



Introduced By: Council member Rodgers

Date: February 24, 1998

Public Hearing Date: March 10, 1998

Action: Passed

Vote: Unanimous

CITY OF BETHEL

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ORDINANCE NO. 98-03

AN ORDINANCE ESTABLISHING A TAX ON HEAVY VEHICLES.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL:

Section 1. Classification. This ordinance is permanent in nature and shall become a part of the Bethel Municipal Code.

Section 2. Adoption of New Chapter. There is adopted a new Chapter 4.17 of the Bethel Municipal Code reading:

Chapter 4.17

Heavy Vehicle Tax

- 4.17.010 Tax Levy.
- 4.17.020 Liability for Tax.
- 4.17.030 Presumption of Ownership.
- 4.17.040 Delinquency, Penalty and Interest.
- 4.17.050 Payment Under Protest, and Appeal.
- 4.17.060 Tax Sticker.
- 4.17.070 Exemptions.
- 4.17.080 Prohibited Acts.
- 4.17.090 Fines.
- 4.17.100 Definitions.

4.17.010 Tax Levy.

There is levied annually upon each heavy vehicle a tax of \$400. The tax for the year a vehicle is first brought into the City is reduced to 50 percent of the annual tax if the vehicle is first brought into the City on or after October 1.

4.17.020 Liability for Tax.

The owner of the vehicle on the date the tax is due is liable for the payment of the tax. If there are two or more owners of a vehicle on the date the tax is due, the owners are jointly and severally liable for the tax.

4.17.030 Presumption of Ownership.

A For purposes of determining the liability for the tax under this chapter, there is a rebuttable presumption that the person is an owner of the vehicle if the person

1. appears as an owner on the vehicle title,
2. appears as a registered owner on the vehicle registration,
3. appears as an owner of the vehicle in the records of the Alaska Division of Motor Vehicles,
4. is shown as a lessee on a vehicle lease of one month or more duration or for an indefinite period who has possession and use of the vehicle,
5. owns or leases as a lessee the real property upon which the vehicle is stored or garaged, or who arranges for the storage or garaging of the vehicle on the property of another.

B. A person who is presumed to be an owner under subsection (A) of this section may defeat the presumption by presenting satisfactory proof of the actual owner of the vehicle or that the person is not an owner as defined in BMC 4.17.100

4.17.040 Delinquency, Penalty and Interest.

A. The tax levied under this chapter is due prior to the equipments first yearly use every calendar year, or the day during the year when the vehicle first arrives in the City of Bethel.

B. The tax is delinquent if not paid by the 30th day following the due date. If the last day upon which the tax may be paid falls upon a Saturday, Sunday or a City holiday, the tax becomes delinquent if not paid by the first City business day following the Saturday, Sunday or holiday. The tax payment delinquency date is the first day upon which the tax due is delinquent.

C. A delinquent tax incurs a penalty of 10 percent of the tax due for each month or part of a month during which the tax remains delinquent; provided, the amount of the penalty shall not exceed 50 percent of the tax originally due on the vehicle. The penalty shall be measured by calendar months if the tax was due on January 1 and shall be measured by a month of 30 days if the tax was due on a day other than January 1.

D. Interest at the rate of 15 percent per annum shall accrue on delinquent taxes commencing with the tax payment delinquency date. Interest does not accrue on penalty.

E. If payment received for the tax on a vehicle is less than the total of the tax, penalty and interest owing, the payment shall be applied first to the penalties owed, beginning with the oldest penalty, then to the interest owed, then to the tax owed, beginning with the oldest tax. Any tax remaining unpaid after the foregoing application of a payment continues to accrue penalty until the limit is reached and continues to accrue interest until paid. The amount received in payment of any tax liability under this chapter shall be applied as required under this subsection E, without regard to any contrary instructions, statements of accord and satisfaction, or other limitations by the taxpayer.

4.17.050 Payment Under Protest, and Appeal.

A. A taxpayer who objects to the tax, penalty or interest shall pay under protest the entire tax, penalty and interest claimed by the City to be due. Payment under protest must include the entire amount due and must be accompanied by a written statement that the payment is made under protest and must state with particularity the basis of the protest. The manager shall review the basis of the protest and shall provide the taxpayer with a copy of the records of the City relied upon to impose the tax. The manager shall notify the taxpayer that the taxpayer may file such bills of sale, invoices, affidavits, briefs and other documents as the taxpayer desires to support the taxpayer's basis for the protest. The taxpayer shall be given at least 20 days from the later of the date of the notice or the date of the provision of the City records to file the documents in support of the protest. The amount of time to be given shall be set out in the notice to the taxpayer. After consideration of the record in the protest, the manager shall render a written decision on the protest setting out findings and conclusions.

B. The manager's decision is a final administrative decision and may be appealed to the Superior Court as provided in the rules of appellate procedure. The manager's decision shall contain a statement that the decision is a final administrative decision and may be appealed to the superior court within 30 days in accordance with the applicable rules of the court.

4.17.060 Tax Sticker.

A. The tax levied under this chapter shall be paid to the City Clerk who shall issue a tax sticker upon submission of a completed vehicle information form with the payment of the tax and any interest and penalty due. The vehicle information form shall contain a description of

the vehicle, the name and address of the owner or owners, the address of the place where the vehicle is usually garaged or stored, the date the vehicle first arrived in Bethel if the vehicle was not in Bethel on January 1, and to the extent such information exists, the Vehicle Identification Number, license plate number, GVWR, GCWR, unladen weight, and such other information as the Clerk may require.

B. Upon submission of a completed vehicle information form and payment of the tax and any interest and penalty due for the vehicle, the Clerk shall issue a sticker for the vehicle. The sticker shall contain a serial number which shall be assigned to the vehicle for that year. The sticker shall have an adhesive surface and shall be applied to the vehicle in a conspicuous spot, as close as possible to the left hand bottom corner of the windshield, or on ropes, the bottom left hand stantion.

4.17.070 Exemptions.

A. The following heavy vehicles are exempt from the tax levied under this chapter:

1. Vehicles owned by a city, state or the United States.
2. Vehicles being shipped through the City while in the possession of a common carrier that are not driven or towed on a public way.
3. Vehicles that come into the Port of Bethel and are shipped or moved from the Port of Bethel without being towed or driven on a public way.
4. Vehicles that have paid the Bethel registration tax levied pursuant to the City's election under AS 28.10.431. A vehicle that is registered to an address outside the City of Bethel is not exempt under this subsection 70(A)(4). A person who pays the tax on a vehicle under this chapter may apply for and receive a refund of the tax, penalty and interest paid if the Bethel registration tax is subsequently paid in the vehicle during the same State fiscal year during which the tax under this chapter was paid. An application for refund must be submitted to the City Clerk within 60 days of the date the vehicle registration is issued by the State.

B. Heavy vehicles that are owned by a city, state or the United States that are leased to a private person for a term of one month or more or for an indefinite term are subject to the tax which shall be the liability of the lessee. Heavy vehicles that are owned by a private person and are leased to a city, state or the United States remain subject to the tax under this chapter and the owner remains the liable for the payment of the tax.

4.17.080 Prohibited Acts.

A. On and after the tax payment delinquency date applicable to a heavy vehicle, a person may not drive, or permit, authorize or direct another person to drive, such a vehicle if the tax and any penalty and interest owing on the tax have not been paid,

B. On and after the tax payment delinquency date applicable to a heavy vehicle, the owner of the vehicle may not drive, or permit, authorize or direct another person to drive, such vehicle if the tax and any penalty and interest owing on the tax have not been paid,

C. On and after the tax payment delinquency date applicable to a heavy vehicle, a person may not drive, or permit, authorize or direct another person to drive, such vehicle without the current tax sticker assigned to that vehicle properly affixed to the vehicle.

4.17.090 Fines.

A. A person convicted of a violation of BMC 4.17.080A or C shall be fined not less than \$50, but not more than \$150.

B. A person convicted of a violation of BMC 4.17.080B shall be fined not less than \$100, but not more than \$250.

4.17.100 Definitions.

A. Unless otherwise specifically defined, or unless the context otherwise requires, in this chapter,

1. "gross combination weight rating" or "GCWR" means the value specified by the manufacturer as the loaded weight of a combination vehicle, except that if the value has not been specified by the manufacturer, the gross combination weight rating is determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and the maximum permissible weight of a load on the towed unit.

2. "gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single vehicle.

3. "heavy vehicle" means a vehicle, including a motor vehicle, which has a gross vehicle weight rating or gross combination weight rating greater than 26,000 pounds or which has an unladen weight of 12,000 pounds or greater or is designed to transport more than 15 passengers, including the driver.

4. "motor vehicle" means a vehicle which is self-propelled or a combination of a motor vehicle and one or more other vehicles.

5. "Owner" means a person having a property interest in or title to a vehicle, including but not limited to a person entitled to lease a vehicle to another or who is entitled to the use and possession of a vehicle under a lease of one month duration or more or for an indefinite period or under some other agreement, but does not include a lienholder or other person who holds an ownership or other interest for security purposes.

6. "public way" means every way that is publicly owned or maintained that is open to the public for purposes of vehicular travel, including highways, streets and roads and any other way which by custom or usage is open to the public for purposes of vehicular travel.

7. "vehicle" means a device in, upon or by which a person or property may be transported or drawn upon or immediately over a public way, but does not include a mobile home.

Section 3. Effective Date and Transition. This ordinance becomes effective immediately upon adoption by the council. The tax levied under this chapter during 1998 shall be levied as if "January 1" in this ordinance read "July 1". During 1998 the tax shall apply only to heavy vehicles in Bethel on and after July 1, 1998.

ADOPTED this 10th day of March, 1998, by a vote of 7 in favor, 0 opposed, and 0 abstaining..

CITY OF BETHEL

By: Agnes L. Phillips
Agnes L. Phillips, Mayor

ATTEST:

Laurie J. Walters
Laurie J. Walters, Acting City Clerk