

CITY OF ANIAK
ORDINANCE #96-02

AN ORDINANCE AUTHORIZING A 2% SALES TAX

BE IT ENACTED BY THE CITY COUNCIL OF ANIAK that there shall be a sales tax in the City of Aniak as follows:

Section 1. Classification

Section 2. Sales tax.

Section 3. Effective date.

Section 1. Classification. This is a permanent ordinance, to be numbered and included in the City of Aniak's Municipal Code.

Section 2. Sales Tax.

SALES TAX

Sections:

1. Sales Tax.
2. Definitions.
3. Duties of Seller and Buyer.
4. Sale or Transfer of Business, Final Return.
5. Exemptions.
6. Method of Deposit.
7. Confidential Material.
8. Installment Sale.
9. Manager's Powers re: Rulings and Regulations.
10. Certification of Registration as Tax Collectors.
11. Tax Schedule.
12. Protest of Tax by Taxpayer.
13. Protest of Tax by Collector.
14. Duty to Keep Books.
15. Omissions, Requirements and Civil Penalties.
16. Lien.
17. Accelerated Returns.
18. Extensions.

Section 1. Sales Tax.

There is levied a 2% tax on sales made and services rendered in the City which shall be paid by the buyer and collected by the seller or the person, firm, or corporation performing the service. Only the first \$1,000.00 of a transaction shall be subject to this tax. Salaries or wages received by an employee from an employer are exempt from the provisions of this ordinance.

Section 2. Definitions.

When not clearly indicated by the context, the following words and phrases, as used in this chapter, have the following meaning:

- A. "Sale" shall include:
 - 1. Every sale of tangible personal property not exempt under this chapter. This includes installment, credit and conditional sales;
 - 2. Every sale or exchange of services.
- B. "Sales price" means money paid by the buyer and, in the case of an exchange of property, the fair market value of the property exchanged.
- C. "Buyer" includes persons who are purchasers of personal property or services.
- D. "Seller" includes persons or firms who sell goods or supply services, and all persons making sales, including sales by coin-operated vending machines or amusement machines.
- E. "Services" includes:
 - 1. Professional services;
 - 2. Services made by any person in the course of his business or occupation;
 - 3. Services which include labor and materials;
 - 4. Any other services.
- F. "City" means the City of Aniak.
- G. "Person" means individuals, corporations or business firms.
- H. "Manager" means the City Manager of the City of Aniak.
- I. "Collector" means everyone who is required to collect the sales tax.
- J. "Taxpayer" means everyone who is required to pay the tax.
- K. "Transaction" means a sale of one item or of the total of multiple items.

Section 3. Duties of seller and buyer.

- A. Within thirty (30) days of notification by the City, all businesses operating within the City shall register with the office of the City Clerk and obtain the required reporting forms.
- B. Businesses not permanently located within the City who intend to sell goods or services within the City must register with the City Clerk within 24 hours of arrival. These businesses must comply with this ordinance for the duration of their business activity. Failure to comply with this section will result in misdemeanor charges as provided in this chapter.
- C. The sales tax shall be paid by the buyer to the seller. It shall be the duty of each seller to collect from the buyer the full amount of the tax payable at the time of sale or provision of the service (or at the time of collection with respect to credit transactions).
- D. Sellers shall add the tax to the sales price or service charge at a straight two percent (2%). The tax shall be owed to the City until paid, shall be recoverable at law in the same manner as other debts. Providers of services are sellers for the purpose of this ordinance.
- E. Any seller who willfully or intentionally neglects or refuses to collect the tax imposed by this ordinance; or to comply with the provisions of this ordinance; or gives back to a buyer all or any part of the sales tax collected, shall be guilty of a misdemeanor, and on conviction shall be punished in accordance with this chapter.
- F. Except for operators of coin-operated vending machines, a seller may not advertise or state to the public or any buyer, that the tax imposed by this chapter will be assumed or absorbed by the seller or that it will not be added to the sales price or that it will be refunded, in whole or in part. The seller shall separately state the tax to the taxpayer in each taxable transaction. The collector shall prominently display a sign provided by the City indicating the imposition of the tax.
- G. Operators of coin operated vending machines shall prominently display a sign provided by the City indicating the imposition of the tax and will file returns and remit tax at a flat two (2%) percent of the gross sales for that reporting period.
- H. Any buyer who willfully or intentionally fails, neglects or refuses to pay the required tax shall be guilty of a misdemeanor, and on conviction shall be punished in accordance with this chapter.

Section 4. Sale or Transfer of Business, Final Return.

If any person required to collect a tax under this chapter sells or leases the business or if the business is transferred voluntarily or involuntarily, the person selling, leasing or otherwise transferring the business shall make a final sales tax return to the City, within fifteen (15) days of the date of the transaction. The new owner may require the former owner to produce a receipt from the City showing that all tax obligations imposed by this chapter have been paid through the date of transfer. The new owner of a business required to collect the tax under this chapter

shall be liable for all taxes required to have been collected by the former owner but not paid over to the City and shall be liable for all penalties and interest on such unpaid taxes and on late or un-filed returns.

Section 5. Exemptions.

- A. The following shall be exempt from sales and use tax imposed by the City:
1. Casual and isolated sales not made in the regular course of business;
 2. Sales of insurance and bonds of guaranty and fidelity;
 3. Charges for funeral services;
 4. Rentals and leases of residential housing units;
 5. Electric and telephone utility bills;
 6. The sale of goods or services by churches or other religious organizations unless competing with private companies engaged in similar business;
 7. The sale of real property; except the amount claimed as commission shall be taxed;
 8. Commercial airline tickets;
 9. Sales of motor vehicles, parts and accessories;
 10. Groceries purchased outside the City for resale;
 11. Hospital, medical and dental services and sales of prescribed medicines, drugs and/or appliances;
 12. Subscriptions to magazines and newspapers;
 13. Sales and services to the United States, the State of Alaska or any political subdivision or agency of either;
 14. Gasoline, AvGas, and home heating fuel;
 15. That amount in excess of \$1,000.00 in any one sales transaction;
 16. All purchases paid for with food coupons, food stamps, or other types of certificates issued under the Food Stamp Act or under the Special Supplemental Food Program for Women, Infants and Children.
- B. Not exempt and not intended to be exempt from sales and use tax imposed by the City are:
1. Sales of groceries;
 2. Sales of clothing, non-prescription medical supplies, household supplies, hand tools, hardware items, and other personal consumption goods;
 3. Proceeds from sale of food in cafeterias, lunchrooms and restaurants operated primarily as retail food establishments;
 4. Fees charged for rooms, meals, and other services by motels, hotels, lodges, inns, bed and breakfast establishments, and other transient housing establishments;
 5. Sales of snow-machines, ATV's, boats, outboard motors, parts and accessories.
- C. Taxicab operators are exempt from all provisions of this section except as stated in this paragraph. In lieu of sales tax, taxicab operators shall purchase annually, for each taxi operated, a \$50 permit issued by the City. All taxi permits shall run from July 1 of each year to June 30 of the following year.

Section 6. Method of deposit.

All tax revenues collected shall be deposited in the general fund.

Section 7. Confidential Material.

- A. Returns filed with the City and all data obtained from such returns are confidential and shall be kept from inspection by all private persons except as necessary to investigate and prosecute violations of this chapter.
- B. Nothing contained in this section shall prohibit the delivery to a person or his duly authorized representative, of a copy of any return or report filed by him, nor to prohibit the furnishing of information of other agencies of the State or the United States concerned with the enforcement of any tax laws.

Section 8. Installment Sale.

When a sale is made on an installment basis, the sales tax shall be collected from the down payment, or if none, from the first installment, or, if the installment or down payment is less than the tax, then from as many installments as is necessary to pay the tax.

Section 9. Manager's Powers re: Rulings and Regulations.

- A. The Manager may adopt regulations in accordance with this chapter, which may include the adoption of forms. Any regulations or procedures adopted by the Manager are effective at the time indicated by him but are subject to approval by the City Council.
- B. Should a collector be in doubt as to the application of this chapter to an actual situation facing him, he may apply to the Manager for an informal ruling on the issue. Rulings having general application may be adopted as regulations by the Manager.

Section 10. Certification of Registration as Tax Collectors.

- A. All collectors shall file with the City an application for a certificate of registration on a form prescribed by the City, not more than ten (10) days after the date of commencing business or the opening of an additional place of business. The application must contain:
 - 1. The name and address of the applicant;
 - 2. The location at which transactions subject to the tax will occur;
 - 3. A description and the location of real and personal property owned by the applicant in the City and other information with respect to the description, location and values of the property which the City may require.
- B. Transient businesses shall file with the City an application for a certificate of registration on a form prescribed by the City, prior to commencing business or opening an additional place of business. The certificate shall be for a specified period and shall expire at midnight on the last day. The application must contain:

1. The name and address of the applicant.
 2. The location at which transactions subject to the tax will occur. If the applicant's business is to be conducted from more than one location, the description of each location at which business will be conducted;
 3. A description and the location of real and personal property owned by the applicant in the City and other information with respect to the description, location, and values of the property which the City may require.
- C. Transient businesses shall post a performance bond in the amount of \$100.00. The bond shall be forfeited in part or in total if the provisions of this chapter are violated, if the permit and required taxes are not returned to the City upon termination of conduct of business or expiration of certificate, or if place or places of business is not cleaned up and restored to its previous condition of cleanliness.
- D. Upon the receipt of properly executed application, the Manager will issue without charge a certificate of registration, stating the address of the place of and authorizing the collection of the tax. The certificate must be prominently displayed at the place of business. A seller who has no regular place of business shall attach the certificate to his stand, truck, or other merchandising device.
- E. The certificate of registration is non-assignable and non-transferable and must be surrendered to the Manager by the collector to whom it was issued upon his ceasing to do business at the named location. If the business is continued at the same location but there is any change in the ownership of the business, the certificate shall be canceled. The new owner is required to file a new application for a certificate of registration. Upon receipt of properly executed application, the Manager will issue a new certificate to the new owner.
- F. When there is a change of location for the collector's business, a new certificate of registration is required showing the new address.
- G. Before issuing a certificate of registration, the Manager may require the applicant to post a bond, furnish a statement of net worth, or furnish additional security to insure the full and prompt payment of taxes to be collected under such certificate, when in his judgement it is in the best interest of the City to do so.
- H. A collector who obtains or should obtain a certificate of registration in accordance with this chapter consents to the inspection of his Business Tax returns by a disinterested third party qualified to do such inspection to facilitate the accomplishment of the provisions and objectives of this chapter.

Section 11. Tax Schedule.

The tax to be added to the sales price or service charge shall be in accordance with the following schedule:

<u>Selling Price</u>	<u>Tax</u>	<u>Selling Price</u>	<u>Tax</u>
\$0.01 thru \$0.24	\$.00	\$0.25 thru \$0.64	\$.01
\$.065 thru \$1.24	\$.02	\$1.25 thru \$1.64	\$.03
\$1.65 thru \$2.24	\$.04	\$2.25 thru \$2.64	\$.05
\$2.65 thru \$3.24	\$.06	\$3.25 thru \$3.64	\$.07
\$3.65 thru \$4.24	\$.08	\$4.25 thru \$4.64	\$.09
\$4.65 thru \$5.24	\$.10	\$5.25 thru \$5.64	\$.11
\$5.65 thru \$6.24	\$.12	\$6.25 thru \$6.64	\$.13
\$6.65 thru \$7.24	\$.14	\$7.25 thru \$7.64	\$.15
\$7.65 thru \$8.24	\$.16	\$8.25 thru \$8.64	\$.17
\$8.65 thru \$9.24	\$.18	\$9.25 thru \$9.64	\$.19
\$9.65 thru \$10.24	\$.20		

Over \$10.24, continue the same scale to total amount of taxable sale.

Each collector shall be furnished a copy of the tax schedule. Any one sale of items separately priced shall be taxed upon the total amount of that sale.

Section 12. Protest of tax by taxpayer.

- A. A collector shall determine whether a sale is taxable under this chapter. If the collector fails to collect the tax due on a transaction for any reason, the collector owes the City for the tax in the same manner as if the tax had been collected.
- B. If a taxpayer believes that a transaction is not subject to the tax, but the collector has determined it is subject to the tax, the taxpayer shall pay the tax under protest. A tax is paid under protest by filling out a statement of protest on a form provided by the City and giving it to the collector. The taxpayer shall clearly set out in the form the terms and conditions of the sale, the amount of the sale, the quantity and type of items or services involved, the location of all parts of the sale, and any other information necessary to support the taxpayer's claim that the tax does not apply. The form shall include the names and mailing addresses of both the collector and the taxpayer and any other party involved in the transaction. If the taxpayer desires to have an oral hearing or to present supplemental statements or briefs, the taxpayer must set out the request on the protest form.
- C. Upon receipt of written protest, the collector shall forward the protest to the City along with any additional statements the collector believes may assist the City in determining the protest. The written protest must be forwarded to the City as promptly as possible, but no later than thirty (30) days after delivery of the protest to the collector.

- D. If there is a request for hearing or opportunity to submit additional statements or briefs, the Manager shall schedule the hearing or submission of additional statements or briefs and inform the taxpayer of the dates. The taxpayer has the burden of proof. The Manager's ruling on the protest must be in writing and must set forth the reason for the grant or denial of the protest. The ruling will be sent to the mailing addresses of the collector and the taxpayer. The ruling on a protest not requiring a hearing will be made within thirty (30) days of receipt of the protest by the Manager unless the Manager determines a longer period is required. If there is a hearing or submission of additional statements or briefs, the Manager shall make a ruling within a reasonable time as determined by the Manager.
- E. If a protest is granted and the City has received the tax from the collector, the Manager shall refund directly to the taxpayer the protested tax amount with interest from the date received by the City. The interest rate shall be the average interest earned by the City on its invested funds. If the tax has not been received by the City, the collector shall be instructed to refund to the taxpayer the amount collected plus appropriate interest. The collector and taxpayer may make other arrangements if a mutual agreement is reached as an alternate procedure.
- F. In the event a protest is denied, the taxpayer has fifteen (15) days from the date of mailing of the notice of denial to request reconsideration of the matter by the City Council. The request shall be accompanied by additional statements or briefs to explain why the denial should be reversed in whole or in part. The decision of the Council is subject to appeal to the superior court under applicable rules of court.

Section 13. Protest of Tax by Collector.

- A. If a collector believes that a transaction is not subject to the tax or believes that a penalty, interest or other charge is not owed, the collector may protest the tax or charge by paying to the City the tax or charge claimed and filing with the City at the time of payment a statement of protest setting out all relevant facts and clearly explaining why the tax or charge made is not owing. The payment and statement of protest must be received by the City not later than the due date for the tax return; or, if no tax was collected, thirty (30) days from the challenged transaction or the date of notice from the City of tax due, whichever is later; or, if the protest is of a charge, disallowance or similar action by the City, thirty (30) days from the date of notice to the collector of the City determination. Failure to file a statement of protest and to pay the amount claimed by the City within the time permitted constitutes a waiver of the right to protest the tax or charge or other City determination and is a waiver of the right to appeal the protest to the Manager or to otherwise challenge the tax, charge or other determination in any judicial or other proceeding.
- B. The Manager shall rule on each collector protest within thirty (30) days of receipt of the protest unless the Manager determines a longer period is required. The collector has the burden of proof. The Manager may permit or require the collector to provide additional information relevant to the protest. The Manager's ruling on the protest must be in writing and must set forth the reason for the grant or denial of the protest. The ruling will be sent to the mailing address of the collector.

- C. If a protest is granted, the Manager shall refund to the collector the tax or charge levied that was not subject to the tax, with interest from the date received by the City. The interest rate shall be the average interest earned by the City on its invested funds. The collector shall immediately refund to each taxpayer the amount improperly collected plus appropriate interest apportioned among the taxpayers. If the collector has not collected the tax but has paid the tax to the City from its own account, the collector may retain the tax and interest refunded.
- D. In the event a protest is denied, the collector has fifteen (15) days from date of mailing of the notice of denial to request reconsideration of the matter by the City Council. The request shall be accompanied by additional statements or briefs to explain why the denial should be reversed in whole or in part. The decision of the Council is subject to appeal to the superior court under applicable rules of court.

Section 14. Duty to Keep Books.

- A. Every collector shall keep suitable records of all sales and such other books and accounts as may be necessary to determining the amount of tax which he is obliged to collect. All records shall be kept for a period of three years from the date of return reporting the sales. Also kept for three years shall be all invoices of merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes the collector was obliged to collect.
- B. The Manager shall have the power to adopt suitable rules and regulations providing for the application and interpretation of this chapter and for providing methods and forms for reporting and collecting the tax. The Manager is authorized to appoint a disinterested third party to audit or view state business license returns and any other relevant books, papers, records or memoranda of any collector registered in the city, when questions arise as to the validity of that collector's quarterly returns. The Manager may require the presence of any collector or their officers or employees at any hearing required, as a result of or as part of such an audit.

Section 15. Omissions, Requirements, and Civil Penalties.

- A. Penalties for violations. Any person, firm, partnership or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and for the first conviction shall be fined not less than fifty dollars (\$50) nor more than one hundred fifty dollars (\$150). Upon conviction of a second or subsequent offense, the fine shall be not less than one hundred fifty dollars (\$150) nor more than three hundred dollars (\$300) plus associated court costs.
- B. Returns required. Every collector selling merchandise or providing services in any quarter shall make out a return for the quarter upon forms to be provided by the City Clerk setting forth the amount of all taxable transactions for the quarter, the amount of the tax, and such other information as the City Clerk may reasonable require and sign and transmit the return to the City Clerk by the last business day of the month following the quarter.

- C. Tax due; penalties and interest. All tax due shall be paid to the City Clerk at the time of transmitting of the return. If the tax is not paid or if no return is filed, the tax shall immediately become delinquent. Delinquent taxes shall incur a penalty of five percent (5%) of the taxes due collected in the same manner as the tax is assessed and paid. In addition to any penalty for delinquent tax, interest at the rate of eight percent (8%) per annum on the delinquent amount (not including penalty) from the date of delinquency shall accrue and be collected in the same manner as the delinquent tax is collected.
- D. Filing a return. Any seller who was required to collect a tax during a calendar quarter shall file a return for the next following calendar quarter even if no tax is due during the following quarter. A return filed for a quarter in which no tax was collected must show why no tax was collected.
- E. Cost of administration. If a return is filed and the taxes remitted within the time allowed, the seller collecting the tax may retain two percent (2%) of the amount collected to defray the cost of administration of the tax.
- F. Credit of monies received. Amounts received with the return shall be credited against the following balances:
1. Penalties due, beginning with the oldest penalty;
 2. Interest due, beginning with the oldest amount;
 3. Taxes due, beginning with the taxes due from the oldest quarter.
- G. Certificate of registration. A collector who fails to obtain a certificate of registration after written notice is guilty of a misdemeanor, and for the first conviction shall be fined not less than fifty dollars (\$50) nor more than one hundred fifty dollars (\$150). Upon conviction of a second or subsequent offense, the fine shall be not less than one hundred fifty dollars (\$150) nor more than three hundred dollars (\$300) plus associated court costs. Each day that a collector fails to obtain the required certificate after written notice is a separate offense.
- H. Falsification. Falsification or knowing misrepresentation of any required record is a misdemeanor and the person making such falsification or misrepresentation shall be punished in accordance with Section 16 A of this chapter.
- I. Failure to separately state the tax. A collector who fails to separately state the tax due in any sales transaction shall be subject to those penalties identified in Section 15 A of this chapter.
- J. Inspection. Failure of a collector to allow the inspection at reasonable times of records required by this chapter to be kept is a misdemeanor and subjects the collector to those penalties identified in Section 15 A of this chapter.
- K. Forced filing. If a collector fails to file a complete and accurate return or to pay over all the taxes due, the Manager may make an estimate of the taxes due based upon any information available. The Manager shall file a return for the collector and shall provide a copy of the return to the collector or with a request that the collector file a correct return along with payment of the taxes due. The Manager may require the collector filing the return to provide

sufficient information to support the corrected return. If the collector has not filed a corrected return satisfactory to the Manager, along with the taxes due, within thirty (30) days of the date of the mailing of the forced filing, the amount shown on the forced filing is presumed correct and becomes delinquent. However, if upon a subsequent audit or inspection of the records of the collector it is determined that a greater amount was due, the collector shall be liable for payment of the additional amount. A forced filing may be made if the City is unable to ascertain the tax due to be remitted by a collector by reason of the failure of the collector to keep accurate records or allow inspections or has falsified records.

- L. Loss of Records. A collector shall immediately notify the City of any fire, theft, or other casualty which would prevent complying with this chapter. Such casualty constitutes a defense to any penalty provided in this chapter but does not excuse the collector from liability for taxes due. Loss of funds or records is not a defense hereunder.
- M. Maintenance of Suits. Nothing in this section shall prevent the City from filing and maintaining action in a court of law to collect any taxes due in addition to penalties assessed.
- N. Transient Businesses File Monthly Returns. Transient businesses making sales of merchandise or providing services in any month shall make out a return for the month upon forms to be provided by the City Clerk setting forth the amount of all taxable transactions for the month, the amount of the tax, and such other information as the City Clerk may reasonably require and sign and transmit the return to the City Clerk by the last business day of the month following the month covered by the return.

Section 16. Lien.

The tax, penalty and interest imposed by this chapter shall constitute a lien in favor of the City upon all the collector's property within the City. The lien arises upon delinquency and continues until the liability for the amount is satisfied or the property is sold at foreclosure sale. When recorded, the sales tax lien has priority over all other liens except as provided in AS29.45.650(e).

Section 17. Accelerated Returns.

A collector who fails for more than thirty (30) days to file a return or pay the taxes due, or who has, within a twelve-month period, filed or paid taxes late on two or more occasions may be required by the Manager to file and pay on a monthly basis. The Manager shall provide to the collector a hearing after reasonable notice of the Manager's intention to require more frequent filing and payment. The collector required to file and pay on a monthly basis who fails to file and pay the full amount due by the fifteenth of the month following the reporting month or such a collector who files late two or more times during a four month period may be required by the Manager to file on a weekly basis after written notice of intent and a hearing as provided in this section.

Section 18. Extensions.

For good cause shown, the City may grant extensions on any time limitation described in this chapter. Application for extension must be filed before the date specified as the original time limitation.

Section 3. Effective Date.

This ordinance takes effect upon ratification by the voters of the City of Aniak.

Introduction: February 7, 1996

Public Hearing: August 30, 1996

ADOPTED by a duly constituted quorum of the Council of the City of Aniak, Alaska this 30th day of August 1996.

Date of Election: August 26, 1996

Date of Certification: August 30, 1996

Total Votes Cast: 185, 6 Question included

Total FOR passage: 93

Total AGAINST passage: 86