

Non-Code Ordinance

By: Finance
Introduced: January 14, 2019
Public Hearing: January 28, 2019
Adopted: January 28, 2019
Yes: Dryden, Graham, Ledford, O'Barr
No: Burney and Harvey
Absent: None

**City of Wasilla
Ordinance Serial No. 19-01**

An Ordinance Of The Wasilla City Council Amending The Fiscal Year 2019 General Fund, Non-Departmental Budget By Appropriating \$10,000 From The General Fund, Fund Balance For Support To The Alaska Municipal League In Conducting Research, Contracting, And Establishing A Municipal-Driven Online Sales Tax Program.

Section 1. Classification. This is a non-code ordinance.

Section 2. Purpose. To appropriate funds within the General Fund, Fund Balance to support the Alaska Municipal Leagues efforts in contracting with a third party to research and conduct all online sales tax administration on behalf of municipalities, thereby fulfilling the terms outlined in *Wayfair*.

Section 3. Appropriation of Funds. The funds are appropriated to the following:

Other Agreements	001-4990-499.80-96	\$ 10,000
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Section 4. Source of Funds.

General Fund, Fund Balance	001-0000-253.20-00	\$ 10,000
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Section 5. Effective Date. This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on January 28, 2019.


BERT L. COTTLE, Mayor

ATTEST:


JAMIE NEWMAN, MMC, City Clerk

[SEAL]

CITY COUNCIL LEGISLATION STAFF REPORT

Ordinance Serial No. 19-01: An Ordinance Of The Wasilla City Council Amending The FY2019 General Fund, Non-Departmental Budget By Appropriating \$10,000 From The General Fund, Fund Balance For Support To The Alaska Municipal League In Conducting Research, Contracting And Establishing A Municipal-Driven Online Sales Tax Program.

Originator: Troy Tankersley, Finance Director
Date: 12/11/2018

Agenda of: 1/14/2019

Route to:	Department Head	Signature	Date
X	Finance Director		1-2-19
X	Deputy Administrator		1/2/19
X	City Clerk		1/3/19

Reviewed by Mayor Bert L. Cottle:  1/3/2019

Fiscal Impact: yes or no

Funds Available: yes or no

Account name/number:

Other Agreements 001-4990-499-80.96 \$10,000

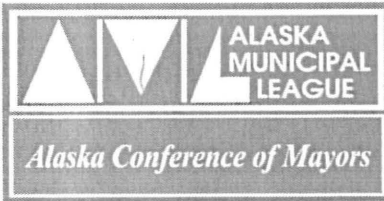
Attachments: Ordinance Serial No. 19-01 (2 pages)
Alaska Municipal League letter (3 pages)

Summary Statement: In September 2018, the Alaska Municipal League (AML) formed a working group to discuss the Wayfair decision and online municipal sales tax. In October 2018, the City of Wasilla's Finance Director was assigned to the working group and met with AML and other municipalities to discuss this topic. The purpose of this group is to review, research and discuss outstanding online sales tax questions, and provide a potential pathway for implementation in Alaska that is responsive to municipal interests.

Several issues have been discussed to include legal, separate municipal codes, rates, tax caps, interstate commerce vs. intrastate commerce, required steps (if necessary) by the State of Alaska, just to name a few.

It was recently concluded, that to maintain a fair and impartial judgement, AML should solicit from municipalities whom have an interest (i.e., sales tax revenue) and wish to participate; to ask for funding to support contracting with a third party to research, contract and establish an online sales tax on behalf of municipalities.

Staff Recommendation: Introduce and set the ordinance for public hearing Ordinance Serial No. 19-01.



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As you know, AML has been working to respond to municipal interest in the online sales tax opportunities now that *Wayfair* decision has been issued by the Supreme Court. This decision allows for taxation of internet sales with strict program requirements.

An initial working group has outlined the following steps that need to be conducted in preparation for single state-level administration:

- Compilation and review of municipal tax codes
- Identification and review of definitions and exemptions, and comparison with SSUTA
- Tax variability matrix to account for exemptions
- Negotiation of agreed-to definitions
- Solicitation for a sales tax administrator (“middle-man”) to provide sales tax boundary mapping and development of software
- Development of governance authority
- Production of public outreach materials and municipal FAQ

The goal is to establish a municipal-driven, independent arm of AML, that would conduct all online sales tax administration on behalf of municipalities, thereby fulfilling the terms outlined in *Wayfair*. This might evolve, but we believe it has the most potential for success.

In order to move forward, AML invites those municipalities that stand to benefit from successful implementation to contribute financial support. AML will then engage a contractor to complete the bulk of this work, even as staff assist by convening municipalities, help with negotiations, and otherwise support the effort.

Please consider contributing to this effort. The budget is estimated to be \$100,000 to complete the majority of initial tasks. Those who contribute will be included in the analysis matrix. We’ve designed the following levels to help us meet our budget for this activity:

- Over \$25 million in sales tax revenue \$12-15,000
- \$10-25 million in sales tax revenue \$7,500-10,000
- \$5-10 million in sales tax revenue \$4,000-5,000
- \$1-5 million in sales tax revenue \$1,000-2,500
- Over \$200,000 in sales tax revenue \$500-1,000

We hope that you will be able to contribute in a meaningful way, consistent with your budget and ability to support our work. Please don’t hesitate to contact me with questions or to discuss the scope of work and contribution.

Sincerely,

Nils Andreassen

AML Working Group: Online Municipal Sales Tax

Purpose of Working Group: Review, research and discuss outstanding online sales tax questions, and provide a potential pathway for implementation in Alaska that is responsive to municipal interests.

Goals of Working Group:

- Ensure local tax authority and choice is respected
- Maximize municipal government revenue options
- Balance municipal revenue with costs to citizens
- Avoid statewide sales tax administered by State of Alaska, or displacement of local rates

Background on Online Sales Tax:

- Recent Supreme Court *Wayfair* decision extinguishes physical presence requirement
 - Continued national and legal challenges potentially, but states generally moving forward
- Case establishes some requirements for implementation
 - Meeting the “threshold” of sales
 - Streamlining
 - Single state-level administration
 - Uniform definitions
 - Simplified rates
 - Software/safe harbor
- Alaska one of five states where municipalities have taxing authority, and only one without statewide sales tax
 - Other states ahead of Alaska in addressing – municipalities working with state to implement, have formed commissions to work through issues
- Sales tax in Alaska is implemented by a majority of incorporated municipalities, and a significant source of their annual budget
 - Potential revenue of online sales is estimated by DoR at \$1 billion, with 50% of that in Anchorage and Fairbanks
 - While an online sales tax levels the playing field for Alaska businesses, and increases potential revenue for municipalities, Alaskans are ultimately paying this – some municipalities may not want this and may choose not to participate
 - The view elsewhere is that this is a tax that is currently due but hasn’t otherwise been collected, and is thus not a “new” tax

Options for Alaska municipalities:

1. No action by AML – state action probable
2. Individual municipal implementation – AML to provide model code change but chance of success is minimal
3. AML-driven implementation
 - a. AML to negotiate with municipalities streamlined exemptions and definitions
 - b. SSUTA requires state or state-designated administration
 - i. AML to propose Alaska Municipal Sales Tax Commission
4. State implementation – AML to work within state-driven process
 - a. Increased likelihood of statewide sales tax

- b. Potential requirements to decrease municipal sales tax levels and comply with state-determined definitions and exemptions

Working Group recommendations to AML:

- AML should work with members toward the establishment of an independent authority, operated as an arm of AML as a service program, or in close association (similar to JIA or AMLIP)

Implementation

1. If Alaska municipalities want to benefit from retailers remitting a municipal sales tax on online sales, several things need to occur. AML leading this effort makes sense.
2. The following should happen simultaneously, or in lockstep
 - Determine the nexus/threshold of online sales at the state level – i.e.; at what level will online sales be considered applicable to sales taxes (how much business should a retailer have in the state, through online sales, before taxes set in; this protects small businesses). South Dakota, which argued the *Wayfair* case, set theirs at \$100,000.
 - Review and streamline all current municipal tax codes
 - Definitions – align with SSUTA as much as possible
 - Exemptions – this will be more difficult, and we may have to consider a mechanism for remand to taxpayers from different communities
 - Determine baseline items that are applicable to online sales tax, based on commonality between municipalities
 - Map (or collect maps of) sales tax boundaries – this doesn't currently exist in all communities, and not in one place, but will be essential to implementation
3. AML to work with members to determine governance of an independent body
4. AML to determine service provider – software, return, audit functions
5. Legislation may be needed to allow municipalities to enable this process and to participate in an authority/commission of this type.
6. Legislation may also be needed if the group elects or needs to join the SSUTA, which is named in *Wayfair*, but not essential to state-level administration