

Introduced by: City Manager Herron  
Date: None  
Public Hearing: None  
Action:  
Vote:

## ***CITY OF BETHEL, ALASKA***

### **ORDINANCE #01-21**

#### **AN ORDINANCE AMENDING THE TRANSIENT LODGING BUSINESS TAX**

**BE IT ORDAINED** by the City Council of Bethel, Alaska, that:

**Section 1. Classification.** This ordinance is permanent in nature and shall be placed in the Bethel Municipal Code.

**Section 2. Repeal and Re-enactment of Section 4.14.060** Section 4.14.060 of the Bethel Municipal Code shall be repealed and reenacted as follows:

#### **4.14.060 Estimated tax assessed against delinquent operator**

A. On or after the fifth day of delinquency in the filing of the required tax return or the failure to pay all taxes, interest and penalty due, or upon a determination of a delinquency based upon an audit, the finance director shall assess against the delinquent operator a transient lodging business tax for the delinquent period or periods based on a reasonable estimate of the gross receipts computed from an audit or the tax returns submitted by the delinquent operator. If the finance director determines that information from prior tax returns is not adequate for computing a reasonable estimate of the gross receipts, other sources of information, including but not limited to information derived from similar businesses, may be used. Notice of the estimated assessment shall be provided to the operator by certified mail. Such assessment shall be due and owing retroactively from the first day of delinquency and shall be subject to interest, penalty and other costs and charges as provided in this chapter.

B. The estimated assessment of tax and other amounts due and owing, as provided in subsection A of this section, shall be deemed to be admitted to be the amount due and owing to the city

unless the finance director receives, within twenty days of the date of the certified mailing of notice of the estimated assessment, an accurate and complete tax return for the delinquent periods together with full payment of all taxes, interest, penalty, costs and other charges due, or the operator pays the amount due under protest under the provisions of section 4.16.160.

**Section 3. Amendment of Chapter 4.14 to Add Trust Fund Provision.**

Chapter 4.14 of the Bethel Municipal Code is amended to add the following section:

4.14.200 Trust Fund

A. Upon collection by the operator or the segregation from the operator's own funds of the tax levied and required to be collected under this chapter, title to the collected or segregated tax funds vests immediately in the city. The operator shall establish and maintain separate from all other funds and accounts of the operator a Bethel transient lodging business tax trust fund or account into which all transient lodging business tax collected or required to be collected shall be deposited or accounted for until paid over to the city. When a trust fund of this nature has already been established pursuant to other sections of the Bethel Municipal Code, including Section 4.16.130, the operator may use the same trust fund and need not establish a separate trust fund for purposes of this Section, provided that accounting procedures differentiate between or among sources of funds.

B. Upon request of the finance director, an operator shall prove to the finance director that the operator has established and uses the trust fund or account required under this section.

C. An operator or any person with access to a trust fund or account required under this section or with access to funds required to be deposited in the trust fund who uses, diverts, or withdraws for any other use the tax funds collected and deposited or required to be deposited in the trust fund or account is guilty of a misdemeanor and may be punished upon conviction by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days or both fine and imprisonment for each such other use, diversion or withdrawal.

**Section 4. Amendment of Chapter 4.14 to Add Accelerated Returns Provision.** Chapter 4.14 of the Bethel Municipal Code is amended to add the following section:

**4.14.210 Accelerated returns.**

An operator who is required to file a return and pay taxes to the city, who fails for more than thirty days to file a return or pay the taxes due or who has, within a twelve month period, filed or paid taxes late on two or more occasions may be required by the finance director to file and pay on a monthly or weekly basis; provided, the finance director shall provide to the operator a hearing after reasonable notice of the finance director's intention to require more frequent filing and payment. Unless otherwise required or authorized by the finance director, an operator required to file on a monthly or weekly basis shall file a complete return and full payment for the monthly or weekly period not later than the fifth business day following the last day of the monthly or weekly period. The operator required to file and pay on a monthly or weekly basis who fails to file and pay the full amount due within two business days of the date required for such filing and payment or such an operator who files late two or more times during a three month period may be required by the finance director to file on a basis more frequent than monthly or weekly after written notice of intent and a hearing as provided in this section. The day by which more frequent filings are due shall be established by the finance director.

**Section 5. Amendment of Chapter 4.14 to Rulings and Regulations Provision.** Chapter 4.14 of the Bethel Municipal Code is amended to add the following section:

**4.14.220 Rulings and Regulations.**

A. The finance director may promulgate and amend regulations and may prescribe the content and use of forms appropriate to the implementation of this chapter. Regulations promulgated by the finance director are effective on the date they are promulgated unless a different date is indicated in the regulations; provided; all regulations are subject to amendment and repeal at any time by the city council by resolution. At least seven calendar days prior to promulgation, a proposed regulation or amendment shall be submitted to the city attorney and the city

manager for review and comment. Upon promulgating a regulation or any amendment to an existing regulation, the finance director shall submit the regulation or amendment to the city council at its next regular meeting.

B. If any person who is or may be required to pay or collect the tax under this chapter questions the application of this chapter to a transaction or other situation in which that person is involved or may become involved, the person may apply to the finance director for a ruling on the question. The finance director may rule on the question and may seek the advice of the city attorney on the question. Before a ruling of the finance director is effective or binding on the city, it must be signed by the city manager. Rulings having general applicability shall be considered by the finance director for promulgation as a regulation.

**Section 6. Effective Date.** This ordinance shall become effective July 1, 2001.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2001, by a vote of \* in favor and \* opposed.**

ATTEST:

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Stanley "Tundy" Rodgers, Mayor

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Colleen Soberay, City Clerk