

Introduced by: Mayor Springer
Date: April 23, 2024
Action: Does Not Carry
Vote: 1-5

CITY OF BETHEL, ALASKA

Resolution #24-06

A RESOLUTION BY THE BETHEL CITY COUNCIL CONDITIONALLY PROTESTING THE RENEWAL OF A RESTAURANT OR EATING PLACE LICENSE FOR FILI'S PIZZA, LICENSE NO. 5445, OPERATING AT 110 OSAGE STREET, BETHEL, ALASKA

WHEREAS, Fili's Pizza applied to the State of Alaska Alcohol Beverage Control Board to renew license no. 5445, restaurant or eating place alcohol license;

WHEREAS, the City Clerk's Office received notice of the application on March 14, 2024;

WHEREAS, Alaska Statute 04.11.480, Protest, allows a local governing body to protest the issuance, renewal, or transfer of a license and requires such protest to be submitted to the Alcohol Beverage Control Board within 60 days from the date of notice;

WHEREAS, based on the above dates, the deadline for the City Council to protest the application is May 13, 2024;

WHEREAS, former AS 4.11.100(e), which was in effect during the review period, provided:

A license may be renewed under this section only if the license provides evidence to the board's satisfaction that gross receipts from the sale of food upon the licensed premises constitute no less than 50 percent of the gross receipts of the licensed premises for each of the two preceding calendar years;

WHEREAS, current AS 4.09.210 (e), which became effective on January 1, 2024 provides:

The holder of a restaurant or eating place license shall ensure that gross receipts from the sale of food for consumption on the licensed premises are not less than the total of the gross receipts from the sale of alcoholic beverages for consumption on the licensed premises in each calendar year. At the time the holder submits an application for renewal of the license, the holder shall submit a statement to the board certifying that the holder has met the requirement under this

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subsection for the designated period of the license under AS 04.11.680. The board may renew a restaurant or eating place license only if the licensee's statement provides evidence satisfactory to the board that, during the designated period of the license under AS 04.11.680, the gross receipts from the sale of food for consumption on the licensed premises were not less than the total of the gross receipts from the sale of alcoholic beverages for consumption on the licensed premises;

WHEREAS, the licensee's gross receipts from the sale of alcohol was greater than the gross receipts from the sale of food in 2022, which violates AS 4.11.100, the statutes that expired December 31, 2023;

WHEREAS, the licensee has not provided evidence that for 2022 or 2023, the gross receipts of **food consumed on the licensed premises** is greater than the gross receipts for alcohol sales, which violates AS 4.09.210 (e), the statutes that went into effect January 1, 2024;

WHEREAS, according to the city sales tax filings for Fili's Pizza, the gross receipts for all food sales compared to gross receipts for alcohol sales are:

	<u>FOOD</u>	<u>ALCOHOL</u>
2022	49.66%	50.34%
2023	50.11%	49.89%

WHEREAS, the City notified the Alcohol Beverage Control Board of these findings on April 2, 2024;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BETHEL: the Bethel City Council conditionally protests the renewal of the restaurant or eating place license for Fili's Pizza, License No. 5445. The protest will stand unless Fili's Pizza can demonstrate to the satisfaction of the City and/or the Alaska Alcohol Beverage Control Board that the gross receipts for sales of food on the licensed premises and if applicable, the gross receipts for sale of food consumed on the licensed premises, exceed the gross receipts for sales of alcohol in both 2022 and 2023.