

## **POSSIBLE MOTION**

**I MOVE TO** approve Ordinance 2014-08  
on second and final reading.

## Ordinance 2014-08

A proposed ordinance is attached.

The Administrator has asked that the sales tax code be revised to incorporate a change to the period of time an individual can apply for a residential construction sales tax refund. The reasoning behind the change is that some seasonally-employed individuals take longer than a year to finish their homes, working only in the off season. This change helps bring fairness in regards to the refund. I agree with, and support, the changes.

Note that we put a limitation on the refund. Once you apply for one, you can't apply a second time, even if you pay additional taxes. One refund per building permit only.

This version adds two additional points recommended by Marj:

- 1) Clarifying in a new section 4.09.110 D 3 that the refund can include sales taxes paid on the expenditures made to construct the home or prepare the lot for construction, and
- 2) Putting a provision requiring the invoices to be organized and the amount of the refund totaled. This is to prevent against people bringing a shopping bag of invoices in and expecting CBS to total the taxes for them.

Jay

This second revision of the ordinance addresses the issues William raised, all of which are valid. Please let us know if any other tweaks need to be made.

Jay

A couple of things come to mind.

1. Projects are usually started with a grading permit which is followed by a foundation permit. A building permit is issued after these steps have been completed. Taxes paid on lot prep and concrete would not be eligible for refund since they were paid before building permit was issued.

2. Removing the provision requiring occupancy could allow a non-contractor home builder to sell a house before two years, get a tax refund and the city would receive no taxes. I may be mistaken but I thought a contractor pays no sales tax on products to be resold but there is a one time sales tax paid when the home is "sold" by the contractor to the owner.

William Stortz

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014-08

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA REVISING CHAPTER 4.09 SALES TAX OF THE SITKA GENERAL CODE, UNDER SUBSECTION 4.09.110 ENTITLED "RESIDENCE CONSTRUCTION TAX REFUND," TO EXTEND THE TIME PERIOD FOR APPLYING FOR THE REFUND TO TWO YEARS AFTER THE ISSUANCE OF THE BUILDING PERMIT, AND, TO CLARIFY THAT ONLY ONE REFUND PER BUILDING PERMIT WILL BE ISSUED

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person or circumstances shall not be affected thereby.

3. PURPOSE. The purpose of this ordinance is to revise Section 4.09.110 of the Sitka General Code, Residence Construction Tax Refund, to extend the period to apply for the refund to up to two years after the issuance of the building permit to clarify which permits begin the two year time period, to provide for a mechanism for collecting tax on the sale of a home completed within the two year period, and, to clarify that only one refund per building permit will be issued.

4. ENACTMENT. The Assembly of the City and Borough of Sitka hereby revises Section 4.09.110 of the Sitka General Code (eliminated language is struck through and new language is in bold and underlined).

Chapter 4.09
Sales Tax

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4.09.110 Residence construction tax refund.

36 Upon proper application the city and borough will refund sales tax paid on the construction of an  
37 owner-occupied single-family dwelling or duplex.

38 A. The dwelling must be a new dwelling unit, not merely an extension of an existing unit.

39 B. At the time of refund application, ~~applicant must be residing in the dwelling, the dwelling~~  
40 ~~must be certified ready for occupancy by the building official and less~~ **no more than one two**  
41 **years** shall have passed since the issuance **of either a grading permit, foundation permit, or**  
42 **building permit. The applicant may choose which permit issuance date begins the two year**  
43 **period**. No refund shall be made for items purchased prior to the issuance of the ~~building~~ permit  
44 **selected by the applicant**. No sales tax paid to businesses outside of the city and borough shall  
45 be refunded.

46 C. The refund shall be the amount of sales tax actually paid for materials and services used in  
47 the construction of the dwelling. This shall include lumber, building materials, electrical and  
48 plumbing supplies or services, furnace and other heating apparatus and permanent carpeting and  
49 major appliances, such as kitchen stove, refrigerator, washer, dryer and freezer. Items not  
50 included are throw rugs, televisions, furniture, drapery, pictures and minor appliances, not built  
51 into the building. Also not included are tools and machinery purchased to use in the construction  
52 of the dwelling, nor shall it include spare material(s) not used.

53 D. Upon application for a refund the applicant shall certify, under penalty of perjury:

54 1. The sales tax requested to be refunded has actually already been paid to the  
55 supplier;

56 2. That all items for which a refund is requested were consumed in the  
57 construction of the dwelling or have actually been installed in the dwelling.

58 **3. That all services were used to prepare the lot for construction, construct the**  
59 **dwelling, or install materials in the dwelling.**

60 E. Applications for refund shall be made to the finance director and shall be supported by  
61 detailed invoices. **Such invoices must be presented in an orderly fashion with the total**

62 **amount of refund being applied for totaled.** The finance director will disallow unsupported  
63 application or portions thereof. Appeals may be made to the assembly.

64 **F. Only one refund will be issued in conjunction with the same building permit. If a**  
65 **builder chooses to apply for a refund prior to completion of construction during the two**  
66 **year period commencing with the issuance of the building permit and subsequently incurs**  
67 **additional construction costs after the issuance of a refund, sales taxes paid on those**  
68 **additional costs will not be refunded, even if incurred within two years after the issuance of**  
69 **the building permit.**

70 **G. If a non-contractor home builder completes and sells a home prior to the end of the**  
71 **two-year time period for refunds, the amount of applicable sales tax will be deducted from**  
72 **the amount of the refund. This is the amount of sales tax applicable to the sale of the home**  
73 **in affect at that time.**

74  
75 **EFFECTIVE DATE.** This ordinance shall become effective the day after the date of passage.  
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77 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka,  
78 Alaska this 8<sup>th</sup> day of April, 2014.  
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82 **Mim McConnell, Mayor**

83 **ATTEST:**

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85 \_\_\_\_\_  
86 **Colleen Ingman, MMC**  
**Municipal Clerk**