

Introduced by: City Manager Herron
Date: July 8, 2003
Public Hearing: July 22, 2003
Action: Adopted
Vote: 5-1 (Rodgers)

CITY OF BETHEL, ALASKA

ORDINANCE #03-12

AN ORDINANCE AMENDING BETHEL MUNICIPAL CODE SECTION 4.16.040 TO CLARIFY THAT ALL POLITICAL SUBDIVISIONS OF THE STATE ARE EXEMPT FROM SALES TAX

WHEREAS the Bethel Municipal Code (“BMC”) at Title 4, Chapter 16, regarding sales tax, was repealed and reenacted in 1998 by Ordinance #98-27;

WHEREAS the prior version of BMC 4.16 before Ordinance #98-27 contained a specific provision at BMC Section 4.16.030(B)(4) exempting political subdivisions of the State from taxation, which included the City of Bethel and local governments throughout Alaska;

WHEREAS Ordinance #98-27 amending BMC 4.16 currently contains a sales tax exemption at Section 4.16.040(F) that exempts direct purchases by the State and federal government, but does not specifically list direct purchases by political subdivisions of the State, such as local governments like the City of Bethel;

WHEREAS the City of Bethel has continued to exempt all direct purchases by the federal government, the State, and political subdivisions of the State, from sales tax both before and after passage of Ordinance #98-27;

WHEREAS the purpose of this ordinance is to clarify that direct purchases by political subdivisions of the State are exempt from sales tax, including purchases by the City of Bethel.

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

SECTION 1. Classification. This ordinance is general and permanent in nature and shall be incorporated into the Bethel Municipal Code.

SECTION 2. Amendment of Section 4.16.040. Bethel Municipal Code Section 4.16.040 is amended to read as follows with the new language being added shown as underlined text and the repealed language shown in brackets and capitalized:

4.16.040 Exemptions

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

- A. Casual and isolated sales, services or rentals by a seller who does not regularly engage in the business of selling such goods, services or rentals are only exempt if such sales, services or rentals do not occur for more than five days in a calendar year, and are not made through a dealer, broker, agent or consignee. A casual and isolated rental of real property by a seller who does not regularly engage in the business of renting real property is not exempt except as provided in subsection C of this section. A casual and isolated sale of real property by a seller who does not regularly engage in the business of selling real property is not exempt except as provided in subsection X of this section;
- B. Sales and rentals of goods and the sale or performance of services resulting from orders received from outside the city by mail, telephone or other public modes of communication if delivery of the goods ordered or rented is made outside the city by mail or common carrier, or if the performance of the services ordered occurs outside the city. The portion of the services ordered from outside the city that are performed inside the city are not covered under this exemption, and shall be fully taxable;
- C. Except as provided below in this subsection, that portion of the selling price of a single sale unit in excess of ten thousand dollars and that part of a periodic rental price of all types of property in excess of ten thousand dollars is exempt. A periodic rental price is the amount owed on a monthly or more frequent period. Rentals with a payment period exceeding one month are commuted for sales tax purposes as though payment were to be made on a monthly basis.

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 is exempt regardless of whether or not such items are purchased simultaneously, or are invoiced or otherwise billed on the same billing document.

That portion of the periodic rental price of single sale unit of real property in excess of fifty thousand dollars is exempt;

- D. Dues paid to clubs and other organizations solely for the privilege of membership;

- E. A sale of goods 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. A sale the city is prohibited from taxing under the Constitution and laws of the United States or the Constitution and the laws of the State [STATE] of Alaska is exempt. A sale made directly to the [A] state, its political subdivisions, or the U.S. government is exempt. A sale to a federal or state contractor, or a contractor of a political subdivision of the State, is not exempt even if the government pays directly for the purchase unless the contractor and government cannot be viewed as separate entities. A sale 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, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for government business;
- G. Freight and wharfage charges, whether arising out of foreign, interstate or intrastate commerce are exempt. Warehouse and storage services are not exempt. Transportation of goods, equipment, or other property from one point to another within the city limits by commercial movers is not exempt;
- H. The sale of insurance policies, guaranty bonds and fidelity bonds;
- I. The lending of money and interest charged for loans, and other services provided by banks, savings and loans institutions, credit unions, and investment banks are exempt, except for ATM charges, safety deposit box charges, and cashiers and traveler check charges;
- J. The sale of food and beverages to students and staff in primary or secondary schools or college cafeterias or lunchrooms that are operated by the school primarily for teachers and students are exempt as long as such sales are made during regular school hours and such sales are not sold for profit. The sale of food and beverages to patients and staff as part of the services provided by local, state, federal government agencies, hospitals and nonprofit organizations licensed to provide patient services by the State of Alaska are exempt as long as such sales are made during regular operating hours of the government agency, hospital, or nonprofit organization, and are not sold for profit;
- K. The sale of goods to a wholesaler, retailer or other purchaser will only be exempt if such purchaser resells the same goods, in the

same or altered form, and the resold goods will not be exempt from the tax levied under this chapter. In order to obtain the exemption provided for in this subsection, the purchaser shall display or provide to the seller at the time of the sale a copy of the purchaser's current Bethel business license. The Bethel business license must be for the class of activities involving the resale of the type of goods for which the exemption is sought. If the 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 sold for resale in accordance with this subsection shall be exempt. 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;

- L. The sale of goods to a purchaser that will be transferred to another person in a sale or performance of a service is exempt only if the purchaser displays or provides to the seller at the time of the sale a copy of the purchaser's current Bethel's business license. The Bethel business license must be for the class of activities involving the resale of the type of goods for which the exemption is sought. If a purchaser buys goods for transfer in accordance with this subsection and for personal or other use at the same time, only the goods that are sold for transfer in accordance with this subsection shall be exempt. Labor, tools, supplies, equipment rentals or any other goods or services purchased to prepare goods for transfer or in support of business operations but not for transfer in accordance with this subsection are not exempt;
- M. The service of transporting students to and from a school in vehicles;
- N. The sale of labor and materials for a single-family residence in which a private individual resides full time without leasing for compensation any portion of the residence to another person, including labor and materials for the improvement, renovation, or remodel of such a single family residence, is exempt only if (1) the sale of such labor and materials is to the private individual who resides in the residence; (2) the private individual is acting as his or her own general contractor in constructing, improving, renovating, or remodeling the residence; and (3) the private individual displays at the time of sale an exemption certificate issued under Section 4.16.0563 of this chapter;
- O. Purchases made with food coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011 – 2025 (Food Stamp Act);

- P. Ambulance, dental, hospital and medical services, including the sale of hearing aids, physical therapy services, prosthetic devices and medicinal preparations, when prescribed by a licensed health care provider. Ambulance, dental, hospital and medical services do not include services rendered by chiropodists, barbers, cosmeticians, masseurs or veterinarians;
- Q. The sale of services of transporting passengers by river taxi, taxicab, bus, commercial airline, air charter, air taxi, hover craft or limousine is exempt. The lease of vehicle for hire permits not exempt;
- R. The sale to a senior citizen of food intended for consumption by the senior citizen, his or her spouse living in the same household, or the unemancipated minor children of either the senior citizen or his or her spouse, who live in the same household. The senior citizen shall display at the time of the sale a current and valid senior citizen exemption certificate issued to the person under Section 4.16.050C of this chapter. For purposes of this subsection, "food" is defined in accordance with 7 U.S.C. 2012(g) (definition of "food" for purposes of the Food Stamp Act);
- S. 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. The senior citizen shall provide proof at the time of payment of a current and valid senior citizen exemption certificate issued to the person under Section 4.16.050C of this chapter;
- T. Payment for telephone, electric, water sewer utility services by a senior citizen on a single dwelling occupied as the senior citizen's primary residence and permanent place of abode. The senior citizen shall provide proof at the time of payment of a current and valid senior citizen exemption certificate issued to the person under Section 4.16.050C of this chapter;
- U. The payment of rent by residents of Bethel community services and the payment of rent by Bethel Community Services clients who reside in Bethel at places other than the Bethel Community Services assisted living and supported living residences;
- V. A sale of goods or services to any 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, Section 501(c), and the entity is a receiver of Alaska Revenue Sharing, and if the same goods or services are used exclusively in the fulfillment of activities within the federal tax exempt status;

- W. A sale of goods is exempt if a credit union organized under state or federal law is the purchaser of the goods;
- X. That portion of the selling price of real property in excess of twenty percent of the first three hundred seventy-five thousand dollars of the selling price is exempt. This exemption does not apply to rentals of real property. This exemption applies to all sales of real property, including casual and isolated sales. (Ord.02-29 §2; Ord. 02-22 §2; Ord. 02-02 §2; Ord. 01-28 §6; Ord. 99-24 §2; Ord.99-09 §2; Ord. 98-27 §2 (part))

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon adoption and shall have retroactive effect back to April 1, 1999, the effective date of Ordinance #98-27.

ENACTED THIS 22nd DAY OF JULY 2003, by a vote of 5 in favor and 1 opposed (Rodgers).

ATTEST:

Hugh Short, Jr., Mayor

Bob Herron, City Manager