unless and until the business license is reinstated or reissued~~ **may be appealed to the superior court as provided in the Alaska Rules of Appellate Procedure.**

E. ~~Any person aggrieved by the hearing officer's written decision under subsection (C) of this section to suspend or revoke a business license may appeal the decision to the Alaska Superior Court in Palmer and governed by the 600 Series of the Alaska Rules of Appellate Procedure, within 30 calendar days after the date the decision was given to the parties. The City Clerk shall estimate the cost of preparing the transcript of the hearing and compiling the record on the appeal. The appellant shall deposit the estimated costs for preparation of the transcript and record with the City Clerk in advance. Upon completion of the record on appeal, the City Clerk shall refund any excess deposit or charge to the appellant for costs exceeding the deposit or charge to the appellant for costs~~

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~~exceeding the deposit and any additional charges that were underestimated before the transcript is released. The hearing before the Superior Courts is an administrative appeal heard solely on the record established before the hearing officer. Unless the court orders otherwise, a decision to suspend or revoke a business license takes effect immediately upon its issuance.~~

Section 19. Amendment of section. WMC 6.04.075, Regulations, is hereby amended to read as follows:

The ~~f~~Finance ~~d~~Director may implement regulations and forms to interpret or clarify the provisions of this chapter.

Section 20. Amendment of subsection. WMC 1.20.030(C), Disposition of scheduled offenses – Fine schedule, is hereby amended to read as follows:

C. The following violations of this code are amenable to disposition without court appearance upon payment of a fine in the amount listed below.

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
<u>WMC 5.16.190(A)(1) - (10)</u>	<u>Sales Tax Violations</u>	<u>\$250</u>

Section 21. Effective date. Sections 4 and 5 of this ordinance shall take effect on January 1, 2019. The remaining sections of this ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on March 12, 2018.

ATTEST:



JAMIE NEWMAN, MMC, City Clerk



BERT L. COTTLE, Mayor

[SEAL]

Bold & Underline, added. ~~Strikethrough, deleted~~

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CITY COUNCIL LEGISLATION STAFF REPORT


Ordinance Serial No. 18-06: An Ordinance Of The Wasilla City Council Amending Wasilla Municipal Code (WMC) 5.16, Sales Tax, To Enhance Administrative Procedures For The Collection Of Sales Tax And Revise Sales Tax Exemptions, WMC 6.04, Business Licenses Generally, To Establish Additional Procedures For City Business Licensing And WMC 1.20 General Penalty, To Provide Penalty For Sales Tax Violations.

Originator: Troy Tankersley, Finance Director

Date: 1/10/2018

Agenda of: 2/12/2018

Route to:	Department Head	Signature	Date
	Chief of Police		
	Public Works Director		
	Recreation Services Director		
X	Finance Director		1-31-18
X	Deputy Administrator		1/31/18
X	City Attorney		2/1/18
X	City Clerk		2/1/18

Reviewed by Mayor Bert L. Cottle:  2/1/2018

Fiscal Impact: yes or no

Funds Available: yes or no

Account name/number: 001-0000-313-10-00 Sales Tax
001-0000-321-10-00 City Business License

Attachments: Ordinance Serial No. 18-06 (25 pages)

Summary Statement: The proposed ordinance serves to revise Title 5 Chapter 5.16 Sales Tax, Title 6 Chapter 6.04 Business Licenses Generally and Title 1 Chapter 1.20 General Penalty to enhance procedures, clarify language, introduce fines for violations and save the city money by tightening sales tax exemption requirements and efficiently streamlining business license renewal processes.

The following is a sectional analysis is provided describe the proposed amendments.

Section 2: Amending WMC 5.16.045(A) Rules applicable to particular businesses or occupations, to clarify language regarding real estate commissions; treating commissions and fees the same for sales, rentals and property management aligning policy with WMC code.

Section 3: Amending WMC 5.16.050(A) Exemptions.

WMC 5.16.050(A)9 to exempt collection of sales tax from government agencies unless specified. Government agencies other than the city do not currently collect and/or remit sales tax, this will bring code in line with current policy.

WMC 5.16.050(A)14 Correction of referenced section pertaining to federal Food Stamp Act.

WMC 5.16.050(A)23 Add exemption for all sales of air transportation, to clearly state in WMC an exemption required by federal law.

WMC 5.16.050(A)24 To exempt transportation services by taxies, limousine companies and ride share companies. The sales tax on fares charged in the city are nominal, costly to collect and audit due to the transient nature of the industry.

Section 4: Amending WMC 5.16.050(B)1, 2, 7, 8 & 9 Adds language to exempt sales tax for retail, manufacture and service resellers with locations and/or sales inside the City of Wasilla. The added language prevents sellers that do not make sales in Wasilla from purchasing items tax free. In 2017, 229 exemptions were issued 84 of them to sellers with no sales inside the City of Wasilla.

WMC 5.16.050(B)3 Adds language to exempt sales tax for improvements by owners of property located inside the City of Wasilla only. In 2017, 44 exemptions were issued, only four were located inside the City of Wasilla. This would reduce the fees charged for the exemption by \$1,200, however, sales tax that will be collected on the previously exempt sales will likely make up and surpass the revenue lost.

Section 5: Amending WMC 5.16.080(B)1 to add a fee of \$10.00 for resale and nonprofit exemptions. These fees will help to offset some of the costs of processing tax exempt applications and cards. This will result in an increase to fees of \$2,700. Propose increasing existing fees charged for contractor and owner builder cards as fees were based on previous tax rates and sales information. Based on 2017 exemptions issued, this would increase fees by \$16,420.

Section 6: Amending language in WMC 5.16.170(A) to require documentation be kept three full calendar years as federal income tax returns and other financial information is done on a calendar basis.

Section 7: Amending WMC 5.16.190(A) and (B) Violations, to add a seller failing to remit tax collected to the City. This will allow the city to fine businesses that collect sales tax but fail to remit the entire balance collected. Currently 5.16.190(B) is the penalty ordinance for sales tax violations. The current code defines a crime, not a minor offense, because imprisonment can be imposed, and it also imposes a fine up to \$1,000. The proposed amendment reflects that sales tax violations are minor offenses and are punishable by the fine listed in the fine schedule in 1.20.

Section 8: Amending WMC 5.16.215, Protest, to appeal the decision of an Audit hearing by the Mayor's designee to superior court bringing in line with other protest procedures in the sales tax chapter.

Section 9: Repeal WMC 5.16.220, Appeal. Repealing this section to streamline the process and bring in line with other protest procedures throughout the sales tax chapter.

Section 10: Enact WMC 6.04.010 Definitions. To define terms used throughout Chapter 6.04.

Section 11: Amend language in WMC 6.04.015 of when a business license is required to include locations in the City.

Section 12: Enacting WMC 6.04.020 Type and Duration to update processes for annual business licenses and create a special event business license for businesses or vendors that operate on a short-term basis, as well as requirements for organizers of special events.

Section 13: Amending language in WMC 6.04.025 Application – Fee, to add a fee for special event business licenses and revise the section regarding free business licenses to include non-profits, second locations and/or lines of business. This revision removes the section that currently gives free business licenses to on-time taxpayers. Businesses currently receive a credit for prompt payment of sales tax of 2% of the tax amount due and the free license is costly to administer. The process to renew based on parameters in current code for on-time payment is not tracked by the licensing system database. It takes hours of staff time to go through all the licenses and compare against sales tax records to identify and change fee types. Based on 2018 renewal records, there would be 1,263 additional license fees charged, totaling \$31,575. The elimination of approximately 40 hours of additional staff time to prepare the renewals would mean an additional cost savings of \$1,149.

Section 14: Amending WMC 6.04.035 Review of application amending procedures for review of new business license applications before issuance and grammatical changes throughout the section.

Section 15: Enacting WMC 6.04.040 License – Compliance with other provisions required, adding requirement of occupational licensing before issuance of City business licenses.

Section 16: Amending WMC 6.04.045(C) Information on business license- Changes in information- Display of license, to remove sections not applicable after revisions in 6.04.020 as a separate license will be issued for each location.

Section 17: Amending WMC 6.04.055, Transfer of business, to update the process of transferring a business.

Section 18: Amending WMC 6.04.065, Suspension or revocation of business license, to add a process to revoke a business license for violations of the sales tax code and to revise the process for protesting a revocation of a license to simplify and streamline for the business and the City.

Section 19: Amending WMC 6.04.075, Regulations, to change grammatical format.

Section 20: Amending WMC 1.20.030 to allow for a fine of \$250.00 for sales tax violations in WMC 5.16.190(A)(1) - (10).

Section 21: Effective date for the sections 3 and 4 of the ordinance will take effect on January 1, 2019 as renewal exemptions have been started for the 2018 year. This will allow treatment of all

applicants equally for the current year and allow for adequate notice to businesses of the changes in the upcoming year.

The remainder of the sections will take effect upon adoption by the Wasilla City Council.

Staff Recommendation: Introduce and set the ordinance for two public hearings, February 26 and March 12, respectively.