



# CITY of BETHEL

P. O. Box 537 • Bethel, Alaska 99559

543-2297 — Area Code 907

## ORDINANCE # 72

### AN ORDINANCE ON SALES TAX

#### Sections:

|        |   |
|--------|---|
| 72.010 | Definitions.                                  |
| 72.020 | Levy of tax.                                  |
| 72.030 | Exemptions.                                   |
| 72.040 | Exemption procedures.                         |
| 72.050 | Application for tax refund                    |
| 72.060 | Seller to collect.                            |
| 72.070 | Tax Schedule.                                 |
| 72.080 | Remittance of tax collected.                  |
| 72.090 | Form of return.                               |
| 72.100 | Seller's compensatory collection discount.    |
| 72.110 | Procedures on delinquencies.                  |
| 72.120 | Period of limitations.                        |
| 72.130 | Record of keeping.                            |
| 72.140 | Tax as lien.                                  |
| 72.150 | Rules and regulations.                        |
| 72.160 | Inspection of state business license returns. |
| 72.170 | Oaths.  |

Sec. 72-010. Definitions. For the purpose of this chapter, unless the context otherwise requires, the following words and phrases shall have the meanings defined herein:

A. "Consumer" means the person, in the ordinary meaning of the term, takes title to, takes possession of, or rents property, or receives services for a consideration;

B. "Offer" means any oral or written communication to a person making a presentation to buy or sell any goods or services or to rent any property;

C. "Renting of property" means a person using the property owned by another for a consideration;

D. "Resale" means to sell again and is limited to items which are resold per se or are physically present in a final product which is sold and is subject to tax at the time of final sale. The item must be easily and readily identifiable in the final product;

E. "Retail sale" or "sale at retail" means every sale made to a final consumer and not made in contemplation of a resale in the regular course of business;

F. "Retail sale made within the city" means:

1. A retail sale resulting from an offer being communicated from a seller to a consumer within the city and accepted by the consumer within the city, or

2. Services and rentals performed wholly within the city, or

3. Services and rentals performed partially within the city, where the acceptance of offer was in the city.

Situations excluded are where separation of the goods from the stock of the seller takes place at the point of delivery and is outside the boundaries of the city, including such items as oil deliveries, telephone service, television service, and electric power service;

G. "Sale" means the transfer of or contract to transfer rights in property from a seller to a consumer for a consideration and includes:

1. The sale of goods.
2. Renting of property.
3. Sale of services;

H. "Sale of service" means the selling price received for furnishing labor and material incidental to the labor required, to install, construct, repair or complete specified results or end products. Descriptively, sale of services includes but is not limited to:

1. The admission price charged for entering or staying in any place of entertainment including theater, exhibitions, games, races where admission is by tickets, gate charges, box charges, season pass charges, or cover charges,
2. The selling price of subcontracts in building construction which shall be in addition to the total selling price set forth in subsection (3) below,
3. The selling price of constructing building or other improvements to real estate,
4. Commissions or feed by brokers or agents in such transactions as real estate sales,
5. Furnishing advertising through the medium of newspapers and periodicals or radio and television broadcasting services except to recognized national agencies,
6. Furnishing services of an insurance or bonding agency, the cost of which is not included in the premium price,
7. Banking services such as rental of safety deposit boxes, services for handling loans, brokering loans and handling accounts, appraisal fees, and similar services.

Sale of services exclude wages, salaries and other forms of payment for labor performed for an employer;

I. "Seller" means every person, whether acting as principal, agent or broker, making sales at retail to a consumer;

J. "Selling price" means at the consideration, whether money, credit, rights or other property, expressed in the terms of money, paid or delivered by a buyer to a seller. Descriptively, selling price:

1. Shall be without any deductions on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, delivery costs, taxes or any other expenses whatsoever paid or accrued and without any deduction on account of losses.

2. Includes any federal or state excise tax on the sale,
3. Does not include the value of used articles intended for resale taken in trade as a credit or part payment on the sale of a new or used article. This amount shall be deductible from the total sales price of the new or used article being sold and the tax paid only on the net sales price.

Sec. 72.020 Levy of tax. A. A consumer's sales tax is levied on all sales, rents and services made in the city at the rate of three percent of the selling price. Normally the burden of this tax rests upon the consumer.

B. The tax on services shall not include salaries or wages received by an employee from an employer, but shall include consideration for furnishing labor and materials for accomplishing a specific result.

Sec. 72.030 Exemptions. The following retail sales are exempt from taxation:

A. Casual sales. A casual and isolated sale not made in the regular course of business is exempt;

B. Church Sales. Sale of tangible property or the sale of services by a church are exempt, except where the sale of service is incidental to a business for a profit;

C. Court Fixed Fees. Any sale where the price is fixed by law, by a court of competent jurisdiction, or any other authority beyond the control of the seller, and where, if the tax were applied, if effect would become an income tax upon the seller, is exempt;

D. Dues and Fees. Dues or fees paid to clubs, labor unions, and fraternal organizations are exempt;

E. Exports. A sale is exempt if made to a person in a foreign country for shipment out of the United States except where the goods or products sold are exported in bond for reentry into the United States;

F. Federal and State Prohibitions. A sale which the municipality is prohibited from taxing under the Constitution and laws of the United States or the Constitution and laws of the State of Alaska is exempt;

G. Freight and Wharfage. Freight and wharfage charges, whether arising out of foreign, interstate or intrastate commerce, are exempt. Warehouse and storage services are taxable;

H. Governmental Agencies. A sale directly to the United States government, the state of Alaska and its political subdivisions, the city or any departments thereof, is exempt. A sale made to a contractor to be utilized in the manufacture and production of property for sale to an agency of any of the above governments under a cost plus contract is taxable as the contractor is deemed the consumer. A sale to a governmental contractor which does not become a physical part of the property being constructed for any of the above governments is taxable. For purposes of this subsection, "a physical part of the property" means the article is easily and readily identifiable in the property constructed;

I. Insurance. The sale of insurance policies, guaranty bonds and fidelity bonds are exempt;

J. Loans. The loaning of money and interest charged for loans is exempt;

K. Medical Services and Sales. Medical, dental and hospital services are exempt. The sale of hearing aids and medicinal preparations when prescribed by a licensed practitioner are exempt. Medical, dental and hospital services do not include services rendered by chiropodists, barbers, cosmeticians and masseurs;

L. Manufacturers and Contractors. A sale to a manufacturer or contractor is exempt if the article becomes a physical part of a manufactured product or structure which when sold is subject to this tax. A "Physical part of a manufactured product or structure" means that the article must be easily and readily identifiable in the manufactured article or structure, as the case may be;

M. Newspapers. The sale of newspaper and periodicals to a consumer by a carrier is exempt;

N. Non-profit Organizations. Sales made by non-profit organizations which do not have paid employees and who do not keep normal business hours are exempt;

O. Outside City. Sales of goods resulting from orders received from outside the city by mail, telephone, or other similar public communication where delivery of the property ordered is made outside the city by mail or common carrier are exempt;

P. Over Ten Thousand Dollars. That portion of a selling price for a single piece of equipment or sale unit in excess of ten thousand dollars is exempt. A single sale unit includes any retail sale where the selling price is separately computed or totaled on any delivery invoices or sales slip;

Q. Public Food. The sale of food and beverages to the public in high school or college cafeterias or lunchrooms which are operated primarily for teachers and students and not for a profit is exempt;

R. Resale. A sale for resale of a product, service or rental, to a consumer where the resale is subject to tax is exempt;

S. Student Transportation. The service of transporting students to and from a school in vehicles is exempt;

T. Non-profit Organizations. Purchases made by non-profit organizations which do not have paid employees and who do not keep normal business hours are exempt.

Sec. 72.040 Exemption Procedures. The burden of establishing any tax exemption is in the claimant.

A. No seller may allow an exemption for the reasons hereinafter stated unless the consumer first obtains a certificate of exemption and presents it to the seller at the time of sale or identifies the certificate by giving its number. The reasons for exemption are as follows:

1. The consumer is exempt; or

2. The consumer is purchasing for resale from which a sales tax will be collected and the specific retail sale is one in a series of sales on a regular basis wherein the seller functions as a wholesaler and the consumer as a retailer.

The seller shall indicate the certificate number on the sales slip and account for these sales on his sales tax return in the manner required.

B. Application for exemption certificate shall be signed by the consumer if based on his tax exempt status or by the consumer and the seller if based on a sale for resale. The application shall contain the information reasonably required by the mayor (city manager.)

Sec. 72.050 Application for tax refund. An application for tax refund may be filed by any consumer where:

- A. He believes that sale to be exempt; and
- B. He has paid the sales tax levied by the city. Applications for refund, a form prepared by the mayor (city manager), shall be furnished to all sellers and shall be given by the seller to any consumer who has paid the tax and desires to request a refund.

The application may contain information reasonably required by the mayor (city manager), but the seller shall provide the following information and shall sign or initial the application:

- 1. Who paid the tax,
- 2. The amount of tax paid,
- 3. The fact that payment was made,
- 4. The date of payment.

The buyer shall state why it is claimed that the sale is exempt, sign the application and present it to the mayor (city manager) within thirty days of the sale or at the time the quarterly return is due to be submitted, whichever is later. The burden of establishing the sale's exemption is on the consumer.

If the mayor (city manager) determines the sale to be exempt, he shall allow a credit on sales tax due from the application or pay cash to him whichever he believes proper.

Sec. 72.060 Seller to collect. A. A seller shall add the three percent sales tax to the selling price which the seller collects at the time of the sale or at the time of collection which respect to credit transactions. If the consumer refuses to pay the tax, the seller is exempt from any violations or penalties otherwise imposed if he reports to the city all the facts known to him concerning sale and refusal within thirty days of notification. Otherwise, if the consumer refuses to pay this tax, the seller is liable therefore. The tax is a debt from the consumer to the seller until paid and is recoverable at law in the same manner as other debts. The consumer is liable to the city for the tax notwithstanding the seller's duty to collect.

B. The tax shall be stated separately on any sales receipt or slips, rent receipts, charge tickets, invoices, statements of account, or other tangible evidence of sale.

Sec. 72.070 Tax Schedule. The seller shall add to the selling price an amount determined according to the following scale:

| Selling price    | Amount of Sales Tax |
|------------------|---------------------|
| .16 to .50-----  | .01                 |
| .51 to .85-----  | .02                 |
| .86 to 1.15----- | .03                 |

Sec. 72.080 Remittance of tax collected. Sellers shall file returns and remit the tax collected in accordance with the following schedule:

A. Quarterly. Unless as otherwise provided for in this section, sellers shall on or before the last day of the month succeeding the end of each quarter year ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first, prepare a return for the preceding quarter year upon forms furnished by the city. Returns shall be filed personally, with the finance director, mayor (city manager) by five p.m. on the last day of the month following the end of each quarter year. In the event the last day of the month falls on a legal holiday, then the return may be filed on the first business day following;

B. Monthly. If a seller fails to file or is late in filing returns for two of the last four quarters, the finance director, mayor (city manager) may require the seller to submit returns and payment each month;

C. Itinerant Seller. A person doing business within the city and liable for an itinerant non-resident business license on less than an annual basis shall file a sales tax return and remit in full the tax shown as due within twenty-four hours following expiration of his license, but in any event prior to leaving the city;

D. Sale of Business to Another Person. A seller who sells his business to another person shall make a final sales tax return within fifteen days after the date of selling the business. The purchaser of the business shall withhold a portion of the purchase money sufficient to pay any sales tax, penalties and interest that may be due until the seller displays a receipt from the city showing that all tax obligations imposed by this chapter have been paid. If any purchaser of a business fails to withhold this sum, he shall be personally liable for the taxes, penalties and interest owed by the seller to the city;

E. Upon Termination of Business Activities. If a seller terminates his business without the benefit of a purchaser, successor, successors or assigns, he shall make a final return and settlement of tax obligations within fifteen days;

F. Filings to be Continuous. A person who has filed a sales tax return will be presumed to be making sales in successive quarters unless he files a return showing termination or sale of his business.

Sec. 72.090 Form of return. On forms furnished by the city the seller shall furnish the following information, sign the form and certify that it correctly states the information purportedly set forth:

A. Total sales divided into all taxable and all nontaxable sales;

B. A substantiation of sales exempt from the tax by virtue of Section 72.030(O) "Outside City" by a listing of:

1. The amount of the sale or group of similar sales,
2. The means by which the order was received,
3. The point to which the sale was delivered,
4. The means of transportation used for delivery of the goods;

C. A substantiation of the balance of all retail sales claimed exempt because, the selling price exceeded ten thousand dollars under Section 72.030(P) "Over Ten Thousand Dollars" by a listing of each sale and the amount of each which was not taxable.

D. A substantiation of sales exempt from the tax by virtue of Section 72.030(H) "Governmental Agencies";

E. A substantiation of sales exempt from the tax by virtue of Section 72.030(R) "Resale";

F. A substantiation of all other sales claimed exempt;

G. The amount of any refund which the seller wishes to claim for tax paid on purchases made for resale and attachment of "Application for Sales Tax Refund" forms indicating payment of the amount;

H. The amount of tax due;

I. Such other information as may be reasonably required.

Sec. 72.100 Seller's compensatory collection discount. Any seller, whose return and remittance for any quarter is timely, is entitled to a three percent collection discount (not to exceed one hundred dollars) in the form of a deduction from the amount of the tax due, provided:

A. He remits within the first fifteen days of the second month of the quarter the estimated tax collected during the first month of the quarter, the amount to be not less than one-third of the total tax remitted during the previous quarter (or, if seasonal fluctuations in gross business receipts exist, not less than one-third of the total tax remitted during the same quarter of the previous year); and

B. He remits within the first fifteen days of the third month of the quarter the estimated tax collected during the second month of the quarter, this amount to be not less than one-third of the total tax remitted during the previous quarter (or, if seasonal fluctuations in gross business receipts exist, not less than one-third of the total tax remitted during the same quarter of the previous year); and

C. He files a return and remits the balance of the tax due as required in Section 72.100 (A).

Sec. 72.110 Procedures on delinquencies.

Sec. 72.110 Procedures on delinquencies. A. Penalty and Interest. A penalty equal to five percent of the delinquent tax shall be added to the tax for the first month, or any part thereof, and an additional five percent shall be added to the tax due for each month, or fraction thereof, of delinquency until a total penalty of fifteen percent has accrued. The penalty shall be assessed and collected in the same manner as the tax is assessed and collected.

In addition to the penalty provided in subsection (A), above, interest at the rate of eight percent per year on the delinquent tax from the date of delinquency until paid shall accrue and be collected in the same manner as the delinquent tax is collected.

B. Written Demand and Additional Procedures. If a seller fails to file the return or make the remittance in accordance with Section 72.080 or 72.090, the finance director (mayor, city manager) shall make written demand upon the seller, mailed to his last known address, for submission of the return and/or remittance. In the event of noncompliance with the demand, the finance director (mayor, city manager) may do any or all of the following things:

1. Criminal Action. File a criminal complaint against the seller in the district court for violation of Sections 72.080 or 72.090;

2. Civil Action. Make a sales tax assessment against the seller, with the assessment based upon an estimate of the gross revenue received by the seller during the period and institute civil action to recover the amount of the tax. The estimate of gross revenue shall be derived from past returns of the seller, the general economic level of the business community and, if available, returns of comparable businesses;

3. Hearing. Notify the seller in writing by certified mail that a hearing will be held to determine the sales tax liability of the seller at a specified time and place not less than fifteen days after the date of the notice. The seller shall present himself at the hearing and make available for inspection his books, papers, records, and other memoranda pertaining to gross revenues derived from his commercial transactions sufficient to enable the city to make a determination whether the return is required or tax due;

4. Publish. Publish in a newspaper of general circulation within the city, or if there is no such newspaper, post in three places in the city the name and amount of sales tax due, if any, of a person convicted of the crime of violating this chapter or a person against whom the city and borough has recovered a judgement for unpaid sales tax.

Sec. 72.120. Period of limitation. The amount of any tax imposed under this chapter may be determined and assessed at any time within a period of three years after the tax became due and payable. The period shall begin on the date when a return is required to be filed. Where no return has been filed, then the period does not begin to run until the discovery of the delinquency

occurs. No suit or other proceeding for the collection of the tax shall be begun after the expiration of the period.

Sec. 72.130 Record Keeping. A seller shall retain for a period of three years all of the sales tax returns, reports, forms, records and supporting schedule as may be required by the city.

Sec. 72.140 Tax as lien. The tax, interest and penalty imposed under this chapter shall constitute a lien in favor of the city upon all the property of the person owing the tax. The lien arises upon delinquency and continues until the liability is satisfied or the lien is foreclosed. The lien is not valid as against a mortgagee, pledgee, purchaser or judgment lien creditor until notice of the lien is filed in the office of the recorder for the recording district. In the manner provided for federal tax liens under AS Section 43.20.090 through 43.10.150 which by this reference are incorporated herein as if set forth in full.

Sec. 72.150 Rules and regulations. The finance director (mayor, city manager) shall from time to time cause to be promulgated rules and regulations as are necessary and advisable to provide for the application and interpretation of this chapter and to submit them to the council for its adoption or rejection, and to cause to be provided methods and forms for reporting and collecting the tax in accordance with this chapter and regulations.

Sec. 72.160 Inspection of state business license returns. By doing business within the city a seller consents to the inspection of his Alaska state business license return by duly authorized representative of the city for purposes incidental to enforcement of this tax.

Sec. 72.170 Oaths. The finance director (mayor, city manager) is authorized and empowered to administer any oath necessary for the purpose of administering and enforcing the provisions of this chapter.

This ordinance supercedes and replaces and amends all previous City Ordinances related to Sales Tax.

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

This ordinance becomes effective March 9, 1976.

PASSED AND APPROVED BY THE CITY COUNCIL of the City of Bethel,  
this 8th day of March, 1976.

APPROVED:

Edward Hoffman Jr  
Mayor

ATTEST:

Rebecca J Nelson  
City Clerk

AMENDMENT 1  
to  
ORDINANCE 72

AN AMENDMENT TO CITY OF BETHEL ORDINANCE 72, SALES TAX, AND THE CORRESPONDING SECTION OF THE BETHEL MUNICIPAL CODE AS CODIFIED.

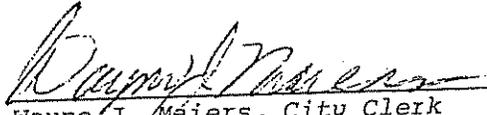
BE IT ORDAINED BY THE CITY COUNCIL OF BETHEL, ALASKA THAT ORDINANCE 72, SALES TAX, AND THE CORRESPONDING SECTION OF THE BETHEL MUNICIPAL CODE, SECTION 4.16.030(T) ARE HEREBY AMENDED AS FOLLOWS:

T. NON-PROFIT ORGANIZATIONS. A sale of goods or services to an entity that, at the time of the sale, is legally constituted and legitimately acting in accordance with a duly authorized federal tax exempt status pursuant to IRS Regulations, Sec. 501(c) or its successor regulation, if the same goods or services are used exclusively in the fulfillment of activities within that federal tax exempt status.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF DECEMBER, 1986.

  
\_\_\_\_\_  
Tom Warner, Mayor

ATTEST:

  
\_\_\_\_\_  
Wayne J. Maiers, City Clerk