

**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**RESOLUTION 19-077**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
AUTHORIZING THE CITY OF HOMER TO JOIN THE ALASKA REMOTE  
SELLER SALES TAX COMMISSION FOR THE PURPOSE OF  
DEVELOPING, IMPLEMENTING, AND ENFORCING A REMOTE  
SELLER SALES TAX CODE AND DESIGNATING THE COMMISSION  
REPRESENTATIVE

WHEREAS, The inability to effectively collect sales tax on sales of personal property, products or services transferred or delivered into Alaska by a remote seller in response to orders placed electronically by local consumers is eroding the sales tax base of Alaska communities and resulting in revenue losses that is causing imminent harm to residents through the loss of critical funding for local education; and

WHEREAS, The harm from the loss of revenue is especially problematic in Alaska because the state has no broad-based tax, and sales tax revenues are essential in funding the provision of services by local governments; and

WHEREAS, The failure to collect tax on remote sales creates artificial market distortions and competitive advantages for remote sellers by perpetuating tax shelters for businesses that limit their physical presence in the state or its municipalities but still sell goods and services to local consumers, something that becomes easier and more prevalent as technology continues to advance; and

WHEREAS, The structural advantages for remote sellers, including the absence of point-of-sale tax collection, combined with the general growth of online retail, means that the erosion of the sales tax base is a growing problem that will only worsen in the near future if the borough is not able to legally collect remote seller sales tax within the framework of current United States Supreme Court case law; and

WHEREAS, The recent decision by the United States Supreme Court in *South Dakota v. Wayfair* allows for the amendment of the sales tax code to account for remote sellers who do not have a physical presence in either the State of Alaska or within the Kenai Peninsula Borough, but do have a taxable connection with those jurisdictions; and

WHEREAS, The decision in *South Dakota v. Wayfair* provided guidance that included the defensibility of a single-level statewide administration of remote sales tax collection and remittance; and

44 WHEREAS, Remote sellers who make a substantial number of deliveries into or have  
45 large gross revenues from Alaska benefit extensively from the Alaska market, affecting the  
46 economy generally, as well as local infrastructure; and

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48 WHEREAS, Modern computing and software options ensure that it is neither unusually  
49 difficult nor a substantial burden for remote sellers to collect and remit sales taxes associated  
50 with sales into Alaska taxing jurisdictions; and

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52 WHEREAS, In order to implement a single-level statewide sales tax administration, it is  
53 the intent of numerous local taxing jurisdictions within Alaska to establish an  
54 intergovernmental entity known as the Alaska Remote Seller Sales Tax Commission (the  
55 “Commission”); and

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57 WHEREAS, The function and powers of the Commission will be set forth in the Alaska  
58 Intergovernmental Remote Seller Sales Tax Agreement (the “Agreement”), a cooperative  
59 agreement between Commission members; and

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61 WHEREAS, Under the terms of the Agreement, in order to maintain membership in the  
62 Commission, the borough will be required to adopt certain uniform code provisions for the  
63 collection and remittance of municipal sales tax applicable to sales made by remote sellers;  
64 and

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66 WHEREAS, The uniform remote sales tax code will be presented to the assembly for  
67 consideration once adopted by the Commission to comply with guidance found in the *Wayfair*  
68 decision; and

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70 WHEREAS, If adopted, the administration of remote sales tax collection and remittance  
71 will be delegated to the Commission; and

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73 WHEREAS, The intent of the Agreement is to enable Alaska’s taxing jurisdictions to levy  
74 their municipal sales tax to the maximum limit of federal and state constitutional doctrines;  
75 and

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77 WHEREAS, Article X, Section 13 of the Alaska Constitution authorizes local government  
78 to enter into agreements for the cooperative or joint administration of any function or power,  
79 unless otherwise prohibited by law or charter;

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81 WHEREAS, In addition AS 29.35.010(13) provides authority for the borough to enter into  
82 intergovernmental cooperative agreements for the joint administration of a borough function  
83 or power;

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85 WHEREAS, The purpose of being an early member of the Commission is to have a voice  
86 during the formation process while not committing to any future obligation or action; and

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WHEREAS, A member will be able to withdraw from the Commission if the adopted bylaws, uniform code, or fees are not acceptable to the member municipality.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, that the City Manager or their designee is authorized to negotiate, execute, and submit all necessary documents to obtain and maintain membership in the Alaska Remote Seller Sales Tax Commission, including the Alaska Intergovernmental Remote Seller Sales Tax Agreement included as Attachment A.

BE IT FURTHER RESOLVED the City Manager or designee is designated as the city's representative on the Commission.

PASSED AND ADOPTED by the Homer City Council this 28th day of October, 2019.

CITY OF HOMER

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KEN CASTNER, MAYOR

ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal Note: N/A