

Introduced by: Council Member Forbes
Introduction Date: January 9, 2018
February 12, 2019
Referred to Committee: January 9, 2018
Public Hearing: February 26, 2019
Action: Passed
Vote: 5-0

Ordinance #18-02

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING CHAPTER 4.16.160 OF THE BETHEL MUNICIPAL CODE, SALES AND USE TAX, TAX EXEMPTIONS FOR ISOLATED SALES

WHEREAS, on September 12, 2017, the City of Bethel passed a new and revised Sales Tax Ordinance;

WHEREAS, Section 4.16.160(D) attempted to better define casual and isolated sales;

WHEREAS, an unintended consequence of that definition was that to impede occasional sellers from maximizing the short summer seasons and/or the short holiday season;

WHEREAS, because of the very short summer season, individuals wanting to "Spring Clean" their homes or who are moving out of Bethel, have a very limited window of time to conduct garage sales;

WHEREAS, casual and isolated crafters who try to earn some extra money for the holidays often have a short window of opportunity during the holiday season;

WHEREAS, after a review of the Code, it is clear that due to the issues which the area faces with weather, timing and logistics, five (5) days is simply too few and discourages basic casual garage sales or craft sales;

WHEREAS, an increase to ten (10) days would allow for casual crafters and people moving out to take advantage of a limited summer or holiday season while still keeping the volume to a hobby level rather than a small business level;

WHEREAS, by the small increase, the intent of the Code amendment is still met;

NOW, THEREFORE BE IT ORDAINED, the City Council amends the Bethel Municipal Code, Section 4.16.160(D) Tax Exemptions, Casual and isolated sales, services or rentals.

SECTION 1. Classification. This is a codified Ordinance and shall become part of the Bethel Municipal Code.

SECTION 2. Amendments. Bethel Municipal Code Chapter 04.16 Sales and Use Tax, is amended as follows (old language is stricken, new language is underlined):

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4.16.160 Tax Exemptions

The following sales and services are exempt from the tax levied under this chapter only in accordance with the limitations provided for in this section:

- A. Admissions: Sales of admission to school entertainments, school athletic events, and events conducted for the benefit of charitable or community organizations. This exemption does not apply to sales of gaming property.
- B. ATVs/Boats: That portion of the selling price of an all-terrain vehicle (ATV), snow machine, boat, or boat motor in excess of Three Thousand Five Hundred (\$3,500) Dollars is exempt regardless of whether or not such items are purchased simultaneously, or are invoiced or otherwise billed on the same billing document.
- C. Banking: The following fees, sales and services charged by banks, savings and loan associations, credit unions and investment banks:
 - 1. Fees for the sale, exchange or transfer of currency, stocks, bonds and other securities
 - 2. Loans: The principal amount of the loan, the interest charged for loaning of money, escrow collection services, and any fees associated with the loaning of money are exempt.
 - 3. Services associated with the sale, exchange or transfer of currency, stocks, bonds and other securities;
 - 4. Pass-through charges on loan transactions which include sales tax;
 - 5. Sale of insurance policies, bonds of guaranty and fidelity (AS 21.09.210).
- D. Casual and isolated sales, services or rentals: Proceeds from casual, occasional or isolated sales which are easily identified as the sale of personal goods or property at such ~~private~~ functions as moving, garage, yard, food and bake sales, markets or fairs (such as flea markets and craft fairs), the sale of private vehicles when the seller is not a dealer in used vehicles, or services such as babysitting or house-sitting provided the seller does not regularly engage in the business of selling such goods or services or rentals but only if:
 - 1. The sales of goods and services do not occur for more than ~~five (5)~~ ten (10) days in a calendar year, and are not made through a dealer, broker, agent or consignee; or
 - 2. The rental of personal tangible property that does not exceed sixty (60) days in a calendar year, whether or not consecutive. The rental of real estate is not exempt.
 - 3. Sales or rentals made pursuant to a business license or by sellers representing themselves to be in the business of making sure sales, rentals or services are not exempt.
- E. Cemetery Plots: The sale of cemetery/burial plots is exempt.
- F. Commerce: Freight and wharfage charges, whether arising out of foreign, interstate or intrastate commerce are exempt. Warehouse and storage services are not

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exempt. Transportation of goods, equipment, or other property from one point to another within the City limits by commercial movers is not exempt.

G. Compliance with Laws:

1. Gross receipts or proceeds derived from sales or services which the City is prohibited from taxing under the laws of the state or under the laws and the Constitution of the United States, including, but not limited to:
 - a. Sales by the U.S. Postal Service;
 - b. Purchases made under the authority of or made with any type of certificate issued pursuant to 42 U.S.C. Sections 1771-1789 (Child Nutrition Act of 1966);
 - c. Interstate Sales;
 - d. Air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation;
 - e. Gross receipts or proceeds derived from sales to the United States Government, the state, a city or any political department thereof. However, the exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering services for sale to such government units or agencies on a contract bid award, in which event the contractor shall be deemed the buyer, subject to the payment of the tax;
2. A sale or rental to an employee of the state, its political subdivisions, or the federal government is only exempt when the government employee provides proof that the sale is for government business by paying for the sale with a government voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for government business;
3. A sale or rental to a federally recognized tribe when the Tribal employee provides proof that the sale is for tribal government business by paying for the sale with a tribal voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for tribal government business;

H. Credit Unions: Sales to or by federally chartered credit unions or credit unions organized under AS 06.45;

I. Dues: Dues or fees paid to clubs, labor unions and other organizations solely for the privilege of membership;

J. Freight and Wharfage: Freight and wharfage charges, whether arising out of foreign, interstate or intrastate commerce, are exempt. Warehouse, storage services, and delivery services that begin and end within the City of Bethel are taxable, unless such delivery services are included in a through bill of lading in conjunction with interstate commerce.

K. Maximum Tax: That portion of the selling price for a single piece of equipment or tangible personal property by an individual unit price in excess of Ten Thousand

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(\$10,000) Dollars is exempt. A single sales unit is any retail merchandise sale where the selling price is totaled on one invoice or on any sales slip, although this exemption does not apply if any portion of the invoice or sales slip refers to more than one calendar day.

L. Medical Services:

1. Services of a person licensed or certified by the State of Alaska as a doctor of medicine and surgery, a doctor of osteopath and surgery, a chiropractor, a dentist, an optometrist, an audiologist, a hospital, an occupational therapist, a physical therapist or a licensed or practical nurse; provided, that the service is within the scope of the state license or certificate;
2. Services of a person licensed or certified by the State of Alaska as a psychologist or psychological associate, a clinical social worker, an alcohol or drug counselor, a marital and family therapist or a licensed professional counselor; provided, that the service is within the scope of the state license or certificate;
3. Fees for supplies, equipment and services provided by a hospital, medical clinic or dental clinic for patient treatment, including laboratory and x-ray services;
4. Assisted living services provided in accordance with an assisted living plan and in an assisted living home licensed as such by the State;
5. Gross receipts or proceeds of the retail sale of prescription drugs;
6. Services rendered by masseurs, even those working for a hospital, chiropractor or other medical provider, are not exempt.

M. Newspapers: Sales of newspapers are exempt.

N. Non-Profits: A sale of goods or services to any entity that, at the time of the sale, is: (1) legally constituted and legitimately acting in accordance with a duly authorized federal tax exempt status pursuant to IRS Regulations, Section 501(c)(3)(4) or (19); (2) provided any income from the exempt sale is exempt from federal taxation and (3) provided the non-profit produces a sales tax exemption card.

Exceptions: Activities provided by the entity where such organization is engaged in business for profit or is competing with other persons engaged in the same manner or in a similar business is not exempt.

O. Public Assistance: Purchases made with food coupons, food stamps, or other type of certificate issued under 7 USC Sections 2011 – 2025 (Food Stamp Act) or other certificates issued under 42 U.S.C 1786 (Special Supplemental Food Program for Women, Infants and Children).

P. Real Estate Sales:

Only the first twenty (20%) percent of the sale price of real property is subject to City sales tax*.

Example: Home selling for \$275,000

$\$275,000 \times 20\% = \$55,000$ (first 20% of the sale price)

$\$55,000 \times 6\%$ (Sales Tax) = \$3,300 Sales Tax due to city

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Home selling for \$450,000

$\$450,000 \times 20\% = \$90,000$ (first 20% of the sale price)

$\$90,000 \times 6\% = \$5,400$ Sales Tax due to City

*This exemption does not apply to rentals of real property. This exemption applies to all sales of real property, including casual and isolated sales

- Q. Recreational Vehicles: That portion of the selling price of an all-terrain vehicle (ATV), snow machine, boat, or boat motor in excess of three thousand five hundred dollars (\$3,500) is exempt regardless of whether or not such items are purchased simultaneously, or are invoiced or otherwise billed on the same billing document.
- R. Rental Units: Costs incurred by owners/landlords for rental units, such as included utilities, fuel, or any other expenses, are not exempt.
- S. Retail Sales of Foods: Are exempt in the following circumstances:
1. When served in cafeterias or lunchrooms of elementary, secondary, post-secondary schools, colleges or universities which are operated primarily for students and staff, and are not operated for the public or for profit;
 2. When served to clients and staff, and not to the public or for profit, as part of services provided by a nonprofit hospital or other nonprofit government organization licensed by the State of Alaska for the care of humans;
 3. Meals delivered by a nonprofit organization to handicapped or senior citizens at their place of residence or meals served on the premises of a nonprofit to senior citizens or the homeless or disadvantaged provided that the sale price of such meals does not exceed the cost of delivery or service of such meals;
- T. Sales to Retailers: Are exempt only if the buyer presents to the seller a valid exemption card, issued by the City pursuant to this section, and
1. The sale of goods, wares or merchandise to a retail dealer, manufacturer or contractor is for resale within the City as is or incorporated into a product or commodity to be sold by the dealer, manufacturer or contractor within the City, if the subsequent sale is subject to the City sales tax; and
 2. The product is an item sold as part of the reseller's primary business and must be of such nature that it can be purchased by the general public in a transaction that is not dependent upon the purchase of another product or service.
 3. The exemption card must be for the class of activities involving the resale of the type of goods for which the exemption is sought.
 4. Food products that are purchased for resale must be purchased and sold as is or prepared in a commercial kitchen. If a purchaser buys goods for resale in accordance with this subsection and for personal or other use at the same time, only the goods that are to be sold for resale in accordance with this subsection shall be exempt.

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5. Supplies, services, tools, repair services, equipment or any other goods or services purchased to support a business but not for resale in accordance with this subsection are not exempt.

U. School:

1. Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations;
2. Sales by any student organization, parent/teacher organization or booster club recognized by the school or educational organization in which it operates, which proceeds are utilized to further the purposes for which the organization was formed;
3. Sales and services by schools or other educational organizations made in the course of their regular functions and activities, which proceeds are utilized to further the purposes for which such organization was formed;
4. Sales of food and beverages at educational lunchrooms which are operated primarily for staff and/or students, and which are not operated for the purpose of sale to the general public for profit;
5. The service of transporting students to and from a schools in vehicles when in the regular course of that business.

V. Securities: The sale of insurance and bonds of guaranty and fidelity, and the commission thereon (AS 21.09.210(f), 21.79.130, 21.80.130);

W. Senior Citizen Exemptions: The following are exempt only if the buyer, or their designee, present a valid senior citizen exemption certificate and the product or service is intended primarily for the senior citizen holding the exemption card:

1. The sale to a senior citizen of food intended for consumption by the senior citizen, his or her spouse or same sex partner living in the same household, or the un-emancipated minor children of either the senior citizen or his or her spouse or same sex partner, who live in the same household. For purposes of this subsection, "food" is defined in accordance with 7 USC Section 2012(g) (definition of "food" for purposes of the Food Stamp Act);
2. The payment of rent by a senior citizen on a single dwelling occupied as the senior citizen's primary residence and permanent place of abode.
3. Payment for telephone, electric, water and sewer utility services by a senior citizen on a single dwelling occupied as the senior citizen's primary residence and permanent place of abode.
4. The payment for heating fuel used by a senior citizen for a single dwelling occupied as the senior citizen's primary residence and permanent place of abode.
5. The sale of alcohol, tobacco, bingo cards, raffle tickets, pull-tabs, other games of chance and/or marijuana to a senior citizen is not exempt.

X. Services. That portion of the selling price of a single service that exceeds \$12,000. This amount will be adjusted in 2019 and every two (2) calendar years thereafter consistent with the Consumer Price Index for all urban consumers for Anchorage metropolitan area compiled by the United States Department of Labor, Bureau of

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Labor Statistics. Adjustments to the amount listed will be rounded to the nearest \$100. For the purposes of this subsection, a single service is interrelated and interdependent function necessary to perform a specified action. For the purposes of this subsection, a single service is an interrelated and interdependent function necessary to perform a specified action. If a single service is performed over a period exceeding one month, the selling price must be apportioned to a monthly or invoice basis, whichever is more frequent, proportionate to the service performed, except for:

- a) a commission paid to an agent for negotiating the sale of real property (the commission is taxed at the first \$12,000 of the sale regardless of the length of time the agent has in selling the property); or
- b) a written contingency fee agreement award or settlement (to be collected on the first \$12,000 of the fee award regardless of the length of time taken to resolve the case).

Y. Transportation:

1. The following types of transportation services are exempt:

- a. The sale of services for transporting passengers by river taxi, taxicab, bus, commercial airline, air charter, air taxi, hover craft; or
- b. The sale of passenger seat tickets by a commercial airline is exempt; or
- c. The service of transporting disabled or handicapped individuals when in the regular course of that business.

2. The following are not exempt:

- a. The lease of vehicle for hire permits are not exempt;
- b. The portions of a sale of flight seeing or air/water/shore excursion travel or adventure services which are not charges for transportation of persons on a federal airway;
- c. The lease or rental of vehicles is not exempt.

Z. Utilities: Payment for City water, sewer and refuse utility services by any and all persons or entities.

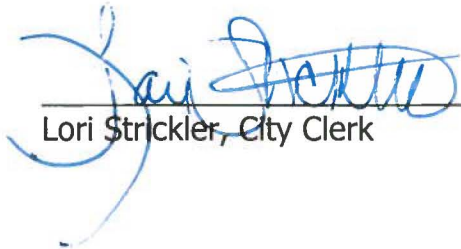
AA. Wholesale: Proceeds from products sold as wholesale sales to businesses designated by the State of Alaska as wholesalers. These include sales of goods, wares or merchandise to a retail dealer, manufacturer or contractor for resale within the City as is or incorporated into a product or commodity to be sold by the dealer, manufacturer or contractor within the City, if the subsequent sale is subject to the City sales tax. In this connection a retailer must stock that merchandise for resale, display the same to the public and hold himself out as regularly engaged in the business of selling such products.

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

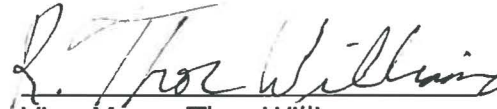
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**ENACTED THIS 26 DAY OF FEBRUARY 2019, BY A VOTE OF 5 IN FAVOR AND 0
OPPOSED.**

ATTEST:



Lori Strickler, City Clerk



Vice-Mayor Thor Williams