



**CITY OF THORNE BAY
ORDINANCE 20-07-21-01**

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, -
AMENDING TITLE 3-REVENUE AND FINANCE; CHAPTER 3.17-SALES TAX; SECTIONS
3.17.020, 025 & ADDING SECTION 3.17.220- REMOTE SELLER SALES TAX, TO THE THORNE
BAY MUNICIPAL CODE

BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA

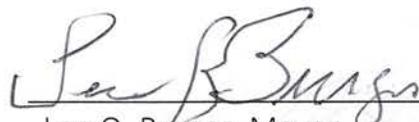
Section 1. Classification. This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.

Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.

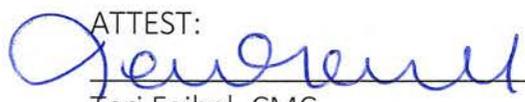
Section 3. Amendment of Section. The title and chapters of Title 3 – Revenue and Finance, Chapter 3.17 – Sales Tax, Section 3.17.020-Levy of Tax, 3.17.025- Rules Applicable to Particular Business or Occupation; 3.17.220 - Alaska uniform remote seller sales tax code adopted by reference; are hereby amended and added to the Thorne Bay Municipal Code.

Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED July 21, 2020



Lee Q. Burger, Mayor

ATTEST:


Teri Feibel, CMC

[Introduction: July 7, 2020]
[Public Hearing: July 21, 2020]

TITLE 3 – SALES TAX

CHAPTER 3.17 - CONSUMER'S SALES TAX

3.17.010 DEFINITIONS.

For the purposes of this chapter, the following words and phrases have the meanings respectively ascribed to them:

- A. **"Buyer" or "consumer"** means and includes, without limitation on the generality of the terms, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.
- B. **"DELIVERY" MEANS THAT GOODS HAVE BEEN PLACED WITHIN THE BUYER'S CONTROL.**
- C. **"LEASE" MEANS A CONTRACT PERMITTING THE USE OR OCCUPANCY OF REAL OR PERSONAL PROPERTY FOR CONSIDERATION.**
- D. **"OTHER LEASE TYPES" MEANS ANY LEASE THAT IS NOT A CAPITAL LEASE.**
- E. **"Remuneration for services"** means and includes the gross remuneration received for furnishing labor and materials for accomplishing a specified result, including travel and adventure services, and rentals of all types, including but not limited to rentals of equipment, buildings, lands and materials. It shall not be construed to include salaries or wages received by an employee from an employer.
- F. **"RENTAL" MEANS ANY TRANSFER OF THE RIGHT TO USE OR OCCUPY PROPERTY FOR CONSIDERATION.**
- G. **"RESIDENTIAL RENTALS" MEANS RENTAL OF A DWELLING DESIGNED FOR LIVING OR SLEEPING PURPOSES.**
- H. **"Retail sale" or "sale at retail"** means any nonexempt sale of services, rentals, or tangible personal property made to a buyer who intends to use, consume, or receive the item or services purchased for his own personal use as the ultimate consumer with no intention to sell the item again, whether to be sold in the same form as received, or in the same modified condition or after fabrication or use with some other substance or item. Notwithstanding any other provision of this chapter, arrangements made with another person or agent, including, but not limited to, a travel agent, broker, representative, tour operator, tour marketer, or cruise ship line, by a provider of services, rentals or goods to market such services, rentals, or goods, (including travel and adventure services) or to provide such services, rentals or goods to another person,

or the transfer to the buyer of the right or privilege to receive or assign such services, rentals or goods, is a taxable sale by such provider, and such provider is a seller for purposes of this chapter. The point of delivery of services, rentals, or tangible property is the point at which the sale is deemed to have occurred except purchase of city harbor privileges as provided in (c) of this section.

1. The sale is subject to the city's sales tax when the point of delivery of tangible personal property is within the city.
 2. Where a real estate rental is located or where other rental property is delivered in the city, the sale of the same is subject to the city's sales tax.
 3. Where a buyer receives a service within the limits of the city, and the service begins and ends therein, or, where the buyer receives an entire service therein, the sale of the same is subject to the city's sales tax; provided, however, purchase from the city of the privilege to use any harbor facilities owned or operated by the city shall be deemed to be a transaction and sale that shall be taxable unless otherwise made exempt by this code.
 4. A person who furnishes proof, in the form required by the revenue collector, that he has paid a sales tax in some jurisdiction other than the city, on the sale of services, rentals, or tangible personal property, is required to pay the City's sales tax only to the extent between the amount of the sales tax so paid elsewhere and the amount of the sales tax levied by the City. This paragraph applies to a sales tax levied in any taxing jurisdiction whether in or outside the state. (Ord. 17-03-21-02)
- I. **"Sale for resale"** means the sale of tangible personal property to a buyer whose principal business is the resale of the property whether in the same or an altered form and who holds a valid resale certificate issued by the City of Thorne Bay. Sale for resale also means the provision of services to a broker whose principal business is the resale of those services to an ultimate consumer and who holds a valid resale certificate issued by the City of Thorne Bay. Resale certificates do not apply to: travel and adventure services if the sale is to a person who would be entitled to claim the exemption provided by section or supplies purchased by travel and adventure service providers, hotels/motels, lodges, apartment/house rentals, or bed and breakfasts which are not separately charged to the consumer when resold.
- J. **"Sales tax"** means and includes the tax herein levied on gross revenues derived from all taxable commercial retail sales, rentals and services, including sales of travel and adventure services, said revenues being computed in dollars and cents and the tax payable by the seller, the person performing the services, or the person receiving gross revenues from rentals, to the city.

- K. **"Sales price"** means and includes the consideration, whether money, credit, rights, or other property expressed in terms of money paid or delivered by a buyer to a seller, all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, discount, delivery costs, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses.
- L. **"Seller"** means and includes every person making sales at retail, including travel and adventure services, to a buyer or consumer whether as agent, broker or principal, and the term also means and includes persons performing services for remuneration as well as persons receiving gross revenues derived from rents.
- M. **"SERVICE" MEANS ANY APPLICATION OF LABOR, SKILL OR KNOWLEDGE TO PRODUCE VALUE IN EXCHANGE FOR CONSIDERATION AND MAY INCLUDE THE PROVISION OF PROPERTY OR THE RIGHT TO USE OR OCCUPY PROPERTY, BUT DOES NOT INCLUDE SERVICES RENDERED TO AN EMPLOYER BY AN EMPLOYEE. "SERVICE" MAY INCLUDE, BUT IS NOT LIMITED TO:**
1. **PROFESSIONAL, ADVERTISING, MAINTENANCE, RECREATION, AMUSEMENT, AND CRAFTSMAN SERVICES.**
 2. **SERVICES IN WHICH A PRODUCT OR SALE OF PROPERTY MAY BE INVOLVED, INCLUDING PERSONAL PROPERTY MADE TO ORDER.**
 3. **UTILITY SERVICES INCLUDING BUT NOT LIMITED TO SEWER, WATER, SOLID WASTE COLLECTION OR DISPOSAL, ELECTRICAL, TELEPHONE SERVICES AND REPAIR, NATURAL GAS, CABLE TELEVISION, AND INTERNET SERVICES.**
 4. **THE SALE OF TRANSPORTATION SERVICES ORIGINATING INSIDE THE CITY.**
 5. **SERVICES RENDERED FOR COMPENSATION BY ANY PERSON WHO FURNISHES ANY SUCH SERVICES IN THE COURSE OF THE PERSON'S TRADE, BUSINESS, OR OCCUPATION INCLUDING SERVICES RENDERED FOR COMMISSION WHEN THE COMMISSION IS PAID ON A SERVICE OR PRODUCT THAT HAS NOT BEEN CHARGED THE CITY SALES TAX.**
- N. **"SHIPPING AND FREIGHT HAULING SERVICES" MEANS THE SERVICE OF TRANSPORTING GOODS BY MEANS OTHER THAN THE UNITED STATES POSTAL SERVICE.**
- O. **"Single-unit sale"** means the sale of a separate, single item or service which is customarily sold, advertised, contracted for sale or sold in the normal course of business as a separate and single item or unit or by a single unit of measurement (i.e., per gallon, ton, hour, day, week, month, foot, sack, yard, pound, piece, group, each, box, set, package, or other common unit of measurement). A single-unit sale shall include a sale by contract, quote, bid or other lump-sum amount only if the sale is based on and computed as a single bid, quote, sum, or package price rather than as an accumulation, sum, or aggregation of prices of separate identifiable or

separable unit prices as defined above. For purposes of package tours, every individual in the tour will count as a single unit. For purposes of harbor fees and port dockage, each foot or other measurement of length will count as a single unit.

- P. **“TRANSACTION” MEANS ANY TRANSFER OF PROPERTY, OR THE RIGHT TO USE OR OCCUPY PROPERTY, OR THE RENDERING OF A SERVICE, FOR CONSIDERATION.**
- Q. **Travel and adventure services** include, but are not limited to, tours and charters on land and water, guide services, admissions, lectures, transportation services (excluding air transportation), and the rental of lodging, aircraft, vehicles, watercraft, and equipment, including fishing, boating, camping and other tour or adventure related goods. Travel and adventure services also include sales of goods incidental or related to such services. Regardless of the location of any marketing, brokering, packaging, re- sale, assignment, or other arrangement and regardless of the beginning or ending of any other related services the point of delivery of a travel and adventure service is within the city if the ultimate consumer of the travel and adventure service receives any such service which begins, ends, or occurs, as described in (c) of subsection (3) above.
- R. **“U.S. POSTAGE” MEANS THE COST OF MAILING AN ITEM BY THE UNITED STATES POSTAL SERVICE.**

3.17.011 DELIVERY CHARGES.

- A. **Delivery Charges.** Delivery charges for services rendered for delivery of any personal property, goods or materials which delivery services both commence and terminate within the city are subject to sales taxes.
- B. **Definition.** "Delivery charges" means and includes any costs or charges imposed on the sale of freight services, shipping services, courier services, wharfage services, postal services, excepting postal delivery services rendered by the United States postal service, and any other services related to the delivery or transportation of any personal property, goods or materials of any nature whatsoever. (Ord. 984 §3, 1982)

3.17.012 EMPLOYEES/SUBCONTRACTORS--SALE OF SERVICES.

- A. The remuneration paid by an employer in the form of wages or salary to an employee for the sale of services by such employee to the employer are not taxable under the provisions of this chapter. Sales of services by contractors, or subcontractors, and any other type of sale of a service by a person other than an employee are taxable unless specifically exempted.

- B. A person shall be deemed to be an employee under the provisions of this chapter if the person claiming to be at employer is withholding a portion of such person's wages or salary in accordance with federal income tax laws and regulations. In the event no amounts are being withheld, it shall be presumed such person is not an employee unless the person claiming to be his employer submits clear and convincing evidence establishing the person's status as an employee.

3.17.015 MULTIJURISDICTIONAL SERVICES.

- A. All services which either commence or terminate within the city, or which are in any part rendered, supplied or provided within the city, shall be subject to sales tax, except as otherwise provided in this chapter.
- B. Sightseeing charter services and shore excursions by land or water, which are provided by a person in the business of providing such services and are either sold within the city or begin or end within the city are subject to sales tax under this chapter to the maximum extent permitted consistent with state and federal law.

3.17.020 LEVY OF TAX.

To the fullest extent permitted by law, a sales tax of six percent is hereby assessed and levied on the following sales, except as otherwise specifically exempted under this chapter:

- A. All retail sales; including yard sales, and sales of similar type items occurring at the same location on a regular basis, whether for profit or non-profit (weekly, bi-weekly, monthly constitute a regular basis) catalog and internet sales sold locally or out of the area.
- B. All services; including the gross receipts earned as commissions by real estate agents for sales occurring within the city limits;
- C. All rents and fees paid for the use of real and personal property. (Ord. 17-03-21-02)
- D. SELLERS WITH A PHYSICAL PRESENCE AND POINT OF DELIVERY. A SELLER THAT ESTABLISHES A PHYSICAL PRESENCE AND POINT OF DELIVERY WITHIN THE CITY IN ANY CALENDAR YEAR WILL BE DEEMED TO HAVE A PHYSICAL PRESENCE WITHIN THE CITY FOR THE FOLLOWING CALENDAR YEAR. A SELLER HAS A PHYSICAL PRESENCE UNDER THIS CHAPTER WHO ESTABLISHES ONE OR MORE OF THE FOLLOWING:**
 - 1. HAS ANY OFFICE, DISTRIBUTION OR SALES HOUSE, WAREHOUSE, STOREFRONT, OR ANY OTHER PLACE OF BUSINESS WITHIN THE BOUNDARIES OF THE CITY;**

2. SOLICITS BUSINESS OR RECEIVING ORDERS THROUGH ANY EMPLOYEE, AGENT, SALESMAN, OR OTHER REPRESENTATIVE WITHIN THE BOUNDARIES OF THE CITY OR ENGAGES IN ACTIVITIES IN THIS STATE THAT ARE SIGNIFICANTLY ASSOCIATED WITH THE SELLER'S ABILITY TO ESTABLISH OR MAINTAIN A MARKET FOR ITS PRODUCTS IN THIS STATE;
3. PROVIDES SERVICES OR HOLDS INVENTORY WITHIN THE BOUNDARIES OF THE CITY;
4. RENTS, SELLS, OR LEASES PROPERTY LOCATED WITHIN THE BOUNDARIES OF THE CITY; OR
5. CONSTRUCTS, REPAIRS, RENOVATES, OR IMPROVES REAL PROPERTY IF THE REAL PROPERTY IS LOCATED IN THE CITY.

E. REMOTE SALES. A REMOTE SELLER OR MARKETPLACE FACILITATOR WITHOUT PHYSICAL PRESENCE IN THE CITY THAT MAKE SALES OF PRODUCTS, RENTALS OR PROVIDES SERVICES TRANSFERRED ELECTRONICALLY, OR DELIVERED TO A POINT OF DELIVERY LOCATED INSIDE THE CITY, SHALL BE SUBJECT TO THE ALASKA REMOTE SELLER SALES TAX CODE AS PROVIDED IN SECTION 3.17.220.

3.17.025 RULES APPLICABLE TO PARTICULAR BUSINESSES OR OCCUPATIONS.

A. REAL ESTATE SALES COMMISSIONS.

1. COMMISSIONS AND/OR REALTOR FEES FOR THE SALE, 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 SALE, 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.

3.17.030 DUTY OF SELLER TO COLLECT.

- A. The tax levied under the provisions of this chapter is primarily upon the buyers of the personal property, rentals, or services, but the tax is payable to the city by the seller

regardless of whether the seller has collected the same from the buyers. It is the duty of each seller to collect from the buyer or consumer the full amount of the sales tax payable on each taxable sale, service or rental, at the time the property sold is delivered, or when the rentals are collected. Every sale, which is made within the city, unless explicitly exempted by this chapter, or a subsequent ordinance, shall be presumed to be subject to the tax imposed under this chapter in any action to enforce the provisions of this chapter.

- B. In the specific instances where the tenant is occupying space in a USDA Forest Service, owned building or land, it is the tenant's obligation to pay the sales tax directly to the City, unless the landlord is willing to voluntarily receive the tax payment and remit to the city. The Landlord shall be responsible for all delinquent or unpaid sales taxes incurred by their tenants. (Ordinance 17-12-05-02; Prior Ord. 17-03-21-02; Ord 10-10-11-01; Ord 88-50; Ord 8-11)

3.17.35 TEMPORARY SUSPENSION OF SALES TAX COLLECTION.

The Council may for periods of up to one month, suspend the duty of a seller to collect the tax levied under this chapter. The Council may establish regulations, conditions, and limitations on the suspension of the duty to collect the tax. Such regulations, conditions, and limitations may apply the suspension to the sale of certain goods, or services while requiring the collection of the tax on other goods or services.

3.17.040 TAX ADDED TO SALES PRICE.

Sellers shall add the sales tax to the sales price, rental, or charge for services. Such sales tax is a debt from the buyer or consumer to the seller until paid, and the same is recoverable at law in the same manner as other debts.

3.17.050 UNLAWFUL FOR SELLER TO FAIL TO COLLECT.

- A. Any seller who willfully or intentionally fails, neglects, or refuses to comply with the provision of this chapter is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars, or imprisonment, not to exceed thirty days, or both; each act of violation and every day upon which any such violation occurs shall constitute a separate offense.
- B. In addition to the penalties provided elsewhere for violation of this section, a seller who intentionally or recklessly violates this section shall be liable to the city for civil penalties in an amount of three times the amount of sales tax the seller failed to collect.

3.17.051 COLLECTION OF SALES TAX AND NOT DUE.

It shall be unlawful and a violation of this title for a person to charge and collect sales tax which is not due under this title. (Ord. 1562 §7, 2006)

3.17.060 TAX TO BE PAID QUARTERLY.

The tax levied under this chapter is due and payable at the expiration of each quarter of each calendar year. It is the duty and responsibility of every seller liable for the collection of any tax imposed in this chapter, unless otherwise provided herein, to file with the revenue collector upon forms prescribed and furnished by the revenue collector, a return, prepared under oath, setting forth the amount of all sales, taxable and nontaxable, the amount of tax thereon and such other information as the revenue collector may require on such form or forms. The completed and executed return, together with remittance in full for the amount of the tax due, shall be transmitted to and received by the revenue collector's department of administrative services on or before 5:00 p.m., local time on the last day of the month succeeding the end of each quarter. If the last day of the month succeeding the end of a quarter is a Saturday, Sunday or a holiday observed by the revenue collector; the completed and executed return and amount of the tax due shall be transmitted and received by 5:00 p.m., local time on the next business day. Returns may be accepted based upon a timely postmark only if the return is sent certified or registered mail and receives a United States postal service cancellation on or before the due date. (Ord. 1369, §1,1997) (Ord. 17-03-21-02)

3.17.065 REGISTRATION.

A. A person, firm, partnership, corporation or other business entity shall file an application for registration with the revenue collector's department of administrative services on a form provided by that department, prior to making any retail sales, rendering any services, making rentals within the city or the opening of an additional place of business in the city. The completed application shall be returned to that department of administrative services along with a copy of the business entity's Alaska State business license.

- B. Each business entity shall be registered under the advertised name, and each separate business shall be registered under its own account.
- C. A person, corporation or other association that is about to make sales, perform services or make rentals shall first register with the revenue collector's department of administrative services and shall make the deposit of cash or bond required by this section unless the person has been a resident of the City of Thorne Bay for six months prior to registering or the corporation or association is composed of such residents or has been regularly engaged in business within said city for nine of the twelve months preceding registration.
- D. The deposit required under subsection (c) of this section must be an amount determined by the revenue collector that is not less than the maximum amount of sales tax that the person, corporation or other association is likely to be required to collect during any filing period within a year of the date of registration.
- E. The deposit must be refunded by the revenue collector upon written request and a determination by the revenue collector that:
 - (1) The seller has filed sales tax returns and made full remittance of sales tax owing for the preceding year; or
 - (2) The seller has filed a statement that the seller has ceased engaging in transactions within the city and has remitted all sales taxes due. The deposit must be refunded by the revenue collector within thirty days of the receipt of the refund request unless the revenue collector has initiated an audit of the seller or has otherwise questioned a return made during the period under construction. The revenue collector shall be responsible for payment and safeguarding of all deposits and for maintaining all records concerning the deposits.
- F. The revenue collector may order the withdrawal from the deposit of the seller the amount that is required to make up for any deficiency or late payment of taxes. No seller may engage in transactions within the city after receipt of written notice that the revenue collector has withdrawn all or a portion of the seller's deposit for application to a delinquent or insufficient payment of sales taxes. Upon the deposit with the revenue collector of funds restoring the deposit to its original amount or such higher amount as the revenue collector determines is appropriate in light of the actual sales experience of the seller, the seller may again engage in transactions. A seller may not deduct the deposit amount from the seller's last or any other sales tax return.

3.17.070 DUTY TO KEEP BOOKS--INVESTIGATION.

- A. Every seller shall keep and preserve suitable records of all sales made by him, and such other books or accounts as may be necessary for the revenue collector to determine the amount of tax for the collection of which he is liable hereunder. Every such person shall keep and preserve for a period of two years all invoices of goods and merchandise purchased for resale, and all such books, invoices and other records as may be necessary, all of which are open for examination at any reasonable time by the revenue collector, the City Administrator, city administrator, or his or their designee.

- 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 by any person, the City Administrator or his designee may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records, or memoranda of any such person, and may require the attendance of such person, or any officer or employee of such person. The City Administrator or his designee has the power to administer oaths and affirmations to such persons, and if any such person, being first duly sworn, refuses to answer any questions put to him by the manager or his designee, the manager may apply to the superior court for an order requiring the person to answer the questions. The City Administrator may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any person refuses to obey any such subpoena, the City Administrator may apply to the superior court for an order requiring the person to comply therewith. The City Administrator is authorized to make arrangements with the City of Thorne Bay, authorizing the city to conduct the investigations and hearings provided herein, including the exercise of all the powers created in this chapter.

- C. In the event the revenue collector is unable to ascertain the tax due to be remitted by a seller by reason of the failure of the seller to keep accurate books, allow inspection, failure to file a return, or falsification of records, the revenue collector may make an estimate of the tax due based upon all of the information available. Notice of the estimate of taxes due shall be furnished by certified mail to the seller and shall become final for the purposes of determining liability of the seller to the city in thirty days unless the seller earlier files an accurate return, supported by satisfactory records, indicating a lesser liability.

3.17.080 PENALTY AND INTEREST ON DELINQUENT TAXES.

- A. In the event a seller fails or neglects to file a return when due, or fails to remit taxes collected, or which should have been collected, in a timely manner as required by this chapter, then such return and tax is delinquent, and the revenue collector shall add thereto penalties as follows:
1. Within five working days after delinquency date 6%
 2. More than five working days up to and including thirty days after delinquency date 15%
 3. More than thirty days up to and including sixty days after delinquency date 20%
 4. More than sixty days after delinquency date 25%
- B. Interest shall accrue on the unpaid tax, not including penalty, from the date of delinquency to the date of payment at the rate of one percent per month. All remedies available to the revenue collector to collect taxes, penalties and interest, plus collection costs, shall commence on the date of delinquency. Payments received after the date of delinquency shall be applied first to payment of any collection costs, next an interest, next on penalty, and next on the tax. In the event of partial payment, penalties shall continue to accrue on the unpaid portion of the tax as provided for in (a) of this section. Interest at the rate of one percent per month shall also accrue on any unpaid amount of tax until paid in full.

3.17.085 SALES TAX LIENS.

- A. The sales tax, interest, and penalties imposed by this chapter, and the administrative costs under subsection (f) of this section, shall constitute a lien in favor of the city upon all of the real and personal property of every person making taxable sales subject to this chapter.
- B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent under Section 3.17.080 and continues until the entire amount is satisfied.
- C. If delinquent sales taxes, including interest and penalties, are not paid within ten days from the mailing of notice and demand for payment thereof, a notice of lien may be recorded in the office of the district recorder. Upon recordation, the sales tax lien has priority over all other liens except
1. liens for property taxes and special assessments;

2. liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien;
 3. mechanics, and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien.
- D. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens in AS 09.45.170-09.45.220.
- E. The remedy provided in this section is not exclusive and shall be in addition to all other remedies available to the revenue collector to collect the sales taxes, penalties and interest due under this chapter.
- F. Fees for the administrative costs of filing on notices of liens, and releasing of liens shall be:
1. Filing of notices of lien: twenty-five dollars plus recorder's office filing fee.
 2. Release of liens: twenty-five dollars plus recorder's office filing fee.
- G. If administrative costs for the filing of notices of liens and releasing of liens are imposed and have been collected by the City of Thorne Bay on delinquent sales taxes, including penalties and interest, no additional administrative costs shall be collected under subsection (f) of this section.

3.17.090 SALE OF BUSINESS--FINAL RETURN--LIABILITY OF PURCHASER.

If any seller sells his business to another person, he shall make a final sales tax return within five days after the date of selling the business; and his purchaser, successor, successors, or assigns, shall withhold a sufficient portion of the purchase money to pay the amount of sales taxes, penalties and interest due and unpaid to the city; and provided, further, the purchaser, successor, successors, or assigns are personally liable for the payment of the taxes, penalties and interest, accrued and unpaid to the city or city or both on account of the operation of the business by any former owner, owners, or assigns as shown by the final return or an audit conducted by the city within thirty days of the filing of the final return. Before any such sale is completed, the buyer and seller shall send to the revenue collector, by registered first-class United States mail, postage prepaid, a copy of the notice referred to in AS 45.06.105, which statute is made a part of this chapter, and the notice shall be so sent regardless of whether such notice would have otherwise been required to have been made and sent under the other provisions of AS 45-06.101, et seq., Uniform Commercial Code--Bulk Transfers.

3.17.100 EXEMPTIONS.

The following sales and services are exempt from the sales tax :

- A. Retail sales and remuneration for services amounting to less than one hundred twenty-five dollars in any calendar quarter; however, any sales taxes collected shall be remitted;
- B. Casual and isolated sales not made in the regular course of business;
- C. Sales of insurance and bonds of guaranty and fidelity;
- D. The agreed value of new or used articles taken in trade as credit or part payment on the sale of new articles shall be deducted from the value of the article being purchased in determining the tax;
- E. Gross receipts derived from sales, services, rentals and transactions which the municipalities are prohibited from taxing under the Constitution and laws of the United States or the state;
- F. Gross receipts derived from sales initiated by orders received from outside the city where delivery is made outside the city by mail or commercial common carrier;
- G. Gross receipts derived from funeral charges and services, medical, dental, optometric, hospital services, or from sales of prescription medicines oxygen used for medical purposes, blood or blood plasma, artificial devices designed or altered for the use of a particular crippled person, artificial limbs, eyes and organs, hearing aids, prescription eyeglasses, artificial teeth sold by a dentist and materials used by a dentist in treatment, crutches, and wheelchairs; provided, however, services rendered by barbers, cosmeticians and masseurs are not exempt;
 - (1) Gross receipts from sales, services and rentals to any nonprofit organization or nonprofit institution if such organization or institution is organized exclusively for religious, educational, or charitable purposes, and if such organization or institution has obtained a certificate of exemption as provided for in subsection (2) and displays that certificate of exemption as provided for in subsection (3) below.
 - (2) Any organization or institution described in subsection (1) may apply to the City of Thorne Bay revenue collector for a certificate of exemption. Such application shall be made on forms to be furnished by said revenue collector, and each applicant shall be required to furnish such information as said revenue collector may reasonably require. If the revenue collector determines that the applicant is entitled to an exemption provided for in this section, the revenue collector shall

issue or cause to be issued a certificate of exemption which shall be effective as of its date of issue. The revenue collector shall endeavor to issue or deny the exemption within thirty days after the date an application is filed;

- (3) A buyer seeking to make a purchase entitled to a sales tax exemption under subsection (1) shall display a valid certificate of exemption to the seller at the time of purchase. If the buyer does not so display the required valid certificate of exemption the sale is taxable, and the seller shall collect the sales tax due on the sale.
- D. Gross receipts derived from sales, services and rentals to the United States Government, the state and its political subdivision, and municipalities, or agencies funded by these governments;
- E. Retail sales of food in school and college cafeterias and lunchrooms which are operated primarily for teachers or students and which are not operated for profit;
- F. LEFT BLANK INTENTIONALLY
- G. Gross receipts or proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles;
- H. Gross receipts derived from sales of real property, excepting the gross receipts earned as commissions by real estate agents shall be taxable;
- I. Dues or fees to nonprofit clubs, labor unions, or fraternal organizations;
- J. Gross receipts derived from veterinary services;
- K. Gross receipts or proceeds derived from sales made directly to consumers or users of newspapers;
- L. LEFT BLANK INTENTIONALLY
- M. Gross receipts derived from sales of educational services by a nonprofit institution in providing a program of learning on a formal study basis in an institution of learning which has an organized curriculum consisting of specific subjects and skills as outlined in the State of Alaska course of study as officially adopted by the State Department of Education for elementary, junior high or senior high schools, for children ages five through eighteen.
- N. Gross receipts derived from sales of day care services for children;
- O. (1) Gross receipts derived from sales where the purchase is made with food coupons, food stamps or other type of certificate issued under 7 U.S.C. Sections 2011-2025 (Food Stamp Act); and (2) Food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children).

- P. That part of the sales price paid by the buyer for travel and adventure services purchased outside the city which is not remitted, directly or indirectly, to the person providing or performing the service and which is a selling cost or commission or similar charge.
- Q. Remuneration received for services and materials, including caskets, used or furnished for funerals;
- R. The part of the selling price of a single item of tangible personal property that exceeds seven thousand five hundred dollars (\$7,500.00). A single item is 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. It includes optional accessories for such items as boats and automobiles if the accessories are useful or essential for the operation or use of the item, and include in the original transaction/sale;
- S. Airfare or the air charter sales price paid for transportation of persons or on a federal airway but excluding the portions of a sale of flightseeing or round-trip air/water/shore excursion travel or adventure services which are not charges for transportation of persons on a federal airway.
- T. Gross receipts in excess of ten thousand dollars derived from sales of material and labor for the clearing of land, excavation, or fill or placement of material on real property for construction of a facility, and sales of building construction materials and labor used in constructing a permanent building within the city, provided that the improvements are constructed pursuant to a valid sales tax exemption permit issued or renewed no more than one year prior to the sale of transaction being exempted from the tax. Construction materials shall include: all structural and finish materials for a permanent building used on the lot wherein the building is being constructed, and installation of infrastructure to said building such as water, sewer, power and phone and all parts to said infrastructure. Sales, to qualify for this exemption, shall be recorded by the seller, together with the date, the purchaser's name, and the sales tax exemption permit number. Any purchaser who attempts to avoid paying sales tax by using a sales tax exemption permit number for materials or labor not actually used in the structure for which the permit was issued shall be subject to a civil penalty up to twenty-five percent of the price of the materials or labor involved in the evasive purchase. The cost of the permit will be six hundred dollars; 3.16.050.

(Ordinance 05-09-06-01; Prior Ord. 10-03-02-01)

3.17.110 SALES TAX EXEMPTION FOR THE ELDERLY.

Anyone sixty-five years of age or older may apply for and be issued by the City Administrator or designee a senior citizens sales tax exemption card, for fifteen dollars, to be renewed bi-annually. This card entitles the person to be exempted from the operation of the city's consumer's sales taxes on purchases of all types of property, rentals and services, except alcoholic beverages of all types and all types of tobacco products, not for use in any trade or business. No seller within the city shall charge or collect the sales tax on exempted purchases from any person who displays such a valid sales tax-exempt card. All sellers within the city shall keep records of such exempt sales and submit quarterly totals of such sales to the revenue collector, together with any other information required by law. To qualify for a tax exempt card a person must provide a copy of their Alaska ID or driver's license, and proof they have resided in Alaska, as a permanent resident for the past 12 months, received an Alaska Permanent Fund Dividend, documentation required as part of a permanent fund application or other documentation that verifies a person has established permanent residency in Alaska must be submitted to show proof of residency. (Ordinance 17-05-16-04)

- A. A spouse under 65 years of age is not eligible for the exemption and cannot purchase anything without the presence of the exempt spouse except as listed in subsection (B) of this section.
- B. No person who has not duly applied for and received such an exemption card may use it to obtain such tax exemption. However, in the case where a person is an invalid or otherwise physically unable to leave their home or dwelling to use the card, the city may issue a special card authorizing another person to use the special card for the benefit of the invalid or otherwise physically unable person to use the card.

(Ord. 12-08-07-01)

3.17.120 UNLAWFUL TO MISREPRESENT EXEMPTIONS.

Any buyer or consumer who falsely states or in any way misrepresents the use to which merchandise or material is to be put for the purpose of securing tax exemption under the terms of this chapter is guilty of an unlawful act and upon conviction thereof is subject to the penalties provided in section 3.17.060 of this chapter.

(Ord. 870 §2(part), 1977)

3.17.130 USE OF PROCEEDS OF SALES TAX.

As of January 1, 2010, Thorne Bay Municipal Sales Tax is 6%. Five sixths (5/6) or eighty-three percent (83%) of the total sales tax collected shall be used for general municipal purposes. One sixth (1/6) or seventeen percent (17%) shall be placed in a savings account at the end of each calendar quarter to be divided 40/60 for community development projects and the maintenance and improvement of streets and roads. (Ord. 10-01-05-01)

3.17.150 REGULATIONS AUTHORIZED.

The City Council or City Administrator is authorized to prescribe by departmental regulations the forms to be used and the methods and procedures to be followed by the revenue collector in collecting the taxes. This authorization does not authorize regulations of substance which impose any requirements upon buyers or sellers.

3.17.180 PROTEST OF TAX.

- A. A buyer who protests the payment of the tax levied under this chapter shall pay the tax and shall provide the seller and the revenue collector's director of administrative services with a written statement of protest within five working days of the sale. The written statement shall identify the sale, rental or service that is the subject of the tax protested, the amount of tax paid, the buyer's and seller's name, mailing address, and telephone number and the basis for the protest.
- B. If the seller protests his liability for a final assessment under Subsection 3.17.070(c) or if the seller has any other cause of action, grievance or protest concerning the legality, collection or payment of the sales tax, he shall pay the tax under written protest setting forth the basis for the protest. No action for a refund may be maintained nor may a defense to nonpayment be maintained in a civil action unless the amount in dispute has been paid by the seller under written protest filed at or before the time of payment.

3.17.190 FORGIVENESS OF UNCOLLECTED TAXES, PENALTIES AND INTEREST.

- A. The City Administrator, with the consent of the Mayor and council, may forgive the payment of uncollected sales taxes, interest and penalty thereon and penalties for failure to file owing by a seller to the city upon a determination by the City Administrator that such uncollected sales taxes have never been collected by a substantial portion of a clearly definable class of sellers or which have never been

collected on a substantial portion of a clearly defined class or type of transaction or service.

- B. The City Administrator may, upon recommendation of the Mayor and City Council, authorize forgiveness of uncollected sales taxes, interest and penalty thereon and penalties for failure to file, as part of the compromise and settlement of a disputed claim in an action for collection of such funds.
- C. The City Administrator, with the consent of the Mayor and City Council, may onetime forgive the payment of uncollected sales taxes, interest, and penalty thereon and penalties for failure to file owing by a seller to the city upon a determination by the city administrator that such uncollected sales taxes are the result of a family medical hardship. (Ord. 17-03-21-02)

3.17.200 APPEALS.

- A. A seller aggrieved by the action of the revenue collector in fixing the amount of the tax or in imposing a penalty or interest shall appeal to the revenue collector's manager within forty-one calendar days from the date taxes are due and payable under this chapter. A seller who has a cause of action, grievance or protest concerning the legality, collection or payment of the sales tax shall appeal in this manner and within the same forty-one days. All right to an appeal shall be deemed waived if not timely requested as set forth in this subsection.
- B. Contested taxes, penalties and interest that remain unpaid shall continue to accrue penalty and interest as provided by this title until paid. Contested taxes, penalties and interest that are paid and are found to be overpaid shall be refunded with interest at the rate of eight percent from the date of payment.
- C. All appeals shall be filed in writing with the revenue collector's manager and shall contain all of the following information:
 - 1. Name, address, and telephone number of the aggrieved seller;
 - 2. A specific and detailed statement of the amount of tax, interest or penalty contests, the basis and grounds upon which the appeal is made, and all pertinent records, documents, or other evidence substantiating the grounds as stated;
 - 3. A statement of the relief sought; and
 - 4. A statement as to whether a hearing is requested.
- D. 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 any appeal are limited to:

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 a hearing);
 3. The seller disputes the denial of exemption(s) for certain sales; or
 4. Taxes have been levied and forgiven in accordance with Section 3.17.190.
- E. A request for appeal is filed on the date it is personally delivered, or if delivered to the revenue collector's manager by United States mail, the date of the United States Postal Service postmark stamped on the properly addressed cover in which the request is mailed. If the due date falls on a Saturday, Sunday, or a holiday, the due date is the next business day. A current mailing address must be provided to the revenue collector's manager with the request for appeal, and any change in mailing address after the request for appeal is filed must be reported to the revenue collector's manager.
- F. Upon such filing of a written appeal, the revenue collector's manager shall immediately send a copy thereof to the City Administrator or administrator. The city may provide written information that may be considered in deciding the appeal.
- G. Unless the appellant waives a hearing, the revenue collector's manager or person designated by the revenue collector's manager shall hold a hearing to determine whether a correction is warranted. The revenue collector's manager or designee shall decide the appeal based upon the pertinent records provided by the parties involved or discovered by any investigation ordered by the revenue collector's manager and, if a hearing is requested, any evidence presented at the hearing. If a hearing is requested, the appellant need not appear at the hearing. If the appellant fails to appear, the revenue collector's manager or designee may make a determination based upon the evidence received and any written materials submitted by the appellant. The determination need not make formal findings of fact or conclusions of law, but the written determination shall state the reasons for the decision and indicate the evidence relied upon. Such determination shall be issued no later than ten business days after the date of hearing if a hearing is held or ten days after the appeal is filed if the hearing is waived. Such determination shall be final.
- H. Taxes, penalties, and interest declared to be due in the final determination shall be subject to normal collection action of the city. The amount due must be paid or if the decision of the revenue collector's manager is appealed, a bond to secure payment must be filed with the court in accordance with Alaska Rules of Court, Rules of Appellate Procedure.

- I. Within thirty days after receipt of the final determination, a seller aggrieved by the decision may appeal to the Superior Court in the First Judicial District. The seller shall be given access to the revenue collector's file in the matter for preparation of the appeal. If after the appeal is heard it appears the tax was correct, the court shall confirm the tax. If incorrect, the court shall determine the amount of the tax and if the seller aggrieved is entitled to recover the tax or part of it, the court shall order the repayment. The city shall then pay the amount due within fourteen days after receipt of a certified copy of the judgment, unless the city requests a stay pending its own appeal.

3.17.210 CLERICAL ERRORS OR OMISSION, REFUND OF SALES TAX; PENALTY AND INTEREST.

- A. The revenue collector's director of administrative services may correct manifest clerical errors or omissions at any time they are found and verified.
- B. If, in payment of taxes legally imposed, a remittance by a seller through error exceeds the amount due, and the revenue collector, on audit of the account in question, is satisfied that this is the case, the city shall refund the excess to the seller with interest at eight percent from the date of payment. A claim for refund filed one year or more after the due date of the tax is forever barred. A copy of the refund audit and entitlement shall be given to the City Administrator.

3.17.220 Alaska uniform remote seller sales tax code adopted by reference.

- A. THE CITY ADOPTS BY REFERENCE THE ALASKA UNIFORM REMOTE SELLER SALES TAX CODE (UNIFORM CODE) OF THE ALASKA REMOTE SELLERS SALES TAX COMMISSION, AS THE CODE CURRENTLY EXISTS, AND AS MAY HEREAFTER BE AMENDED. IN THE EVENT THAT THERE IS ANY CONFLICT BETWEEN THIS CHAPTER AND THE UNIFORM CODE, THE PROVISIONS OF THE UNIFORM CODE WILL APPLY; IN THE EVENT THAT THERE IS AN APPLICABLE PROVISION IN THE UNIFORM CODE THAT IS NOT IN THIS CHAPTER, THE CITY MAY PROVIDE THAT THE UNIFORM CODE PROVISION SHALL APPLY TO LOCAL SALES, RENTALS, OR SERVICES; FURTHER, PROVIDED, HOWEVER, THAT IN THE EVENT THERE IS A CONFLICT RELATED TO EXEMPTIONS, THIS CHAPTER WILL APPLY IN LIEU OF THE SPECIFIC UNIFORM CODE PROVISION OR DEFINITION.**