

**ORDINANCE NO. 2-2020**

**AN ORDINANCE REVISING SECTIONS 18-46 THROUGH 18-48 AND  
SECTION 18-86 OF THE SALES AND USE TAX ORDINANCES OF THE  
CITY OF ALAMOSA TO COMPORT WITH VOTER-APPROVED TAX  
REVENUE AND SPENDING CHANGES**

**WHEREAS**, The City of Alamosa sets forth its sales and use tax provisions in Article II of Chapter 18 of the *Code of Ordinances of the City of Alamosa*, with specific provisions for the amounts of such tax set forth in Sections 18-46 through 18-48 (sales tax) and in Section 18-86 (use tax); and

**WHEREAS**, at the City's general election held on November 5, 2019, the voters passed Ballot Issue 2A, approving a one-half cent sales and use tax, the revenue from which is to be used exclusively to fund street maintenance and improvements for those streets identified in Resolution No. 13-2019. This one-half percent tax shall cease automatically on December 31, 2029; and

**WHEREAS**, at the City's general election held on November 1, 2005, the voters passed a ballot issue extending an existing one-half cent sales and use tax to be used to retire bonded indebtedness relating to the City's water treatment facility, and for the engineering, design, construction, operation and maintenance of the City's arsenic removal water treatment plant and related distribution. This one-half percent tax shall cease automatically at midnight on December 31, 2034; and

**WHEREAS**, the sales and use tax provisions of the City's *Code of Ordinances*, specifically Sections 18-46 through 18-48 and Section 18-86 have not been updated to reflect these voter-approved tax changes, and therefore set forth inconsistent tax rates; and

**WHEREAS**, the structure of the taxes as set forth in the existing ordinances is confusing, and not consistent with modern POS software and sales tax collection procedures, and the sales and use tax procedures would benefit from simplification; and

**WHEREAS**, Council, for purposes of clarity and good governance, desires to codify the voter-approved tax changes in the City's *Code of Ordinances*, as well as to simplify and clarify the provisions concerning the structure of the taxes;

**NOW THEREFORE BE IT ORDAINED** by the City Council of Alamosa as follows:

**Section 1.** Amendment of Sections 18-46 through 18-48 (sales tax provisions): Sections 18-46 through 18-48 of the *Code of Ordinances of Alamosa, Colorado* are hereby amended, to read in their entirety as follows:

**Sec. 18-46. – Sales tax levied, property and services taxed.**

(a) There is hereby levied and there shall be collected and paid a tax upon all sales of tangible personal property and services specified below:

(1) On the purchase price paid or charged upon all retail sales, excluding, however, such articles as are otherwise exempted in this article.

(2) Upon telecommunications service, whether furnished by public or private corporations or enterprises, for all intrastate telecommunications service.

(3) For gas and electric service, whether furnished by municipal, public or private corporations or enterprises, for gas and electricity furnished and sold for domestic and commercial consumption and not for resale. "Service" within this provision includes, but is not limited to, the charge for delivery by a vendor otherwise covered by this section 18-46, even if said vendor did not sell the product or commodity delivered.

(4) Upon the amount paid for all meals and cover charges, if any, furnished in any restaurant, eating house, hotel, drug store, club, resort, or other such place at which meals or food are regularly sold to the public.

(5) On the amount paid for lodging services.

(b) The rate of tax upon all sales of tangible personal property and services specified above shall be 2.5 percent of the purchase price pursuant to the following components:

(1) A tax of 1 percent of all such sales, which shall be placed in the general fund.

(2) A tax of one-half percent of all such sales, which shall be placed in the recreation fund and used exclusively for recreation and recreational facilities.

(3) A tax of one-half percent of all such sales, which shall be placed in the enterprise debt fund for use restricted to retirement of bonded indebtedness relating to the City's water treatment facility, and for the engineering, design, construction, operation and maintenance of the City's arsenic removal water treatment plant and related distribution. This one-half percent tax shall cease automatically at midnight on December 31, 2034.

(4) A tax of one-half percent of all such sales, which shall be placed in the streets trust fund and used solely to fund street maintenance and improvements for those streets identified in Resolution No. 13-2019. This one-half percent tax shall cease automatically at midnight on December 31, 2029.

(c) Except as provided in section 18-48 concerning the sale of alcohol by the drink, retailers shall add the tax imposed hereby, or the average equivalent thereof, to the sale price or charge, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the manner as other debts. The retailer shall be entitled as collecting agent to

the city to apply and credit the amount of this collection against the two and one half (2.5) percent rate to be paid by such retailer under the provisions of section 18-47, remitting any excess collections over two and one half (2.5) percent, less the two (2) percent collection expense allowance, to the Colorado Department of Revenue in the retailer's next monthly sales tax return.

(d) The amount subject to tax shall not include the amount of any sales or use tax imposed by article 26 of title 39, C.R.S.

#### **Sec. 18-47. - Vendor liable for tax.**

Every retailer, also herein called "vendor," shall be liable and responsible for the payment of the sales tax established in sections 18-46 and 18-48, and shall on or before the date for filing of monthly returns specified by the Colorado Department of Revenue, make a return to the Colorado Department of Revenue for the preceding calendar month and remit an amount equivalent to the tax rate so specified as applied to the subject sales made by such vendor to the Colorado Department of Revenue, less two (2) percent of such tax, not to exceed one hundred dollars (\$100.00) in any such reporting period, to cover the vendor's expense in the collection and remittance of the tax. Such returns of the taxpayer, or the taxpayer's duly authorized agent, shall contain such information and be made in such manner and upon such forms as the director of the Colorado Department of Revenue may prescribe. The Colorado Department of Revenue may extend the time for making returns and paying the taxes due under such reasonable rules and regulations as it may prescribe. The burden of proving that any retailer is exempt from collecting the tax on any goods sold and paying the same to the city, or from making such returns, shall be on the retailer or vendor under such reasonable requirements of proof as the Colorado Department of Revenue may prescribe.

#### **Sec. 18-48. – Procedures for tax on malt, vinous or spirituous liquors by the drink**

Any retailer selling malt, vinous or spirituous liquors by the drink may include in the sales price the tax levied under this article. The schedule set forth in subsection (a) above shall be used by such retailer in determining amounts to be included in such sales price. No retailer selling malt, vinous or spirituous liquors by the drink shall advertise or hold out to the public in any manner, directly or indirectly, that the tax levied by this chapter is not considered as an element in the sales price to the consumer.

**Section 2.** Amendment of Section 18-86 (use tax provision): Section 18-86 of the *Code of Ordinances of Alamosa, Colorado* is hereby amended, to read in its entirety as follows:

#### **Sec. 18-86. - Use tax levied.**

There is hereby levied and there shall be collected from every person in this city a tax or excise for the privilege of storing, use or consuming in this city any article of tangible personal property at

retail. The rate of such use tax shall be 2.5 percent of the purchase price pursuant to the following components:

- (1) A tax of 1 percent of all such storage or acquisition charges or costs, which shall be placed in the general fund.
- (2) A tax of one-half percent of all such storage or acquisition charges or costs, which shall be placed in the recreation fund and used exclusively for recreation and recreational facilities.
- (3) A tax of one-half percent of all such storage or acquisition charges or costs, which shall be placed in the enterprise debt fund for use restricted to retirement of bonded indebtedness relating to the City's water treatment facility, and for the engineering, design, construction, operation and maintenance of the City's arsenic removal water treatment plant and related distribution. This one-half percent tax shall cease automatically at midnight on December 31, 2034.
- (4) A tax of one-half percent of all such storage or acquisition charges or costs, which shall be placed in the streets trust fund and used solely to fund street maintenance and improvements for those streets identified in Resolution No. 13-2019. This one-half percent tax shall cease automatically at midnight on December 31, 2029.

**Section 3.**     Severability: Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 4.**     General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

**Section 5.**     Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

**Section 6.**     Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

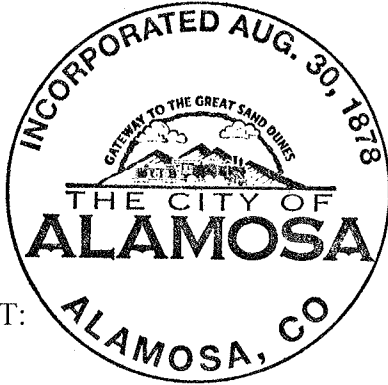
**Section 7.**     Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

**Section 8.**     Codification. The City Clerk is directed to codify the provisions of this ordinance in the *Code of Ordinances of the City of Alamosa* in substantially the same form as set forth herein.

**INTRODUCED, READ AND APPROVED** on first reading the 15<sup>th</sup> day of January, 2020 and ordered published by title and reference as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 5<sup>th</sup> day of February, 2020, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

**APPROVED, AND ADOPTED** after public hearing the 5<sup>th</sup> day of February, 2020.

CITY OF ALAMOSA



ATTEST:

By Ty Coleman  
Ty Coleman, Mayor

Holly C. Martinez  
Holly C. Martinez, City Clerk