



City of Bethel

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Bethel, Alaska 99559

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Regular City Council Meeting

Tuesday, August 8, 2017

6:30 P.M.

Council Chambers; Bethel, Alaska



City Council Meeting Agenda Regularly Scheduled Meeting August 8, 2017 – 6:30 pm City Hall 300 State Highway, Bethel, AK City of Bethel Council Chambers

Rick Robb
Mayor
Term Expires 2017
rrobb@cityofbethel.net

Fred Watson
Vice-Mayor
Term Expires 2018
fwatson@cityofbethel.net

Leif Albertson
Council Member
Term Expires 2017
labertson@cityofbethel.net

Alisha Welch
Council Member
Term Expires 2017
arwelch@cityofbethel.net

Mark Springer
Council Member
Term Expires 2017
msprigner@cityofbethel.net

Naim Shabani
Council Member
Term Expires 2017
nshabani@cityofbethel.net

Michael Shantz
Council Member
Term Expires 2017
mshantz@cityofbethel.net

Pete Williams
Acting City Manager
543-2047
pwilliams@cityofbethel.net

Lori Strickler
City Clerk
543-1384
lstrickler@cityofbethel.net

Patty Burley
City Attorney

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. PEOPLE TO BE HEARD – Five minutes per person**
- V. APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA**
- VI. APPROVAL OF MEETING MINUTES**
 - a) *7-25-2017 Regular Meeting Minutes **p.4**
- VII. REPORTS OF STANDING COMMITTEE**
- VIII. SPECIAL ORDER OF BUSINESS**
- IX. UNFINISHED BUSINESS**
 - a) Public Hearing of Ordinance 17-39: Repealing And Replacing Chapter 4.16 Of The Bethel Municipal Code, Sales And Use Tax (Finance Committee) **p.26**
 - b) Public Hearing Of Ordinance 17-40: Amending Bethel Municipal Code Section 7.10.130 Poll Worker Pay-Election (Mayor Robb) **p.105**
- X. NEW BUSINESS**
 - a) *Introduction Of Ordinance 17-41: Amending The Bethel Municipal Code Chapter 5.04.050(A), Additional Fees For Businesses Selling Games Of Skill And Chance (Finance Committee) **p.112**
 - b) *Resolution 17-14: Protesting The Issuance Of A Package Store License To Swanson's Package Store (Council Member Albertson) **p.114**
 - c) AM 17-54: Approve The Operations Plan For The YK Fitness Center For July 1,2017 Through June 30, 2018 (City Manager Williams) **p.133**
 - d) Rescinding Resolution 17-03: Protesting the Issuance Of A Package Store License To Kusko Liquor Store – License ID # 5533; Located At 801 Front Street, Owned by Cezary Maczynski (Vice-Mayor Watson) **p.151**
- XI. MAYOR'S REPORT**
- XII. MANAGER'S REPORTS**
- XIII. CLERK'S REPORT**
- XIV. COUNCIL MEMBER COMMENTS**
- XV. EXECUTIVE SESSION**
 - a) Alaska Statutes Title 44.62.310: Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Potential Litigation AVCP-RHA (Owl Park) (Vice-Mayor Watson)
- XVI. ADJOURNMENT**

Agenda posted on August 2, 2017, at City Hall, AC Co., Swanson's, and the Post Office.

Kevin Morgan, Asst. City Clerk

(Items on the agenda noted with an asterisk (*) are considered the consent agenda.

All Resolutions noted with an asterisk (*) will automatically be adopted on the consent agenda unless removed from the consent agenda by Council.

Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing August 22, 2017**.

The Council may, after 12:00am, and only by a unanimous consent vote to Fix the Time to Which To Adjourn for the following day at 6:30 p.m.

Approval of the Meeting Minutes

I. CALL TO ORDER

A Regular Meeting of the Bethel City Council was held on July 25, 2017 at 6:30 p.m., in the council chambers, Bethel, Alaska.

Mayor Richard Robb called the meeting to order at 6:30 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Comprising a quorum of the Council, the following members were present:	
Mayor Rick Robb	Council Member Mark Springer
Vice-Mayor Fred Watson	Council Member Leif Albertson
Council Member Naim Shabani	
Members Absent:	
Council Member Alisha Welch	
Also in attendance were the following:	
City Manager Pete Williams	City Clerk Lori Strickler
City Attorney Patty Burley	

IV. PEOPLE TO BE HEARD

Jon Cochrane – Spoke in favor of the proposed Ordinance 17-38 and clarified amendments to the proposed Ordinance from the Finance Committee.

Lorin Bradbury- Provided a statement of opposition to the section of Ordinance 17-38 related to taxation of fuel and electricity for rental properties. Additionally, provided concern that his wife is a relator in town and is required to remit six percent on the total commission she earns on the sale of property.

Bonnie Bradbury- Provided statement of opposition of the taxation on the commission earned from the sale of homes which is already taxed.

Questioned why a flight charter for fishing and hunting would be exempt but not boat charters.

Jarred Karr- Provided a statement of concern related to the length and content of the ordinance which is difficult for people to understand and interpret. Stated there are a number of different Alaskan communities that provide a tax cap on the amount of total tax remitted.

Jim Valcarse – Explained to the Council that the community needs small businesses. Asked the Council, why the City is doing this, how much money is expected to be generated. Asked that the Council postpone adoption of the Sales tax ordinance and let small business talk. Encouraged the City Council to begin promoting small businesses.

Council Member Springer arrived at 6:51p.m.

David E. Trantham Jr. – Provided concern that some council members have violated their oath of office. It is really good to be exonerated by the false allegations by the acting city manager.

Kevin Tressler – Provided a statement of opposition to the City’s exclusion of 4.16.170 Charitable Events as an exempt.

Carol Ann Willard – As a representative of the Finance Committee- Provided a statement of support for Ordinance 17-39. Encouraged Council to ask questions concerning the Ordinance. They would be available to answer or clarify issues that council may have.

V. APPROVAL OF THE CONSENT AND REGULAR AGENDA

Main Motion: Approve the Consent and Regular Agenda.

Moved by:	Springer
Seconded by:	Shabani
Action:	Motion carries by a vote of 5-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani
Opposed:	-0

**Removal from
Consent Agenda:** New Business Item-A Ordinance 17-40 from the consent agenda.

Moved by: | Albertson

VI. APPROVAL OF THE MEETING MINUTES

Item A – 7-11-2017 Regular Meeting Minutes.

Passed on the Consent Agenda

VII. REPORTS OF STANDING COMMITTEES

Public Safety and Transportation Commission

A meeting has not been held since the last City Council meeting.

Port Commission

Nothing to Report.

Planning Commission

The Commission considered and approved a Conditional Use Permit for Kusko Liquors. Larsen Subdivision received a preliminary Plat.

Blue-sky Subdivision Agreement was up for consideration but an extension for submission was provided.

Parks, Recreation, Aquatic Health and Safety Center Committee

A meeting has not been held since the last City Council meeting.

Finance Committee

Met at a special meeting to consider modifications to Ordinance 17-39.

Energy Committee

A quorum of the body was not established, a meeting was not held.

Public Works Committee

A quorum of the body was not established, a meeting was not held.

VIII. SPECIAL ORDER OF BUSINESS

Item A – Appreciation for Norman Ayagalria.

Item B – Appointment Of Qualified Individual To Fill City Council Vacancy, Term Ending October, 2017.

Michael Shantz provided a statement to the City Council.

Joseph H. Moses Jr. a statement to the City Council.

Maria Romero provided a statement to the City Council.

Mitchell Forbes provided a statement to the City Council.

Bradon Brink provided a statement to the City Council.

Maria Lake provided a statement to the City Council.

Main Motion:	Nominate Maria Lake.
Moved by:	Springer
Seconded by:	Watson
Action:	Motion carries by a vote of 5-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani
Opposed:	∅
Main Motion:	Nominate Joseph Moses Jr.
Moved by:	Watson
Seconded by:	
Action:	Motion does not carry due to a lack of a second.
Main Motion:	Nominate Mitchell Forbes.
Moved by:	Albertson
Seconded by:	Springer
Action:	Motion carries by a vote of 5-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani
Opposed:	∅
Main Motion:	Nominate Mike Shantz.
Moved by:	Albertson
Seconded by:	Shabani
Action:	Motion carries by a vote of 5-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani
Opposed:	∅
Main Motion:	Nominate Bradon Brink.
Moved by:	Springer
Seconded by:	Shabani
Action:	Motion carries by a vote of 5-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani
Opposed:	∅
Main Motion:	Close Nominations.
Moved by:	Springer

Seconded by: | Shabani
Action: | Motion carries by a vote of 4-1
In favor: | Albertson Watson Springer Shabani
Opposed: | Robb

Round One Voting:

Council Member Fred Watson voted for Michael Shantz
Council Member Naim Shabani voted for Michael Shantz
Council Member Rick Robb voted for Michael Shantz
Council Member Leif Albertson voted for Mitchell Forbes
Council Member Mark Springer voted for Maria Lake

Round Two Voting:

Council Member Fred Watson voted for Michael Shantz
Council Member Naim Shabani voted for Michael Shantz
Council Member Rick Robb voted for Michael Shantz
Council Member Leif Albertson voted for Mitchell Forbes
Council Member Mark Springer voted for Michael Shantz

Council Member Mike Shantz read their oath of office and took their seat at the Council bench.

Item C – Appointment Of Council Member To Committees And Commissions.

Mayor Robb appointed Council Member Naim Shabani to the Public Safety and Transportation Commission, with Council's concurrence.

Mayor Robb appointed Council Member Michael Shantz to the Public Works Committee, with Council's concurrence.

Item D – Health Fitness Monthly Report On The YK Fitness Center.

IX. UNFINISHED BUSINESS

Item A – Public Hearing of Ordinance 17-38: Authorizing The Disposition Of Property Pursuant To BMC 4.08.030(B) – A Non Exclusive Temporary Easement Across Us Survey 4117, Lot 15 In Bethel For Access To ONC Subdivision.

Mayor Robb opened the Public Hearing.

No one present to be heard.

Mayor Robb closed the Public Hearing.

Main Motion: Adopt Ordinance 17-38.

Moved by:	Springer
Seconded by:	Shantz
Action:	Motion carries by a vote of 6-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani <input checked="" type="checkbox"/> Shantz
Opposed:	∅

Primary Amendment: Amend to strike "in the attached map" under the Now Be It Ordained.

Moved by:	Albertson
Seconded by:	Shabani
Action:	Motion carries by a vote of 6-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani <input checked="" type="checkbox"/> Shantz
Opposed:	∅

Item B – Public Hearing of Ordinance 17-39: Repealing And Replacing Chapter 4.16 Of The Bethel Municipal Code, Sales And Use Tax.

Mayor Robb opened the Public Hearing.

Dave Trantham- Encouraged the Council to hold more than one public hearing on the ordinance before passage. The adoption of the Sales Tax Ordinance should include a fiscal note to reserve money to enforce tax collection.

Lori Bradbury – Requested that the Council consider amendments to the way tax is applied and remitted for landlords so it is similar to how other businesses are taxed concerning the purchase of goods which are to be used by the consumer.

Jared Karr- Requested more public hearings on this ordinance. Agreed with Mr. Trantham's testimony in that it costs money for the City to collect money. Stated Ordinance 17-39 is confusing and is difficult for small business owners to understand.

John Cochrane- Encouraged the Council to ask the members of the finance committee questions as they go through the review of this Ordinance.

Subsidiary Motion: Suspend the rules to hear from Lorin Bradbury.

Moved by:	Shabani
Seconded by:	Springer
Action:	Motion carries by a vote of 6-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani <input checked="" type="checkbox"/> Shantz
Opposed:	∅

Lorin Bradbury- Provided a clarifying statement on the use of the utilities.

Bonnie Bradbury- Was surprised to hear the Finance Committee met 19 times.

Mayor Robb closed the Public Hearing.

Main Motion: Adopt Ordinance 17-39.

Moved by:	Shantz
Seconded by:	Albertson
Action:	Postponed

Primary Amendment: Amend 4.16.150 L. 2. Tax Exemptions to strike "or" before "a marital and family therapist" and to add "or a license professional councilor" after "therapist."

Moved by:	Springer
Seconded by:	Albertson
Action:	Motion carries by a vote of 6-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani <input checked="" type="checkbox"/> Shantz
Opposed:	0

Council Member Springer identified Mayor Richard Robb may have a conflict of interest on this issue due to his profession as a licensed professional councilor.

Vice-Mayor Watson ruled, Mayor Robb does not have an indirect or direct financial interest on this issue.

Subsidiary Motion: Suspend the rules to hear from the Finance Committee Members.

Moved by:	Springer
Seconded by:	Shantz
Action:	Motion carries by a vote of 6-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani <input checked="" type="checkbox"/> Shantz
Opposed:	0

Primary Amendment: Amend 4.16.150 N to strike "The sale of bingo, pull tabs or other gaming activities is not exempt".

Moved by:	Albertson
Seconded by:	Springer
Action:	Motion carries by a vote of 5-1
In favor:	<input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani <input checked="" type="checkbox"/> Shantz
Opposed:	<input checked="" type="checkbox"/> Robb

Subsidiary Motion: Suspend the rules to hear from members of the public with regard to gaming.

Moved by:	Springer
Seconded by:	Shantz

Action: | Motion carries by a vote of 6-0
 In favor: | Robb Albertson Watson Springer Shabani Shantz
 Opposed: | \emptyset

Amanda Ferguson addressed the Council with an explanation on how gaming fees would differ from gaming taxes.

Primary Amendment: 4.16.050 to strike Section C. Gaming.

Moved by: | Springer
 Seconded by: | Albertson
 Action: | Motion carries by a vote of 6-0
 In favor: | Robb Albertson Watson Springer Shabani Shantz
 Opposed: | \emptyset

Primary Amendment: Postpone

Moved by: | Springer
 Seconded by: | Shabani
 Action: | Motion carries by a vote of 6-0
 In favor: | Robb Albertson Watson Springer Shabani Shantz
 Opposed: | \emptyset

X. NEW BUSINESS

Item A- Introduction Of Ordinance 17-40: Amending Bethel Municipal Code Section 7.10.130 Poll Worker Pay-Election.

Main Motion: Introduce Ordinance 17-40.

Moved by: | Springer
 Seconded by: | Albertson
 Action: | Motion carries by a vote of 6-0
 In favor: | Robb Albertson Watson Springer Shabani Shantz
 Opposed: | \emptyset

Item B -AM 17-52: Direct Administration To Purchase One Transit Vehicle After Having The State Transit Division Combine Tao Capital Grants Into One Year, And Use The Unspent State Match Grant, So That 100% Of The City’s Match Is Covered By Grants.

Main Motion: Approve AM 17-52.

Moved by: | Springer
 Seconded by: | Shabani

Action: | Motion does not carry by a vote of 2-4
 In favor: | Springer Shabani
 Opposed: | Robb Albertson Watson Shantz

Item C –Council Review Of Swanson’s Package Store Liquor License.

Council Member Springer declares a potential conflict of interest because of his wife’s share holdings from Sea Lion Corporation.

Mayor Robb ruled Council Member Springer does not have a substantial financial conflict of interest.

Main Motion: Motion to suspend the rules to hear from representatives of Swanson’s Package Store.

Moved by: | Shabani
 Seconded by: | Springer
 Action: | Motion carries by a vote of 6-0
 In favor: | Robb Albertson Watson Springer Shabani Shantz
 Opposed: | ∅

- XI. MAYOR’S REPORT**
- XII. MANAGER’S REPORT**
- XIII. CLERK’S REPORT**
- XIV. COUNCIL MEMBER COMMENTS**

Mayor Richard Robb –
 Thanked the candidates that submitted letters of interest.
 Thanked the Finance Committee for their hard work on the Sales Tax Ordinance.

Vice-Mayor Fred Watson –
 No comment.

Council Member Leif Albertson –
 Congratulated the seven graduates from the Fire Fighter Training.

Council Member Mark Springer –
 Thanked the candidates that submitted letters of interest.

Council Member Naim Shabani –
 Asked the City Clerk to explain the position of City Council and their role with various employees.

Council Member Mike Shantz-

No Comment.

XV. EXECUTIVE SESSION

Item A– In Accordance With AS 44.62.310 C 1 Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Union Negotiations.

Item B– Alaska Statutes Title 44.62.310: Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Potential Litigation AVCP-RHA.

Item C- In Accordance With AS 44.62.310 C 1 Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Court House Leased Property Contract.

Move into Executive Session-

In Accordance With AS 44.62.310 C 1 Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Union Negotiations. Those attending Item A were: City Manager, City Attorney, City Clerk and Human Resources Manager.

Alaska Statutes Title 44.62.310: Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Potential Litigation AVCP-RHA. Those Attending Item B were: City Manager, City Attorney and City Clerk,

In Accordance With AS 44.62.310 C 1 Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Court House Leased Property Contract. Those attending Item C were: City Manager, City Attorney and City Clerk.

Main Motion:

Moved by:	Springer
Seconded by:	Albertson
Action:	Motion carries by a vote of 6-0
In favor:	<input checked="" type="checkbox"/> Robb <input checked="" type="checkbox"/> Albertson <input checked="" type="checkbox"/> Watson <input checked="" type="checkbox"/> Springer <input checked="" type="checkbox"/> Shabani <input checked="" type="checkbox"/> Shantz
Opposed:	∅

Council Member Springer department at 10:51p.

XVI. ADJOURNMENT

Main Motion: Adjournment.

Moved by:	Shabani
Seconded by:	Albertson

Action: | Motion carries by a vote of 5-0
In favor: | Robb Albertson Watson Shabani Shantz
Opposed: | \emptyset

Council adjourned at 12:24p.m.

Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk

Reports of Standing Committees



City of Bethel

Finance Committee Agenda

Special Meeting

Thursday August 3, 2017– 6:30 p.m.

Council Chambers, Bethel, Alaska

Jon Cochrane
Finance Committee Chair

Carol Ann Willard
Finance Committee Vice-Chair

Leif Albertson
City Council Representative

Dave I rantham, Jr.
Finance Committee Member

Emily Russell
Finance Committee Member

Cece Franko
Finance Committee Member

Jason Brown
Finance Committee Member

Vacant
Alternate Committee Member

Vacant
Alternate Committee Member

Jim Chevigny
Finance Director
543-1376
jchevigny@cityofbethel.net

Vacant
Recorder

I. CALL TO ORDER

II. ROLL CALL

III. PEOPLE TO BE HEARD Ten minutes per person

IV. APPROVAL OF AGENDA

v. APPROVAL OF MINUTES of July 17, 2017 Special Meeting

VI. UNFINISHED BUSINESS

1. Continued Review of Sales Tax Code-Cochrane

VII. COUNCIL REP. COMMENTS

VIII. FINANCE DIRECTOR'S COMMENT

IX. FINANCE COMMITTEE MEMBER COMMENTS

X. ADJOURNMENT

>>>>DRAFT<<<<
City of Bethel, Alaska
Planning Commission

July 13, 2017

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Planning Commission was held on July 13, 2017 at 6:30 pm in the City of Bethel Council Chambers room, in Bethel, Alaska. Chair Hanson called the meeting to order at 6:30 PM.

II. ROLL CALL

Compromising a quorum of the Commission, the following members were present for roll call: Kathy Hanson, John Guinn, Cliff Linderoth, Shadi Rabi, Jon Cochrane, Alex Wasierski, and Lorin Bradbury. Also present was Ex-Officio City Planner Ted Meyer, Recorder Betsy Jumper, and City Attorney Patty Burley.

III. PEOPLE TO BE HEARD:

- Anna Komulien, a resident of Larson Subdivision, spoke out against Blue Sky Subdivision.
- Alex Judy, a resident of Larson Subdivision, spoke out against Blue Sky Subdivision.

IV. APPROVAL OF THE AGENDA

MOTION TO APPROVE THE AGENDA OF JULY 13, 2017

MOVED:	Jon Cochrane	To approve the agenda.
SECONDED:	Lorin Bradbury	
VOTE ON MOTION	All in favor 6 for and 0 opposed.	

V. APPROVAL OF THE MINUTES

MOTION TO APPROVE THE MINUTES OF THE JUNE 1 SPECIAL MEETING AND THE JUNE 8 REGULAR MEETING

MOVED:	John Guinn Jon Cochrane	June 1 approval of minutes June 8 approval of minutes
SECONDED:	Lorin Bradbury John Guinn	
VOTE ON MOTION	All in favor 6 yes and 0 opposed.	

VI. NEW BUSINESS

- A. **PUBLIC HEARING:** Applicant: Cezary J. Maczynski, dba Kusko Liquor Store – a continuance of a previous hearing in applying for a Conditional Use Permit in order to open a package liquor store. The legal description is a portion of United States Survey Number 1002. The physical address is 801 Front Street (ACTION ITEM).

Chair Hanson opened the Public Hearing and gave an overview and the history. *Cliff Linderoth was excused due to a conflict of interest.*

Ted went over his latest facts and findings and gave his presentation. The Planning Commissioner’s asked questions.

Mr. Maczynski addressed the Planning Commission on the parking schematics. The Planning Commissioner’s asked questions.

PEOPLE TO BE HEARD: Nobody wished to be heard.

The Planning Commissioner’s discussed the facts and findings.

MOTION TO APPROVE THE CONDITIONAL USE PERMIT

MOVED:	Jon Cochran	To approve the Conditional Use Permit with the conditions of: 1. As proposed by the applicant, demolish the existing auto shop and replace it with a 25-foot wide driveway, 10 parking spaces, a four-foot wide walkway, and a 25-foot wide parking lot aisle for two-way entry and exit vehicles. 2. Install a permanently fixed barrier along the property line on Front Street up to the driveway so that customers use the designated 2-way driveway, which would eliminate backing out into the street. 3. Install a permanently fixed barrier on the western property lie to eliminate customer parking on adjacent private property. 4. Install entry and exit signs for the driveway. 5. Physically designate the 10 parking spaces on the property. 6. Install exterior lighting and sensors.
SECONDED:	John Guinn	
VOTE ON MOTION		
All in favor 5 yes and 0 opposed.		

B. **PUBLIC HEARING:** Applicant: Walter Larson has applied for a filing of a preliminary plat that creates Tsikoyak Subdivision, consisting of Lots 1-10, Block 1, Tract A-1, and Open Space. A subdivision of Tract A and OPEN Space, Tsikoyak Subdivision (Plat #96-18) situated within Section 12. T.8N, R72W. SM, Alaska consisting of 11.92 acres more or less in the Bethel Recording Office (ACTION ITEM).

Ted presented his report. The Planning Commissioner’s asked questions of the Planner.

Applicant Mr. Larson addressed the Planning Commission and answered questions. Mr. Mike Horne, surveyor for the applicant, answered questions as well.

After discussing, the Planning Commission made a motion.

MOTION TO APPROVE THE PRELIMINARY PLAT

MOVED:	Lorin Bradbury	To approve the Tsikoyak Subdivision with the following conditions: 1. All surface drainage within the subdivision Shall be directed away adjacent properties. Based on Recommendations of the City of Bethel Roads Foreman, The Subdivider needs to install a culvert under Coleen Place, along BIA Road (& show as well, on the final plat). Any and all culverts to be repaired, replaced, or installed as
	John Guinn	

		<p>requested by the City or the Corps are to be completed as requested. 2) As BMC Section 17.24.290 states that 10% of the subdivision be Open Space, and Part C states that 80% of Open Space shall be suitable for recreation, and Part B states that Open Space parcels shall be convenient to residential lots, the subdivider needs to designate the 10% of Open Space area inside, or more convenient to the 10-parcel subdivision. 3). The Power Distribution Plan needs to be completed and submitted by AVEC before the Subdivision Agreement is approved. 4) Regarding the proposed Zoning map previously submitted, the subdivider needs to add and show on the Final plat a strip of Open Space land between the proposed residential zoned 10-property subdivision and the proposed General Use-zoned area. This strip of Open Space is required to act as a buffer between the two zones. 5). Subdivider to coordinate with the Army Corps of Engineers regarding a Wetland Delineation and/or Wetlands Permit before construction of required subdivision improvements takes place. 6). All platting, permitting, and construction processes must conform to the City of Bethel Municipal Code. 7). Subdivider is responsible for obtaining and conforming to all required Local, State, and Federal permits. 8). Site Plan Permits be obtained from the Bethel Planning Department for all components of subdivision development. 9). Subdivision Agreement: The subdivider enters into a Subdivision Agreement with the City of Bethel. Both the City and Subdivider to work cooperatively to complete the Subdivision Agreement. No work to commence until the subdivision agreement is completed. 10). Final plat not to be approved until the City accepts all improvements.</p>
VOTE ON MOTION	All in favor 6 yes and 0 opposed.	

Chair Hanson closed the Public Hearing.

- C. Draft Subdivision Agreement for Blue Sky Subdivision – Proposed amendments from Blue Sky subdivider currently being reviewed by the City Administration for assurance of public improvements.

MOTION TO TABLE ITEM C

MOVED:	Lorin Bradbury	Motion to table item C.
SECONDED:	Jon Cochrane	
VOTE ON MOTION	6 yes and 0 opposed.	

VIII. ADJOURNMENT

MOVED:	Jon Cochrane	Motion to adjourn the meeting at 9:15 pm.
SECONDED:	John Guinn	
VOTE ON MOTION 6 yes and 0 opposed.		

The next meeting will be on August 10, 2017

ATTEST: _____, Kathy Hanson, Chairperson
 _____, Betsy Jumper, Recorder

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City of Bethel, Alaska

Public Works Committee Minutes

July 19, 2017

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER:

Due to the lack of quorum there was no regular meeting held on July 19, 2017

II. ROLL CALL:

The following were present: Robert Champagne, Scott Guinn, and Niem Shabani

Excused absence(s): Joseph Klejka and Jennifer Dobson

Also Present:

Committee Recorder, Pauline Boratko

Meeting adjourned at 6:45 pm due to lack of quorum.

APPROVED THIS _____ DAY OF _____, 2017.

Pauline R. Boratko
Recorder of Minutes

Robert Champagne
Member

City of Bethel, Alaska

Public Safety & Transportation Commission

July 5th, 2017

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Public Safety and Transportation Commission was held on July 5th, 2017 in the Bethel City Hall Council Chambers.

This meeting was called to order at 6:33pm.

II. ROLL CALL

Present: Joan Dewey *Chair*
Eileen Henrikson *Vice Chair*
Naim Shabani
Mary Weiss
Jared Karr

Absent: Norman Ayagalria *Council Representative*
Julene Webber
Daniel Maczynski
Mary Nanuwak

Ex-Officio Present: William Howll *Fire Chief*
Jesslyn McGowan *Recorder and Transportation Designee*

Other Present: Ted Meyer

III. PEOPLE TO BE HEARD

No one to be heard

IV. APPROVAL OF AGENDA

MOVED:	Weiss	Motion to approve the agenda.
SECONDED:	Shabani	
VOTE ON MAIN MOTION	All in favor	

V. APPROVAL OF MINUTES

MOVED:	Shabani	Motion to approve the minutes from the regular meeting of
SECONDED:	Henrikson	
VOTE ON MAIN MOTION	All in favor	

VI. UNFINISHED BUSINESS

A. Update on Traffic Impact Analysis

Ted Meyer brought the Resolution from the Bethel Planning Committee approving the conditional use permit application that was submitted by YKHC. He informed everyone the pedestrian path will be moved to create turn lanes. He will figure out with DOT about whether the last exit lane will have a left and right turn lane or just left turn only. He and Fire Chief Howell also spoke of the fire safety of the building and showing where the lanes for the fire trucks to use when needed.

VII. NEW BUSINESS

A. High Pedestrian Areas and Housing Areas

Council Representative Ayagalria not present

B. Update on BPD Chief and staffing issue at BPD

City Manager Pete Williams not present

VIII. CHIEF’S COMMENTS

Fire Chief Howell – He wants to thank Chief Achee for his 27 years of service to the city and is wishing him the best and hope he is enjoying himself. See BFD report in commission packet.

IX. TRANSPORTATION INSPECTOR’S REPORT

See report in commission packet

X. COUNCIL REPRESENTATIVE’S COMMENTS

Council Representative Ayagalria not present

XI. COMMISSION MEMBER’s COMMENTS

Joan- I still hope we get an update, maybe the city manager wanted to wait when the timeline or transition plan for the Chief was clearer. We had some concerns and work that we talked about here with the emergency services. I’m wondering what the police with this new positions perception and ideas about staffing. Is it still like 50 percent with the police department? I don’t know if anything change with the dispatch and other positions. I was thinking that would be more important to know about and what strategies this person might have and what they know about this part of Alaska.

Eileen- I had a board of directors meeting with the Chamber of Commerce today. The first Thursday of September we are kind of looking to change up our luncheons because they’re not really well attended and frankly I believe it’s because the business community isn’t hearing business related topics. We are looking at changing the direction of the chamber because it feels like we aren’t really doing anything. I also think it feels like it would be better served with networking. This next luncheon will be more like a round table discussion and invite HR departments to talk about recruiting and retention. We are going to try for the first Thursday luncheons to be more of a brown bag round table discussion. We are also looking at redoing the membership fees to be more standard across the board.

XII. ADJOURNMENT

MOVED:	Karr	Motion to adjourn.
SECONDED:	Shabani	
VOTE ON MAIN MOTION	All in favor.	

Meeting adjourned at 7:49 pm.

APPROVED THIS _____ DAY OF _____, 2017.

Jesslyn McGowan, Recorder

Joan Dewey, Chair

Unfinished Business

CITY OF BETHEL, ALASKA

Ordinance #17-39

AN ORDINANCE REPEALING AND REPLACING CHAPTER 4.16 OF THE BETHEL MUNICIPAL CODE, SALES AND USE TAX

SECTION 1. Classification. This is a Codified Ordinance and shall become part of the Bethel Municipal Code.

SECTION 2. Amendments. Bethel Municipal Code Chapter 04.16 Sales and Use Tax, is amended as follows (old language is stricken, new language is underlined):

Chapter 4.16
SALES AND USE TAX

Sections:

- ~~4.16.010~~ Definitions.
- ~~4.16.020~~ Interpretation.
- ~~4.16.030~~ Imposition—Rate.
- ~~4.16.040~~ Exemptions.
- ~~4.16.050~~ Exemption certificates—Applications.
- ~~4.16.060~~ Tax added to sales price.
- ~~4.16.070~~ Bracket collection schedule.
- ~~4.16.080~~ Situs of taxable transaction.
- ~~4.16.090~~ Record of sale.
- ~~4.16.095~~ Receipts—Posting of signs.
- ~~4.16.100~~ Books, records and accounts.
- ~~4.16.110~~ Returns and remittances.
- ~~4.16.120~~ Termination, sale or transfer of retail business.
- ~~4.16.130~~ Sales tax trust fund.

- ~~4.16.140~~ Interest for delinquency.
- ~~4.16.150~~ Estimated tax.
- ~~4.16.160~~ Accelerated returns.
- ~~4.16.170~~ Investigation and audits.
- ~~4.16.180~~ Penalties.
- ~~4.16.190~~ Protest of tax and appeal by buyer.
- ~~4.16.200~~ Protest and appeal by seller.
- ~~4.16.210~~ Refund of excess remittance.
- ~~4.16.220~~ Review by finance committee.
- ~~4.16.230~~ Appeal to city manager.
- ~~4.16.240~~ Rulings and regulations.
- ~~4.16.250~~ Time extensions.

42 ~~4.16.260~~—Disposition of tax information.

43 ~~4.16.270~~—Civil enforcement remedies.

44 ~~4.16.280~~—Liens.

45 ~~4.16.290~~—Liability of responsible individuals.

46 ~~4.16.300~~—Repealed.

47 ~~4.16.310~~—Tax evasion.

48 ~~4.16.320~~—Use tax.

49 **~~4.16.010 Definitions.~~**

50 For purposes of this chapter, certain words and phrases are defined as follows:

51 A. "City" means the city of Bethel.

52 B. "Common carrier" means a person engaged in transporting passengers or goods or
53 both for valuable consideration in the normal course of the business of that person, or a
54 seller engaged in transporting directly to a common carrier goods sold by him or her in
55 a retail sales transaction directly to a buyer residing outside the city.

56 C. "Finance director" means the finance director of the city or the designee of the
57 finance director; the designee may be an employee of the city, an accountant or other
58 person who is not an employee of the city, a certified public accounting firm or other
59 type of firm.

60 D. "Goods," "fixtures," "investment securities," "general intangibles," "accounts,"
61 "chattel paper," "documents," "instruments" and "money" and their singulars, have the
62 meanings given the terms by the Alaska Uniform Commercial Code, AS [45.01](#) et seq., as
63 amended.

64 E. "Marijuana" means all parts of the plant (genus) Cannabis, whether growing or
65 not, the seed thereof, the resin extracted from any part of the plant, and any
66 compound, manufacture, derivative, mixture, or preparation of the plant, its seeds, or
67 its resin, including marijuana concentrate. Marijuana does not include fiber products
68 from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the
69 plant that is incapable of germination, or the weight of any other ingredient combined
70 with marijuana to prepare topical or oral administrations, food, drink, or other products.

71 F. "Person" means an individual, partnership, cooperative, association, joint venture,
72 corporation, estate trust, business, receiver, or any entity, group or combination acting
73 as a unit.

74 G. "Responsible individual" means any individual, including a group of individuals
75 such as a board of directors, partnership, joint venture, corporation or other entity, who
76 has the responsibility to, is required to, has the authority to, or has the authority to
77 direct or cause another person to:

- 78 1. Collect the tax levied under this chapter;
79 2. Segregate funds in lieu of the direct collection of the tax under this chapter;
80 3. Remit over to the city taxes required to be collected under this chapter; or
81 4. Determine which creditors of the seller are to be paid; and may include, but is
82 not limited to, such officers and employees of a seller as the chief executive officer,
83 president, vice president for finance, controller, comptroller, treasurer, bookkeeper,
84 majority shareholder, finance director, manager, partner, managing partner, chief fiscal

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85 or financial officer and accountant if they possess any of the authority, responsibility or
86 duties described in this definition.

87 H. ~~"Sale" and "sales transaction" mean any sale, lease, rental, transfer or assignment~~
88 ~~of any right, title or interest in any goods, fixtures, real property, things in action,~~
89 ~~investment securities, future goods, goods to be severed from realty, admission~~
90 ~~privilege, right of participation or attendance, general intangibles, accounts, chattel~~
91 ~~paper, documents, instruments or money, and any sale, provision or performance of~~
92 ~~services, for valuable consideration.~~

93 I. ~~"Seller" means every person making a sales transaction to a buyer or consumer,~~
94 ~~every person renting goods, real or personal property and every person performing~~
95 ~~services, for valuable consideration.~~

96 J. ~~"Selling price" means the present fair market value of all detriment incurred by the~~
97 ~~buyer in the sales transaction, including cash payments, debt obligations and the~~
98 ~~present value of goods, personal property, realty or service that form part of the~~
99 ~~consideration for the sale without deduction for the value of trade ins, markups, taxes~~
100 ~~on, collected or paid by the seller or a prior owner or holder of the subject of the sale,~~
101 ~~invoice prompt payment discounts or discounts not available to all purchasers.~~

102 K. ~~"Services" means and includes all species of acts, activities, labor, advise,~~
103 ~~consultation, advertising, brokering, retainers, representation and intercession but does~~
104 ~~not include services rendered to an employer by an employee.~~

105 L. ~~"Single-sale unit" means that sale of a separate, single item or service which is~~
106 ~~customarily sold, advertised, contracted for sale or sold in the normal course of~~
107 ~~business as a separate and single item or unit or by a single unit of measurement (i.e.,~~
108 ~~per gallon, ton, hour, day, week, month, foot, sack, yard, pound, piece, group, each,~~
109 ~~box, set, package, or other common unit of measurement). A single sale unit shall~~
110 ~~include a sale by contract, quote, bid or other lump sum amount only if the sale is~~
111 ~~based on and computed as a single bid, quote, sum or package price rather than as an~~
112 ~~accumulation, sum or aggregation of prices of separately identifiable or separate unit~~
113 ~~prices as defined above.~~

114 M. ~~"Storage, use or consumption" means the storage, use or consumption in, or the~~
115 ~~importation into, the city of an alcoholic beverage purchased or acquired from a source~~
116 ~~outside the city.~~

117 **~~4.16.020 Interpretation.~~**

118 A. ~~The application of the tax levied under this chapter shall be broadly construed and~~
119 ~~shall favor inclusion rather than exclusion.~~

120 B. ~~The exemptions from the tax levied under this chapter shall be narrowly construed~~
121 ~~against the claimant and in favor of taxation.~~

122 **~~4.16.030 Imposition—Rate.~~**

123 A. ~~There is levied and shall be collected a sales tax on all sales transactions in the city~~
124 ~~unless specifically exempted under this chapter. The tax is six (6) percent of the selling~~
125 ~~price.~~

126 B. ~~The tax to be added to the sale price shall be twelve (12) percent for alcohol and~~
127 ~~transient lodging.~~

128 C. The tax to be added to the sale price shall be fifteen (15) percent for marijuana
129 retail sales.

130 **4.16.040 Exemptions.**

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

133 A. ~~Casual and isolated sales, services or rentals by a seller who does not regularly~~
134 ~~engage in the business of selling such goods, services or rentals are only exempt if such~~
135 ~~sales, services or rentals do not occur for more than five (5) days in a calendar year,~~
136 ~~and are not made through a dealer, broker, agent or consignee. A casual and isolated~~
137 ~~rental of real property by a seller who does not regularly engage in the business of~~
138 ~~renting real property is not exempt except as provided in subsection C of this section. A~~
139 ~~casual and isolated sale of real property by a seller who does not regularly engage in~~
140 ~~the business of selling real property is not exempt except as provided in subsection X of~~
141 ~~this section;~~

142 B. ~~Sales and rentals of goods and the sale or performance of services resulting from~~
143 ~~orders received from outside the city by mail, telephone or other public modes of~~
144 ~~communication if delivery of the goods ordered or rented is made outside the city by~~
145 ~~mail or common carrier, or if the performance of the services ordered occurs outside~~
146 ~~the city. The portion of the services ordered from outside the city that are performed~~
147 ~~inside the city are not covered under this exemption, and shall be fully taxable;~~

148 C. ~~Except as provided in this subsection, that portion of the selling price of a single-~~
149 ~~sale unit in excess of ten thousand dollars (\$10,000) and that part of a periodic rental~~
150 ~~price of all types of property in excess of ten thousand dollars (\$10,000) are exempt. A~~
151 ~~periodic rental price is the amount owed on a monthly or more frequent period. Rentals~~
152 ~~with a payment period exceeding one (1) month are commuted for sales tax purposes~~
153 ~~as though payment were to be made on a monthly basis.~~

154 ~~That portion of the selling price of an all terrain vehicle (ATV), snow machine, boat,~~
155 ~~or boat motor in excess of three thousand five hundred dollars (\$3,500) is exempt~~
156 ~~regardless of whether or not such items are purchased simultaneously, or are invoiced~~
157 ~~or otherwise billed on the same billing document.~~

158 ~~That portion of the periodic rental price of single sale unit of real property in excess~~
159 ~~of fifty thousand dollars (\$50,000) is exempt;~~

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

161 E. ~~A sale of goods made to a person in a foreign country for shipment out of the~~
162 ~~United States except where the goods or products sold are exported in bond for reentry~~
163 ~~into the United States;~~

164 F. ~~A sale the city is prohibited from taxing under the Constitution and laws of the~~
165 ~~United States or the Constitution and the laws of the state of Alaska is exempt. A sale~~
166 ~~made directly to the state, its political subdivisions, or the U.S. government is exempt. A~~
167 ~~sale to a federal, state or city contractor is not exempt even if the government pays~~
168 ~~directly for the purchase;~~

169 G. ~~A sale to an employee of the state, its political subdivisions, or the federal~~
170 ~~government is only exempt when the government employee provides proof that the~~
171 ~~sale is for government business by paying for the sale with a government voucher,~~

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172 purchase order, check, or warrant, or providing other verifiable documentation to the
173 seller to allow the seller to readily determine that the sale is for government business;

174 H. Freight and wharfage charges, whether arising out of foreign, interstate or
175 intrastate commerce, are exempt. Warehouse and storage services are not exempt.
176 Transportation of goods, equipment, or other property from one (1) point to another
177 within the city limits by commercial movers is not exempt;

178 I. The sale of insurance policies, guaranty bonds and fidelity bonds;

179 J. The lending of money and interest charged for loans, and other services provided
180 by banks, savings and loans institutions, credit unions, and investment banks are
181 exempt, except for ATM charges, safety deposit box charges, and cashier's and
182 traveler's check charges;

183 K. The sale of food and beverages to students and staff in primary or secondary
184 schools or college cafeterias or lunchrooms that are operated by the school primarily for
185 teachers and students are exempt as long as such sales are made during regular school
186 hours and such sales are not sold for profit. The sale of food and beverages to patients
187 and staff as part of the services provided by local, state, and federal government
188 agencies, hospitals and nonprofit organizations licensed to provide patient services by
189 the state of Alaska are exempt as long as such sales are made during regular operating
190 hours of the government agency, hospital, or nonprofit organization, and are not sold
191 for profit;

192 L. The sale of goods to a wholesaler, retailer or other purchaser will only be exempt if
193 such purchaser resells the same goods, in the same or altered form, and the resold
194 goods will not be exempt from the tax levied under this chapter. In order to obtain the
195 exemption provided for in this subsection, the purchaser shall display or provide to the
196 seller at the time of the sale a copy of the purchaser's current Bethel business license.
197 The Bethel business license must be for the class of activities involving the resale of the
198 type of goods for which the exemption is sought. If the purchaser buys goods for resale
199 in accordance with this subsection and for personal or other use at the same time, only
200 the goods that are sold for resale in accordance with this subsection shall be exempt.
201 Supplies, services, tools, repair services, equipment or any other goods or services
202 purchased to support a business but not for resale in accordance with this subsection
203 are not exempt;

204 M. The sale of goods to a purchaser that will be transferred to another person in a
205 sale or performance of a service is exempt only if the purchaser displays or provides to
206 the seller at the time of the sale a copy of the purchaser's current Bethel business
207 license. The Bethel business license must be for the class of activities involving the
208 resale of the type of goods for which the exemption is sought. If a purchaser buys
209 goods for transfer in accordance with this subsection and for personal or other use at
210 the same time, only the goods that are sold for transfer in accordance with this
211 subsection shall be exempt. Labor, tools, supplies, equipment rentals or any other
212 goods or services purchased to prepare goods for transfer or in support of business
213 operations but not for transfer in accordance with this subsection are not exempt;

214 N. The service of transporting students to and from a school in vehicles;

215 O. The sale of labor and materials for a single family residence in which a private
216 individual resides full time without leasing for compensation any portion of the
217 residence to another person, including labor and materials for the improvement,
218 renovation, or remodel of such a single family residence, is exempt only if (1) the sale
219 of such labor and materials is to the private individual who resides in the residence; (2)
220 the private individual is acting as his or her own general contractor in constructing,
221 improving, renovating, or remodeling the residence; and (3) the private individual
222 displays at the time of sale an exemption certificate issued under BMC [4.16.050](#);

223 P. Purchases made with food coupons, food stamps, or other types of certificates
224 issued under [7](#) USC Sections [2011](#) through [2025](#) (Food Stamp Act);

225 Q. Ambulance, dental, hospital and medical services, including the sale of hearing
226 aids, physical therapy services, prosthetic devices and medicinal preparations, when
227 prescribed by a licensed health care provider. Ambulance, dental, hospital and medical
228 services do not include services rendered by chiroprodists, barbers, cosmeticians,
229 masseurs or veterinarians;

230 R. The sale of services of transporting passengers by river taxi, taxicab, bus,
231 commercial airline, air charter, air taxi, hovercraft or limousine is exempt. The lease of
232 vehicle for hire permits is not exempt;

233 S. The sale to a senior citizen of food intended for consumption by the senior citizen,
234 his or her spouse living in the same household, or the un-emancipated minor children of
235 either the senior citizen or his or her spouse who live in the same household. The senior
236 citizen shall display at the time of the sale a current and valid senior citizen exemption
237 certificate issued to the person under BMC [4.16.050](#)(C). For purposes of this subsection,
238 "food" is defined in accordance with [7](#) USC Section [2012](#)(g) (definition of "food" for
239 purposes of the Food Stamp Act);

240 T. The payment of rent by a senior citizen on a single dwelling occupied as the senior
241 citizen's primary residence and permanent place of abode. The senior citizen shall
242 provide proof at the time of payment of a current and valid senior citizen exemption
243 certificate issued to the person under BMC [4.16.050](#)(C);

244 U. Payment for telephone, electric, water and sewer utility services by a senior citizen
245 on a single dwelling occupied as the senior citizen's primary residence and permanent
246 place of abode. The senior citizen shall provide proof at the time of payment of a
247 current and valid senior citizen exemption certificate issued to the person under BMC
248 [4.16.050](#)(C);

249 V. The payment of rent by residents of Bethel community services and the payment
250 of rent by Bethel community services clients who reside in Bethel at places other than
251 the Bethel community services assisted living and supported living residences;

252 W. A sale of goods or services to any entity that, at the time of the sale, is legally
253 constituted and legitimately acting in accordance with a duly authorized federal tax
254 exempt status pursuant to IRS Regulations, Section 501(c)(3), (4) or (19), and if the
255 same goods or services are used exclusively in the fulfillment of activities within the
256 federal tax exempt status;

257 X. A sale of goods is exempt if a credit union organized under state or federal law is
258 the purchaser of the goods;

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259 Y. That portion of the selling price of real property in excess of twenty (20) percent of
260 the first (1st) two hundred seventy five thousand dollars (\$275,000) of the selling price
261 is exempt. This exemption does not apply to rentals of real property. This exemption
262 applies to all sales of real property, including casual and isolated sales;

263 Z. The payment for No. 1 stove oil used as heating fuel by a senior citizen for a single
264 dwelling occupied as the senior citizen's primary residence and permanent place of
265 abode. The senior citizen shall provide proof at the time of payment of a current and
266 valid senior citizen exemption certificate issued to the person under BMC [4.16.050](#)(C);

267 AA. Payment for water and sewer utility services by any and all persons or entities;

268 BB. Sales made by operators of a transient lodging business for the rental of rooms
269 that are subject to the transient lodging business tax listed under BMC [4.14.020](#).

270 **~~4.16.050 Exemption certificates—Applications.~~**

271 A. Persons desiring an exemption certificate for exemptions under BMC [4.16.040](#)(N),
272 (R), (S), (T), (U) or (W) must make written application for the certificate on a form
273 supplied by the finance director, pay the application fee and meet the other
274 requirements of this section. The finance director may at any time require proof that
275 the original grounds for the exemption still exist and the claimant shall have the burden
276 of establishing his or her qualifications for the exemption.

277 B. An exemption certificate for exemptions under BMC [4.16.040](#)(O) may be issued
278 only upon:

279 1. Submission of a complete application to the finance director;

280 2. Payment of the certificate fee of two hundred fifty dollars (\$250);

281 3. Proof that the applicant owns or has a substantial ownership interest in the
282 land upon which the home is to be built;

283 4. Proof that all building, zoning and other permits and approvals have been
284 obtained and that the home will meet all requirements of the Bethel sewer and water
285 codes.

286 A certificate issued under this subsection shall be numbered, identify the
287 applicant property owner, be signed by the finance director, and shall expire on the last
288 day of the twelfth (12th) month following the issuance of the permit. The expiration
289 date shall be prominently displayed on the certificate.

290 C.1. An exemption certificate or a renewal or replacement of an exemption certificate
291 for a senior citizen exemption under BMC [4.16.040](#)(S), (T) or (U) may be issued only
292 upon the submission to the finance director of a complete application and the payment
293 of any required fee. The certificate shall be in the form of a card which contains the
294 name and residence address of the applicant, the applicant's signature, a picture of the
295 applicant, the expiration date of the certificate, and may contain codes and other
296 information required by the finance director. The certificate shall expire two (2) years
297 from the date of issuance. The finance director may establish and implement a system
298 of staggered expiration dates. A certificate issued or renewed during the first (1st) two
299 (2) years after the implementation of a system of staggered expiration dates may be
300 given an expiration date that exceeds two (2) years as may be necessary to implement
301 the system of staggered expiration dates. The finance director may issue temporary

302 ~~certificates under conditions determined by the finance director to be appropriate. The~~
303 ~~finance director shall conduct such investigation of the facts set out in an application as~~
304 ~~the director determines to be appropriate to verify the qualifications of the applicant for~~
305 ~~the certificate and shall issue the certificate within thirty (30) days of the submission of~~
306 ~~the application if the applicant is determined to be qualified.~~

307 ~~2. A replacement certificate may be issued upon request, payment of any~~
308 ~~applicable replacement fee, proof of the loss of the original certificate and submission of~~
309 ~~a complete replacement certificate application.~~

310 ~~3. If the applicant is physically or mentally disabled so that the applicant has~~
311 ~~unusual difficulty in shopping or other buying activities, the applicant may designate in~~
312 ~~the application up to two (2) persons who may act as proxy shoppers for the applicant.~~
313 ~~The names and signatures of the proxy shoppers shall be set out on the certificate.~~

314 ~~4.a. Except for a proxy shopper whose name appears on the certificate, a~~
315 ~~person may not use in any way a certificate issued to another person.~~

316 ~~b. A person to whom a certificate is issued may not give the certificate to another~~
317 ~~person for use by that other person unless the other person is a proxy shopper named~~
318 ~~on the certificate. Sales to a person acting as a proxy shopper are exempt only when~~
319 ~~the sale of the goods or services would be exempt if the sale had been made directly to~~
320 ~~the person to whom the certificate is issued.~~

321 ~~5. To qualify for a certificate under this subsection, the applicant must be at~~
322 ~~least sixty five (65) years of age; provided, any person who will be at least sixty (60)~~
323 ~~years of age on December 31, 1999, and was registered with the city for the senior~~
324 ~~citizen sales tax exemption that existed on March 31, 1999, or who applies for a~~
325 ~~certificate under this subsection C on or prior to December 31, 1999, shall be treated as~~
326 ~~if they were sixty five (65) years of age and will be entitled to a certificate under this~~
327 ~~subsection if the person is sixty (60) years of age and meets all the other qualifications~~
328 ~~for a certificate except the age requirement.~~

329 ~~6. The domicile of the applicant must be in the state.~~

330 ~~D. An exemption certificate for persons applying for an exemption under BMC~~
331 ~~[4.16.040\(V\)](#) for the payment of rent by a Bethel community service client who resides~~
332 ~~in Bethel at a place other than the Bethel community services assisted living and~~
333 ~~supported living residences may be issued only upon:~~

334 ~~1. Submission of a complete application to the finance director;~~

335 ~~2. Proof satisfactory to the finance director that the applicant is a Bethel~~
336 ~~community services client;~~

337 ~~3. Address of residence along with name, address and phone number of~~
338 ~~property owner; and~~

339 ~~4. Proof satisfactory to the finance director that the property owner has a~~
340 ~~current Bethel business license and a current state of Alaska business license.~~

341 ~~A certificate issued under this subsection shall be numbered, identify the applicant,~~
342 ~~be signed by the finance director, and shall expire on the last day of the twenty fourth~~
343 ~~(24th) month following the issuance of the certificate. The expiration date shall be~~
344 ~~prominently displayed on the certificate. The finance director shall conduct such~~
345 ~~investigation of the facts set out in an application as the director determines to be~~

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346 appropriate to verify the qualifications of the applicant for the certificate and shall issue
347 the certificate within thirty (30) days of the submission of the application if the
348 applicant is determined to be qualified.

349 E. An exemption certificate or a renewal or replacement of an exemption certificate
350 for a nonprofit organization under BMC [4.16.040\(W\)](#) may be issued only upon:

- 351 1. Submission of a complete application to the finance director;
- 352 2. Proof that the claimant is a 501(c)(3), (4) or (19) organization;
- 353 3. Submission of the previous year's federal tax filing (if applicable).

354 A certificate issued under this subsection shall be numbered, identify the
355 organization, be signed by the finance director, and shall expire within one (1) year
356 following the issuance of the certificate. The expiration date shall be prominently
357 displayed on the certificate. No more than three (3) certificates may be issued to any
358 nonprofit organization

359 **~~4.16.060 Tax added to sales price.~~**

360 A. Seller shall add the sales tax to the selling price and, except as provided in
361 subsection D of this section, shall collect the sales tax at the time of the sale. Such
362 sales tax is a debt from the buyer or consumer to the seller until paid, and the same is
363 recoverable at law in the same manner as other debts.

364 B. The tax levied under the provisions of this chapter is upon the buyer of goods,
365 rentals or services, but the tax is remittable to the city by the seller regardless of
366 whether the seller has collected the same from the buyer. It is the duty of each seller to
367 collect from the buyer or consumer the full amount of the sales tax payable on each
368 taxable sales transaction at the earliest of the time goods are sold, delivered or paid for,
369 the time rent is due, or the time services are performed or paid for, provided the
370 provisions of this and the preceding sentence do not apply to the extent they are
371 inconsistent with the provisions of subsection D of this section. Every sale which is
372 made within the city, unless explicitly exempted by this chapter or a subsequent
373 ordinance, shall be presumed to be subject to the tax imposed hereunder in any action
374 to enforce the provisions of this chapter.

375 C. In cases of payment of the sale price by consideration other than cash or an
376 agreement to deferred payments under subsection D of this section, the seller shall
377 collect the entire sales tax due on the noncash part of the sale at the time of the sale.
378 The seller who fails to collect the sales tax due at the time of sale is immediately liable
379 for the uncollected part of the sales tax due and shall segregate from the seller's own
380 funds the amount of such uncollected part and shall deposit such amount as the sales
381 tax due in the Bethel sales tax trust fund or account required to be maintained for the
382 holding of Bethel sales tax collected by the seller.

383 D. In cases of payment of all or a part of the sale price by installment or deferred
384 payment, the seller may collect the sales tax as if the down payment and each
385 installment or deferred payment were separate, individual sales, with the sales tax
386 computed and paid on the entire principal and interest payment at the time of each
387 payment. If the payment invoice for a deferred sales tax payment does not set out the
388 amount of the sales tax due with the payment, the payment received shall be deemed

389 to include the sales tax which shall be computed by multiplying the total principal and
390 interest payment amount by 0.0566. Upon the sale or transfer by the seller of an
391 account from which deferred sales tax payments are still due, the seller shall pay over
392 to the city the amount of the sales tax still due from future payments on the account.

393 **4.16.070 Bracket collection schedule.**

394 A. Except as provided in subsections B and C of this section, the sales tax shall be
395 stated separately on all invoices, receipts and other documents of the sale. The tax
396 shall be charged in accordance with the following schedule:

- Selling Price
(inclusive) Amount of Sales Tax
- \$ 0.01—0.09 \$ -0 tax
- 0.10—0.16 - 0.01
- 0.17—0.33 - 0.02
- 0.34—0.50 - 0.03
- 0.51—0.66 - 0.04
- 0.67—0.83 - 0.05
- 0.84—1.09 - 0.06
- amounts over \$1.09 - 6% of selling price rounded up to the nearest whole cent for each fraction of one-half cent or more.

397 B. When sales are made through devices such as service station fuel pumps that
398 compute the amount due as the product is delivered, the seller may set the device to
399 add the sales tax as the product sold is delivered. In doing so, the seller may set the
400 device to add the tax in one cent (\$0.01) increments in accordance with the schedule in
401 subsection A of this section or may set the device to add the tax as exactly six (6)
402 percent of the price of the product as it is delivered. In either case where the tax is
403 added as the product is delivered and the price of the sale, including the sales tax, is
404 displayed on the device as the delivery is being made, the seller is not required to state
405 the amount of the tax separately in an invoice or receipt, but shall place a notice on the
406 device that the price shown includes the city sales tax.

407 C. When a coin or bill-operated device dispenses goods, permits one (1) or more
408 plays of a game or other entertainment, or permits a predetermined use of a device,
409 equipment or place, the sales tax levied under this chapter shall be deemed to be
410 included in the amount required to be deposited and shall be computed for purposes of
411 collection, holding in trust, and paying over to the city by multiplying 0.0566 by the
412 gross proceeds of each collection removed from the device by the seller. If the seller
413 sells tokens or cards that are used to operate the devices, the gross proceeds shall be
414 the sum of the cash removed from the devices plus the receipts from the sale of the
415 tokens and cards.

416 **~~4.16.080 Situs of taxable transaction.~~**

417 A. ~~A sale occurs in the city when:~~

- 418 1. ~~The sale agreement is reached between a buyer and seller in the city;~~
419 2. ~~Goods, property or rights sold by or through a seller or seller's agent in the~~
420 ~~city are delivered to the buyer in the city;~~
421 3. ~~Property within the city is leased or rented;~~
422 4. ~~Services are sold and performed within the city;~~
423 5. ~~Services are performed in the city, without regard to where the services were~~
424 ~~sold; or~~
425 6. ~~Any other activities related to the sale of goods, services or rentals occur~~
426 ~~within the city with a sufficient connection and relationship to the city to permit the~~
427 ~~imposition of the tax under this chapter.~~

428 B. ~~Whenever a seller with a Bethel outlet consummates a mail order sale sent directly~~
429 ~~to a Bethel buyer, the transaction shall be construed as occurring in the city for tax~~
430 ~~purposes unless the seller meets the burden of proving that the direct mail order sale is~~
431 ~~wholly disassociated from any assistance by its Bethel operations.~~

432 C. ~~In cases where services or goods subject to a sales transaction outside the city are~~
433 ~~delivered both inside and outside the city, the tax shall be due on that portion of the~~
434 ~~services and goods delivered inside the city.~~

435 **~~4.16.090 Record of sale.~~**

436 A. ~~Except for a person who has been certified by the finance director as a seller who~~
437 ~~engages solely in tax exempt sales, each person making sales within the city shall~~
438 ~~provide to the buyer and shall retain a copy of, a receipt or invoice documenting the~~
439 ~~details of the sale.~~

440 B. ~~Each receipt or invoice shall:~~

- 441 1. ~~Be dated;~~
442 2. ~~Be sequentially prenumbered, but may be sequentially machine numbered if~~
443 ~~the number printed on the receipt or invoice is machine-generated;~~
444 3. ~~Show the quantity, description and price of the goods sold, services rendered~~
445 ~~or sold or rentals made;~~
446 4. ~~Show the amount of the sales tax on the sale; and~~
447 5. ~~If any part of the sale is exempt, set out in detail on the receipt or invoice:~~
448 a. ~~Each item and the amount of the sale that is tax exempt;~~
449 b. ~~The reason for the exemption;~~
450 c. ~~The name of the entity and the name of the person actually making the purchase,~~
451 ~~and~~
452 d. ~~If the exemption may be given only upon the display of an exemption certificate or~~
453 ~~business license or upon the provision of a business license number, the seller shall~~
454 ~~record on the receipt or invoice the number and expiration date of the certificate or~~
455 ~~business license and the name of the person to whom issued.~~

456 **~~4.16.095 Receipts—Posting of signs.~~**

457 A. ~~The city finance department will create and distribute a poster designated by~~
458 ~~administration. The posters must be shown to the city council prior to being sent to~~

459 ~~businesses but do not require approval from council. The minimum requirements for the~~
460 ~~posters are as follows:~~

- 461 ~~1. A request to patrons of the business to ask for a receipt; and~~
462 ~~2. An explanation that the requirements of a receipt are date of sale, amount of~~
463 ~~sale, amount of tax collected and a sequence number of the receipt or invoice.~~
464 ~~B. Businesses that are open to the public are required to post the signs.~~
465 ~~C. Exempt businesses are those for which one hundred (100) percent of their~~
466 ~~business is nontaxable.~~
467 ~~D. Failure to comply will result in a one hundred dollar (\$100) fine per occurrence.~~

468 **~~4.16.100 Books, records and accounts.~~**

469 ~~A. Sellers shall keep complete, adequate and accurate business records from which~~
470 ~~the city may determine sales tax liabilities. Failure to maintain such records of business~~
471 ~~transactions is evidence intent to evade the tax and may result in penalties. A person~~
472 ~~who fails to comply with the requirements of this section may not challenge or attack in~~
473 ~~any court action or proceedings the correctness of any assessment of sales taxes based~~
474 ~~upon any period for which such books, records, and invoices have not been so~~
475 ~~maintained, preserved, or when requested, presented to the city.~~

476 ~~B. Each seller shall prepare and preserve business records in a systematic manner~~
477 ~~conforming to accepted accounting methods and procedures. Such records include:~~

478 ~~1. The books of account ordinarily maintained by a prudent business person.~~
479 ~~Records and accounting information stored on computers or microfilm must be provided~~
480 ~~to the city in readable form when requested by the city;~~

481 ~~2. Documents of original entry such as original source documents, pre-~~
482 ~~numbered sequential receipts, cash register tapes, sales journals, invoices, job orders,~~
483 ~~contracts, or other documents of original entry that support the entries in the books of~~
484 ~~accounts;~~

485 ~~3. All schedules or working papers used to prepare gross and taxable sales~~
486 ~~results, including receipts or invoices showing exempt sales.~~

487 ~~C. Records must show:~~

488 ~~1. Gross receipts and amounts due from all taxable and exempt sales;~~

489 ~~2. All exemptions or deductions from gross sales, including the customer name~~
490 ~~and Bethel business license or exemption certificate number and expiration date, date~~
491 ~~of transaction, receipt number, and amount exempted;~~

492 ~~3. The total purchase price of all goods and other property purchased for sale,~~
493 ~~resale, consumption, or lease.~~

494 ~~D. All records that pertain to transactions involving sales tax liability shall be kept for~~
495 ~~three (3) years following the end of the calendar year during which the transactions~~
496 ~~took place, unless the finance director grants written permission for earlier destruction.~~
497 ~~Records or copies of evidence presented as certification or proof of claimed sales tax~~
498 ~~exemption by the buyer are required when sales tax is not collected. If the seller is~~
499 ~~unable to provide the documentation required to validate the seller's treatment of the~~
500 ~~sale as exempt, or if the city determines that a sale was subject to tax, and the seller~~
501 ~~failed to collect the tax, the seller becomes liable for the tax, plus interest, penalty,~~
502 ~~costs and charges due the city.~~

- 503 E. Amounts received with the return shall be applied in the following order:
504 1. ~~Miscellaneous costs and charges and disallowed deductions or retentions;~~
505 2. ~~Penalties due, beginning with the oldest penalty;~~
506 3. ~~Interest due, beginning with the interest due on the oldest month; and~~
507

508 **4.16.110 Returns and remittances.**

509 A. ~~For each separate business entity and location, a seller shall complete a city sales~~
510 ~~tax return, reporting accurately and completely all information required on the form for~~
511 ~~all sales transactions occurring during the preceding month, quarter or year. Each sales~~
512 ~~tax return shall:~~

- 513 1. ~~Set forth the gross receipts of the business for the reporting period: month,~~
514 ~~quarter or year;~~
515 2. ~~Include all taxable and nontaxable transactions;~~
516 3. ~~Itemize nontaxable transactions on the exemption form;~~
517 4. ~~Include the amount of tax thereon; and~~
518 5. ~~Include such other information as the finance director may require.~~

519 Each return shall be signed by a responsible individual who shall swear as to the
520 completeness and accuracy of the information on the tax return.

521 B. ~~Any seller who filed or should have filed a sales tax return for the reporting period~~
522 ~~shall file a return even though no tax may be due. This return shall show why no tax is~~
523 ~~allegedly due, and, if the business is sold, foreclosed upon or otherwise transferred to~~
524 ~~another person, the person to whom it was sold or transferred, the date it was sold or~~
525 ~~transferred and the address and telephone number of the person to whom it was sold or~~
526 ~~transferred. A seller who files a return for a reporting period when no tax is due is not~~
527 ~~required to file returns thereafter until it has one (1) or more taxable sales during a~~
528 ~~subsequent reporting period.~~

529 C. ~~Each sales tax return for a reporting period must be received at the office of the~~
530 ~~finance director or, if mailed with sufficient postage, be postmarked by the U.S. Postal~~
531 ~~Service with a readable postmark date, on or before the last day of the month following~~
532 ~~the period for which the return is required to be submitted. In the event the due date is a~~
533 ~~Saturday, Sunday or state legal holiday, the sales tax return shall be received or~~
534 ~~postmarked on or before the next following business day. All taxes required to be~~
535 ~~collected, interest, penalty, costs and charges due shall be remitted with the sales tax~~
536 ~~return, whether or not the tax has been collected from the buyer.~~

537 D. ~~Upon approval of the finance director, a seller that anticipates that it will have less~~
538 ~~than twenty-four thousand dollars (\$24,000) in taxable sales during the current or~~
539 ~~coming calendar year may file its sales tax return and remittance of taxes on an annual~~
540 ~~basis for the current or coming year only if:~~

- 541 1. ~~The seller had less than twenty-four thousand dollars (\$24,000) in taxable~~
542 ~~sales during the preceding calendar year;~~
543 2. ~~The seller executes an affidavit in a form satisfactory to the finance director~~
544 ~~stating that the seller anticipates that it will have less than twenty-four thousand dollars~~
545 ~~(\$24,000) in taxable sales during the current or coming calendar year; and~~

546 3. The seller applies in advance for annual filing status on a form provided by the
547 finance department and receives written approval from the finance director.

548 Returns and taxes filed and paid on an annual basis must be received or postmarked
549 not later than the last day of the month following the calendar year for which the tax
550 return is required to be submitted. Penalties for the late filing of an annual return and for
551 the late remittance of taxes shall be double the rate applicable to monthly returns and
552 interest shall accrue on late annual remittances from July first (1st) of the preceding
553 year. If the seller was in business during the preceding year, the finance director may
554 approve an annual filing for a seller at any time during the current calendar year, but
555 such approval is prospective only and may be given only upon remittance by the seller
556 of all taxes, penalties and interest due to the date of the approval.

557 E. Upon approval of the finance director, a seller that anticipates that it will have less
558 than two hundred fifty thousand dollars (\$250,000) in taxable sales during the current or
559 coming calendar year may file its sales tax return and remittance of taxes on a quarterly
560 basis for the current or coming year only if:

561 1. The seller had less than two hundred fifty thousand dollars (\$250,000) in
562 taxable sales during the preceding calendar year;

563 2. The seller executes an affidavit in a form satisfactory to the finance director
564 stating that the seller anticipates that it will have more than twenty-four thousand dollars
565 (\$24,000) and less than two hundred fifty thousand dollars (\$250,000) in taxable sales
566 during the current or coming calendar years; and

567 3. The seller applies in advance for quarterly filing status on a form provided by
568 the finance department and receives written approval from the finance director.

569 Returns and taxes filed and paid on a quarterly basis must be received or postmarked
570 not later than the last day of the month following the quarter in which the tax return is
571 required to be submitted. Penalties for the late filing of a quarterly return and for the late
572 remittance of taxes shall be double the rate applicable to monthly returns and interest
573 shall accrue on late remittances as if monthly filing was required.

574 F. If a complete return from a person reporting on a monthly, quarterly or annual basis
575 is accompanied by the entire tax due and is received by the city within the time allowed,
576 the person collecting the tax may deduct and retain up to one (1) percent of the tax due
577 for the entire reporting period as compensation for its costs of administration of the tax;
578 however, the amount deducted and retained may not exceed one hundred dollars
579 (\$100) for any reporting period.

580 **4.16.120 Termination, sale or transfer of retail business.**

581 A. A seller who sells, transfers or assigns a substantial portion of his retail business
582 interest to another person shall make a final sales tax return within thirty (30) days after
583 the date of such conveyance. At least ten (10) business days before any such sale is
584 completed, the seller shall send to the finance director, by registered first-class mail,
585 postage prepaid, a notice that the seller's interest is to be conveyed to another person
586 and shall include the name, address and telephone number of the person to whom the
587 interest is to be conveyed. Following receipt of said notice, the city shall have sixty (60)
588 days in which to perform a final sales tax audit and assess sales tax liability against the
589 seller of the business. If the notice is not mailed at least ten (10) business days before
590 the sale is completed, the city shall have twelve (12) months from the later of the

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591 ~~completion of the sale or the city's knowledge of the completion of the sale within which~~
592 ~~to begin a final sales tax audit and assess sales tax liability against the seller of the~~
593 ~~business. The city may also initiate an estimated assessment if the requirements for~~
594 ~~such an assessment exist.~~

595 B. ~~A person acquiring any interest of a seller in a business required to collect the tax~~
596 ~~under this chapter assumes the liability of the seller for all taxes due the city, whether~~
597 ~~current or delinquent, whether known to the city or discovered later, and for all interest,~~
598 ~~penalties, costs and charges on such taxes. The finance director, upon authorization of~~
599 ~~the seller, may disclose the sales tax remittances, delinquencies and the status of the~~
600 ~~seller's sales tax account to any person designated by the seller.~~

601 C. ~~A seller who terminates his or her business without the benefit of a purchaser,~~
602 ~~successor or assign, shall make a final tax return and settlement of tax obligations~~
603 ~~within thirty (30) days after such termination. If a final return and settlement are not~~
604 ~~received within thirty (30) days of the termination, the seller shall pay a penalty of one~~
605 ~~hundred dollars (\$100), plus an additional penalty of twenty-five dollars (\$25) for each~~
606 ~~additional thirty (30) day period, or part of such a period, during which the final return~~
607 ~~and settlement have not been made, for a maximum of six (6) additional periods. A new~~
608 ~~or renewed business license may not be issued to a seller who has failed to make the~~
609 ~~return and settlement under this section until the return and settlement required have~~
610 ~~been made and the penalty imposed has been paid.~~

611 **4.16.130 Sales tax trust fund.**

612 A. ~~Upon collection by the seller or the segregation from the seller's own funds of the~~
613 ~~tax levied and required to be collected under this chapter, title to the collected or~~
614 ~~segregated tax funds vests immediately in the city. The seller shall establish and~~
615 ~~maintain separate from all other funds and accounts of the seller a Bethel sales tax trust~~
616 ~~fund or account into which all sales tax collected or required to be collected shall be~~
617 ~~deposited or accounted for until paid over to the city.~~

618 B. ~~Upon request of the finance director, a seller shall prove to the finance director that~~
619 ~~the seller has established and uses the trust fund or account required under this~~
620 ~~section.~~

621 C. ~~A seller or any person with access to a trust fund or account required under this~~
622 ~~section or with access to funds required to be deposited in the trust fund who uses,~~
623 ~~diverts, or withdraws for any other use the tax funds collected and deposited or required~~
624 ~~to be deposited in the trust fund or account is guilty of a misdemeanor and may be~~
625 ~~punished upon conviction by a fine not to exceed one thousand dollars (\$1,000) or by~~
626 ~~imprisonment not to exceed ninety (90) days or both fine and imprisonment for each~~
627 ~~such other use, diversion or withdrawal.~~

628 **4.16.140 Interest for delinquency.**

629 ~~Interest shall accrue on the principal amount of the delinquent tax and other costs and~~
630 ~~charges, but not on penalties, at the rate of fifteen (15) percent per annum from the date~~
631 ~~of the delinquency until paid. Interest shall be assessed and collected in the same~~
632 ~~manner as the sales tax is assessed and collected. The date of delinquency for the~~
633 ~~payment of costs and charges is the thirtieth (30th) day following the date of the notice~~

634 of the amount of the cost or charge due. Interest due on delinquent taxes, costs or
635 charges may not be waived or forgiven except to the extent the underlying principal
636 amount has been determined not to have been due.

637 **4.16.150 Estimated tax.**

638 A. On or after the fifth (5th) day of delinquency in the filing of the required sales tax
639 return or the failure to remit all taxes, interest and penalty due, or upon a determination
640 of a delinquency based upon an audit, the finance director shall assess against the
641 delinquent seller a sales tax for the delinquent period or periods based on a reasonable
642 estimate of the gross taxable sales computed from an audit or the tax returns submitted
643 by the delinquent seller. If the finance director determines that information from prior tax
644 returns is not adequate for computing a reasonable estimate of the gross taxable sales,
645 other sources of information, including but not limited to information derived from similar
646 businesses, may be used. Notice of the estimated assessment shall be provided to the
647 seller by certified mail. Such assessment shall be due and owing retroactively from the
648 first (1st) day of delinquency and shall be subject to the interest, penalty and other costs
649 and charges as provided in this chapter.

650 B. The estimated assessment of sales tax and other amounts due and owing, as
651 provided in subsection A of this section, shall be deemed to be admitted to be the
652 amount due and owing to the city unless the finance director receives, within twenty (20)
653 days of the date of the certified mailing of notice of the estimated assessment, an
654 accurate and complete sales tax return for the delinquent periods together with full
655 remittance of all taxes, interest, penalty, costs and other charges due, or the seller
656 remits the amount due under protest under the provisions of BMC [4.16.190](#).

657 **4.16.160 Accelerated returns.**

658 A seller who is required to file a return and remit taxes to the city, who fails for more
659 than thirty (30) days to file a return or remit the taxes due or who has, within a twelve-
660 (12-) month period, filed or paid taxes late on two (2) or more occasions may be
661 required by the finance director to file and remit on a weekly basis; provided, the finance
662 director shall provide to the seller a hearing after reasonable notice of the finance
663 director's intention to require more frequent filing and remittance. Unless otherwise
664 required or authorized by the finance director, a seller required to file on a weekly basis
665 shall file a complete return and full remittance for the weekly period not later than the
666 fifth (5th) business day following the last day of the weekly period. The seller required to
667 file and remit on a weekly basis who fails to file and remit the full amount due within two
668 (2) business days of the date required for such filing and remittance or such a seller
669 who files late two (2) or more times during a three (3-) month period may be required
670 by the finance director to file on a basis more frequent than weekly after written notice of
671 intent and a hearing as provided in this section. The day by which more frequent filings
672 are due shall be established by the finance director.

673 **4.16.170 Investigation and audits.**

674 A. The finance director is not bound to accept a sales tax return as correct and may
675 conduct an investigation to determine the correctness of a return. A person shall, upon

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676 request, furnish to the finance director every facility and assistance for the purpose of
677 the investigation.

678 ~~B. For the purpose of ascertaining the correctness of a return or the amount of taxes~~
679 ~~owed when a return has not been filed, the finance director may conduct investigations,~~
680 ~~hearings and audits and to that end may examine any relevant books, papers,~~
681 ~~statements, memoranda, records, accounts or other writings of any seller at any~~
682 ~~reasonable hour on the premises of the seller and may require the attendance and~~
683 ~~sworn testimony of any seller or any officer or employee of the seller at a hearing. Upon~~
684 ~~written demand by the finance director, the seller shall present for examination in the~~
685 ~~office of the finance director such books, papers, statements, memoranda, records,~~
686 ~~accounts and other written material as may be set out in the demand unless the finance~~
687 ~~director and the person upon whom the demand is made agree to presentation of such~~
688 ~~materials at a different place.~~

689 ~~C. The finance director may issue subpoenas for the appearance of persons and for~~
690 ~~the production of records. The finance director may have enforcement of subpoenas in~~
691 ~~the Superior Court.~~

692 **4.16.180 Penalties.**

693 ~~A. A seller who fails to timely file a return as required under this chapter shall pay a~~
694 ~~penalty of three and one-half (3 1/2) percent of the taxes due. The penalty shall be~~
695 ~~imposed for each month or part of a month during which the delinquency or failure to file~~
696 ~~exists up to a maximum of seventeen and one-half (17 1/2) percent of the initial~~
697 ~~delinquency. The filing of an incomplete return shall be treated as the filing of no return.~~

698 ~~B. A seller who fails to timely pay an amount shown on a return as required under this~~
699 ~~chapter shall pay a penalty of one and one-half (1 1/2) percent of the taxes not paid.~~
700 ~~The penalty shall be imposed for each month or part of a month during which the~~
701 ~~delinquency or failure to pay exists up to a maximum of seven and one-half (7 1/2)~~
702 ~~percent of the initial delinquency.~~

703 ~~C. A person required to collect a tax under this chapter, who fails to provide a written~~
704 ~~receipt or invoice setting out the amount of the tax due on the transaction when the~~
705 ~~amount of the tax is required to be shown on the receipt or invoice, shall pay a penalty~~
706 ~~to the city equal to twice the amount of the tax due on the sale. The minimum penalty is~~
707 ~~five hundred dollars (\$500).~~

708 ~~D. A person required to collect a tax under this chapter, who fails or refuses to~~
709 ~~produce records demanded or allow inspection at such reasonable time as requested or~~
710 ~~demanded by the finance director, shall pay to the city a penalty equal to three (3) times~~
711 ~~any deficiency found or estimated by the finance director to have occurred; provided,~~
712 ~~the minimum penalty is two thousand five hundred dollars (\$2,500). In addition to~~
713 ~~penalties, violators may be assessed administrative and/or legal costs associated with~~
714 ~~the city's obtaining the necessary records to complete the audit or investigation.~~

715 ~~E. A person required to maintain records under the provisions of this chapter shall~~
716 ~~immediately notify the city of any fire, theft or other casualty that would prevent the~~
717 ~~person from complying with the provisions of this chapter. Such casualty may be a~~
718 ~~defense to a civil penalty levied under this section, but does not excuse the person from~~
719 ~~the liability for payment to the city of taxes required to be collected. The unexplained or~~

720 accidental loss of records, except by fire, theft or casualty, does not excuse a person
721 from the performance of any of the requirements under this chapter.

722 F. A penalty imposed under any part of this chapter except subsection C or D of this
723 section may not be waived or reduced except upon a clear showing of reasons beyond
724 the control of the person upon whom the penalty is imposed or a similar strong
725 justification and approval by the city manager of the waiver or reduction.

726 G. A penalty imposed under subsection C or D of this section may be waived or
727 reduced upon a showing of reasons upon whom the penalty is imposed or a similar
728 justification. Discretion by the city manager upon appeal shall determine the waiver or
729 reduction.

730 **4.16.190 Protest of tax and appeal by buyer.**

731 A. The seller shall determine whether a sale is taxable under this chapter. If the seller
732 fails to collect the tax due on a sale transaction because of an incorrect determination of
733 taxability by the seller, except when the seller has been misled by the buyer, or fails for
734 any other reason to collect the tax due on the sale, the seller becomes liable to the city
735 for the tax in the same manner as if the tax had been collected.

736 B. If a buyer believes that a transaction is exempt or otherwise not subject to the tax
737 imposed under this chapter, the buyer shall pay the tax to the seller under protest. A tax
738 is paid under protest by stating to the seller that the tax is paid under protest and
739 requesting the seller mark any receipts, invoices or other evidence of the sale to
740 indicate that the tax is paid under protest. The buyer shall file with the finance director a
741 statement of protest on a form provided to the buyer by the finance director. Failure to
742 file a complete statement of protest with the financial director within ten (10) days of the
743 date of the sale or to pay the tax at the time of the sale constitutes a waiver of the
744 protest and of any other right of the buyer to challenge the tax in any other forum. The
745 buyer shall clearly set out on the form the terms and conditions of the sale, the amount
746 of the sale, the goods, rental or

747 services involved, the location of the sale and all other information necessary to
748 support the buyer's claim that the tax does not apply.

749 C. The buyer shall file the completed form, including the copy of the receipt or invoice,
750 with the finance director within ten (10) days of the date of the sale. The seller shall
751 include a copy of the receipt protested with the seller's sales tax return for the tax
752 reporting period in which the protested tax was paid. The protested tax shall be paid
753 over to the city with all other sales tax amounts due for the reported period.

754 D. The finance director shall issue a written ruling on the buyer's protest within thirty
755 (30) days of the timely filing by the buyer. The burden of proof is on the buyer. The
756 finance director may make inquiry of any person who may have information of the facts
757 relevant to the taxability of the protested tax and may seek the advice of the city
758 attorney on any protest. The ruling will be in writing and must set forth the reason for the
759 grant or denial of the protest. The ruling will be mailed to the buyer and the seller at the
760 addresses given on the protest.

761 E. If a protest is granted, the finance director shall determine whether the tax
762 protested has been received by the city from the seller. If the tax has been received, the
763 finance director shall refund directly to the buyer the amount of the tax to be refunded. If

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764 the tax has not been received by the city, the finance director shall pay the refund to the
765 buyer upon receipt of the sales tax from the seller.

766 F. In the event the protest is denied, the buyer may, within twenty (20) days of the
767 date of mailing of the notice of denial, either request a finance committee review of the
768 decision pursuant to BMC [4.16.220](#) or may file an appeal to the city manager pursuant
769 to BMC [4.16.230](#). The request for finance committee review shall be filed with the
770 finance director who shall immediately forward the request to the chair of the finance
771 committee. An appeal to the city manager shall be filed with the finance director who
772 shall immediately forward the appeal to the city manager.

773 **4.16.200 Protest and appeal by seller.**

774 A. A seller may appeal a decision of the finance director if the seller believes that:

775 1. A transaction is exempt or otherwise not subject to the tax imposed under this
776 chapter but has been informed by the city that such transaction is subject to the tax
777 imposed under this chapter;

778 2. The tax, a penalty, interest or other charge imposed or demanded by the city
779 is not owing;

780 3. An application for a refund of an excess payment was incorrectly denied;

781 4. An estimated tax filing by the finance director is incorrect or erroneous; or

782 5. Any other notice or demand of any amount claimed by the city to be due
783 under this chapter is incorrect or erroneous, but only if such notice or demand is not the
784 result of a prior appeal of the same matter and is not a subsequent notice or demand for
785 which a timely appeal or protest of the earlier notice or demand was not timely filed.

786 B. The seller may appeal the determination of the tax, interest, penalty, charge or
787 other claimed amount by the city by remitting the amount to the city under protest and
788 filing with the finance director at the time of remittance a statement of protest setting out
789 all relevant facts and clearly explaining why the transaction, or the amount, is exempt or
790 not otherwise subject to the tax levied under this chapter or why the amount determined
791 by the city is incorrect, erroneous, or otherwise not owing. The remittance and
792 statement of protest must be received by the city not later than the twentieth (20th) day
793 following the date the notice or determination is mailed to the seller. Failure to file a
794 statement of protest and to remit the amount claimed by the city as owing within the
795 time permitted under this subsection constitutes a waiver of the right to protest and to
796 appeal the tax, disallowance, charge, interpretation or other city determination under
797 this chapter and is a waiver of the right to appeal the determination to the city manager
798 or to appeal or otherwise challenge the tax, disallowance, charge or interpretation or
799 other determination in any judicial or other proceeding. If a seller shows that remittance
800 under protest of the amount demanded would create an extreme hardship for the seller,
801 the finance director may waive the remittance of part or all of the amount required to be
802 paid; provided, the amount determined to be due by the finance director in the written
803 decision of the appeal must be paid prior to filing with the city manager an appeal of the
804 finance director's decision. Upon the request of the seller and a determination by the
805 finance director that the seller has not been late or deficient in the remittance of its sales
806 taxes to the city for the immediately preceding three (3) years, exclusive of the
807 remittances for the period under protest, and that he has a history of prompt remittance

808 of all its other accounts with the city, the finance director may waive the remittance of
809 part or all of the amount required to be paid; provided, the amount determined to be due
810 by the finance director in the written decision of the appeal must be paid prior to filing
811 with the city manager an appeal of the finance director's decision.

812 C. The finance director shall issue a written ruling on a seller's protest within thirty
813 (30) days of receipt of the protest and remittance if timely filed. The seller has the
814 burden of proof. The finance director shall permit or may require the seller to provide
815 additional information relevant to the protest and appeal. The finance director may seek
816 the advice of the city attorney on a seller protest and appeal. The ruling will be in writing
817 and must set forth the reason for the grant or denial of the protest and appeal. The
818 ruling will be sent to the seller at the address given in the protest.

819 D. If a protest is granted in part or in whole, the finance director shall refund to the
820 seller the amount paid over to the city under protest that was in excess of the amount
821 found owing. The seller shall immediately refund to each buyer from whom the tax was
822 collected the amount of the tax improperly collected; if the seller did not collect the tax
823 but has paid the tax to the city from its own account, the seller may retain the tax
824 refunded.

825 E. In the event the protest is denied, the buyer may, within twenty (20) days of the
826 date of mailing of the notice of denial, either request a finance committee review of the
827 decision pursuant to BMC [4.16.220](#) or may file an appeal to the city manager pursuant
828 to BMC [4.16.230](#). The request for finance committee review shall be filed with the
829 finance director who shall immediately forward the request to the chair of the finance
830 committee. An appeal to the city manager shall be filed with the finance director who
831 shall immediately forward the appeal to the city manager.

832 **~~4.16.210 Refund of excess remittance.~~**

833 A. A seller who, through a clerical or similar error, remits a tax under this chapter that
834 exceeds the amount actually due may receive a refund of the excess remittance upon
835 meeting the conditions set out in this section.

836 B. A seller who has made an excess tax remittance as set out in subsection A of this
837 section shall be given a refund of the excess if the city receives written notice from the
838 seller of the amount claimed as an excess remittance accompanied by satisfactory
839 proof of the excess remittance in the form required by the finance director. The claim
840 and proof must be received not later than the last day of the twenty-fourth (24th) month
841 following the month for which the excess remittance was made, without regard to the
842 month during which the remittance to the city was actually made.

843 C. Upon approval of a refund to a seller, the city may pay the refund to the seller or
844 authorize the seller to take the refund as a credit against future monthly tax remittances;
845 provided, the amount taken as a credit in any one (1) month may not exceed twenty
846 (20) percent of the amount otherwise due for the month. No interest may be paid on the
847 excess remittance.

848 D. In the event the protest is denied, the buyer may, within twenty (20) days of the
849 date of mailing of the notice of denial, either request a finance committee review of the
850 decision pursuant to BMC [4.16.220](#) or may file an appeal to the city manager pursuant
851 to BMC [4.16.230](#). The request for finance committee review shall be filed with the
852 finance director who shall immediately forward the request to the chair of the finance

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853 committee. An appeal to the city manager shall be filed with the finance director who
854 shall immediately forward the appeal to the city manager.

855 E. A claim for a refund of an excess remittance to which this section applies is forever
856 barred if notice and proof of the excess remittance are not given within the time
857 required.

858 ~~4.16.220 Review by finance committee.~~

859 A. Upon receipt of a request for finance committee review, the chair of the committee
860 shall determine the earliest dates the finance director, the finance committee and the
861 person requesting review can meet. The chair of the committee shall select a date, time
862 and place for a meeting and shall notify the committee members, the person requesting
863 review and the finance director of the meeting.

864 B. The finance director and the person requesting review shall provide to each other
865 and to the committee chair all documents upon which each intends to rely in the review
866 of the matter. Such documents should be provided within three (3) business days of the
867 date notice of the meeting is mailed. The chair of the committee shall distribute to the
868 committee members documents received in the matter.

869 C. The procedures at the meeting on the matter under review shall be informal. The
870 person requesting review and the finance director shall each have a reasonable
871 opportunity to explain their position. At the conclusion of the meeting on the matter, the
872 committee shall determine what recommendation it will make to the finance director and
873 shall set out its reasons for the recommendation. The finance committee
874 recommendation is advisory only and is not appealable.

875 D. The recommendation and reasons shall be reduced to writing and mailed or
876 delivered to the person requesting review, the finance director, and the city manager.
877 The finance director shall give consideration to the arguments raised by the person
878 requesting review, the recommendations of the committee, the scope of discretion of
879 the finance director in the matter and other relevant factors. The finance director may
880 consult with the city manager on the matter. The finance director shall promptly decide
881 the position of the finance department and inform the person requesting review and the
882 committee in writing of the final decision of the finance director. The finance director
883 shall undertake such action as may be appropriate to implement the final decision.

884 E. A person who is dissatisfied with the final decision of the finance director may,
885 within twenty (20) days of the date of mailing of the decision, file with the finance
886 director an appeal of the decision to the city manager pursuant to BMC [4.16.230](#). The
887 finance director shall immediately forward the appeal to the city manager.

888 ~~4.16.230 Appeal to city manager.~~

889 A. An appeal to the city manager of a finance director's decision must be in writing
890 and must set out with specificity the errors claimed to have been made by the finance
891 director.

892 B. An appeal to the city manager of a finance director's decision shall be scheduled
893 for a hearing and be heard by the city manager or a hearing officer appointed by the city
894 manager. The city manager or the hearing officer shall receive such relevant
895 documents, information and testimony as the appellant and the finance director may

896 ~~desire to present at a hearing. The burden of proof is on the appellant. Unless the city~~
897 ~~manager specifically delegates to the hearing officer the authority to hear and decide~~
898 ~~the appeal, the hearing officer shall hear the appeal and provide to the city manager a~~
899 ~~proposed decision setting out findings, conclusions and orders which the city manager~~
900 ~~may accept, modify or reject and refer back to the hearing officer for reconsideration. If~~
901 ~~the hearing officer is specifically authorized to decide the appeal, the hearing officer's~~
902 ~~decision is the final decision. If the city manager hears the appeal or if the city manager~~
903 ~~accepts and signs a hearing officer's proposed decision, whether or not modified by the~~
904 ~~city manager, such decision is the city manager's decision and is the final decision. A~~
905 ~~final decision shall be in writing and shall set out findings of fact, conclusions, and such~~
906 ~~orders as may be appropriate. A final decision may be appealed to the Superior Court~~
907 ~~pursuant to the rules of appellate procedure. A final decision shall state that it is a final~~
908 ~~decision and shall contain any notice of the limitations on and the right to appeal~~
909 ~~required by Rule 602(a)(2) of the Alaska Rules of Appellate Procedure or other~~
910 ~~applicable rule. A copy of the final decision shall be promptly mailed or delivered to the~~
911 ~~appellant and to the finance director.~~

912 **4.16.240 Rulings and regulations.**

913 A. ~~The finance director may promulgate and amend regulations and may prescribe~~
914 ~~the content and use of forms appropriate to the implementation of this chapter.~~
915 ~~Regulations promulgated by the finance director are effective on the date they are~~
916 ~~promulgated unless a different date is indicated in the regulations; provided, all~~
917 ~~regulations are subject to amendment and repeal at any time by the city council by~~
918 ~~ordinance. At least seven (7) calendar days prior to promulgation, a proposed regulation~~
919 ~~or amendment shall be submitted to the city attorney and the city manager for review~~
920 ~~and comment. Upon promulgating a regulation or any amendment to an existing~~
921 ~~regulation, the finance director shall submit the regulation or amendment to the city~~
922 ~~council at its next regular meeting.~~

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

931 **4.16.250 Time extensions.**

932 ~~For good cause shown, the finance director may grant an extension of the time~~
933 ~~required for the performance of any act under this chapter. The extension shall be~~
934 ~~subject to such terms and conditions as the finance director finds appropriate. An~~
935 ~~application for an extension must be filed in writing before the date required for~~
936 ~~performance.~~

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937 **4.16.260 Disposition of tax information.**

938 Information in the possession of the city which was obtained by the city in the
939 administration or enforcement of the provisions of this chapter and which discloses the
940 particulars of the business or affairs of a seller or other person from whom the
941 information is obtained is not a matter of public record, but may be disclosed to other
942 municipalities, the state or the United States for purposes of investigations and law
943 enforcement. The information shall be kept confidential except when its production is
944 required in an official investigation or an administrative or court proceeding. These
945 restrictions do not prohibit the publication of general sales tax statistics and information
946 or prohibit the publication of tax lists showing the names of sellers who are delinquent in
947 the remittance of taxes, the amount of the delinquency plus penalties and interest owed
948 by the delinquent sellers. Information otherwise protected by this section may be
949 furnished on a reciprocal basis to other municipalities, agencies of the state or the
950 United States concerned with the enforcement of tax laws, and may be furnished to any
951 person authorized in writing by the seller to receive or view the information.

952 **4.16.270 Civil enforcement remedies.**

953 A. If sales tax is not paid when due, the city may enforce the remittance of the tax,
954 interest, penalty, costs and charges by any method available in law, including but not
955 limited to the lien, foreclosure and sale of real and personal property or a civil action
956 against the delinquent taxpayer or responsible individual.

957 B. The city may institute a civil action against any person who violates a provision of
958 this chapter. In addition to injunctive and compensatory relief, a civil penalty not to
959 exceed one thousand dollars (\$1,000) may be imposed for each violation. An action to
960 enjoin a violation may be brought notwithstanding the availability of any other remedy.
961 On application for injunctive relief and a finding of a violation or a threatened violation,
962 the Superior Court shall grant the injunction. Each day that a violation of this chapter
963 continues constitutes a separate violation.

964 **4.16.280 Liens.**

965 A. The tax, interest, penalty and other costs due and owing the city by a seller under
966 this chapter constitute a lien in favor of the city upon the assets and property of all
967 persons liable for the remittance of the tax, interest, penalty and other costs.

968 B. The lien imposed by this section arises and attaches at the time that remittance
969 becomes delinquent and continues until the entire amount due has been paid.

970 C. If delinquent sales taxes, interest, penalties and other costs are not paid within ten
971 (10) days from the mailing of notice and demand for remittance thereof, a notice of lien
972 may be recorded in the office of the district recorder in any recording district where the
973 person liable has assets or property, and upon recordation a lien arising under this
974 section has priority over any other liens except those for special assessments or those
975 granted priority by state or federal law.

976 D. An action to foreclose the lien created by this section shall be commenced and
977 pursued in the manner provided for the foreclosure of liens in AS [09.45.170](#) through
978 [09.45.220](#).

979 ~~E. The remedy provided in this section is not exclusive and shall be in addition to all~~
980 ~~other remedies available to the city to collect the sales taxes, interest, penalty and costs~~
981 ~~due under this chapter.~~

982 ~~F. The failure to record a lien does not constitute as a waiver or abrogation of any~~
983 ~~priorities, rights or interests of the city at law or in equity.~~

984 ~~G. Fees for the administrative costs of filing notices of liens and releasing of liens~~
985 ~~shall be:~~

986 ~~1. Filing of notices of lien: Twenty-five dollars (\$25), plus recorder's office filing~~
987 ~~fee;~~

988 ~~2. Release of liens: Twenty-five dollars (\$25), plus recorder's office filing fee;~~

989 ~~3. Upon full satisfaction of remittance of all taxes, interest and costs, including~~
990 ~~the administrative costs for the filing and release of the liens, due and owing to the city,~~
991 ~~the finance director shall file a certificate discharging the lien.~~

992 **4.16.290 Liability of responsible individuals.**

993 ~~Each responsible individual as defined under BMC [4.16.010](#) is liable to the city for the~~
994 ~~remittance of sales taxes that are delinquent and which were collected or required to be~~
995 ~~collected or required to be paid over to the city while such individual was a responsible~~
996 ~~individual with respect to such taxes. Such individual is liable to the city for penalties,~~
997 ~~interest on the delinquent taxes, costs and other charges accrued to the date of~~
998 ~~remittance. Upon written demand for remittance of delinquent taxes, penalty, interest,~~
999 ~~costs and charges sent by registered mail to a responsible individual, the responsible~~
1000 ~~individual shall remit over to the city the amount of the delinquent taxes, interest,~~
1001 ~~penalty, costs and charges due within twenty (20) days of the date of mailing of the~~
1002 ~~written demand or file a written appeal to the finance director setting out with specificity~~
1003 ~~the amounts for which he or she is not liable and the reasons there is no liability for~~
1004 ~~such amounts. The appeal shall be filed as a protest under BMC [4.16.190](#) except that~~
1005 ~~remittance under protest is not required to be made as a condition of filing the appeal to~~
1006 ~~the finance director; however, if the protest decision of the finance director is appealed~~
1007 ~~to the city manager, the amount set out as due in the finance director's decision must be~~
1008 ~~paid with the filing of the appeal to the city manager. If the responsible individual upon~~
1009 ~~whom demand for remittance has been made fails to file an appeal or to remit the taxes,~~
1010 ~~penalty, interest, costs and charges due within twenty (20) days of the date of mailing of~~
1011 ~~the demand, the amount due is deemed admitted to be due from the responsible~~
1012 ~~individual and may not thereafter be made the subject of an appeal or otherwise~~
1013 ~~challenged in any judicial proceeding. The amount due may be collected in a civil action~~
1014 ~~against the responsible individual.~~

1015 **4.16.300 Seller education.**

1016 ~~Repealed by Ord. 09-04.~~

1017 **4.16.310 Tax evasion.**

1018 ~~A. A person commits the misdemeanor crime of tax evasion if the person:~~

1019 ~~1. Fails to file a statement or return required by this chapter;~~

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- 1020 ~~2. Makes a false statement or affidavit of occurrence, existence, amount,~~
1021 ~~location, or value of a sales transaction or of property or service subject to tax under this~~
1022 ~~chapter;~~
1023 ~~3. Uses a tax exemption certificate or claims an exemption when an exemption~~
1024 ~~is not applicable;~~
1025 ~~4. Remits or rebates to a buyer or consumer, whether directly or indirectly, by~~
1026 ~~any means, all or any part of the tax levied hereunder;~~
1027 ~~5. Makes in any form of advertising, whether in writing, verbally or otherwise,~~
1028 ~~any statement which implies that the person is absorbing the tax, paying the tax for the~~
1029 ~~buyer or consumer or user by an adjustment of prices or by any other means; or is guilty~~
1030 ~~of a misdemeanor; provided, however, a seller may advertise that the purchase price~~
1031 ~~includes the sales tax when authorized under BMC [4.16.070](#)(B) or (C) to include the tax~~
1032 ~~in the sale price;~~
1033 ~~6. Falsifies or changes the content of a record of any nature required to be kept~~
1034 ~~under this chapter so as to misrepresent the facts or information contained therein;~~
1035 ~~7. Submits to the city or the finance director any information or record that has~~
1036 ~~been falsified or changed to create a misrepresentation;~~
1037 ~~8. Fails, neglects or refuses to comply with any provision of this chapter; or~~
1038 ~~9. Refuses as a buyer to pay to the seller the tax due under this chapter.~~
1039 ~~B. Each day upon which a violation of this chapter continues is a separate violation.~~
1040 ~~C. Upon the conviction of tax evasion under this chapter, the court may impose a fine~~
1041 ~~of not more than three hundred dollars (\$300) for each violation unless a greater~~
1042 ~~punishment is authorized for the violation of a particular provision of this chapter.~~

1043 **~~4.16.320 Use tax.~~**

- 1044 ~~A. There is levied and shall be collected a tax on the storage, use, or consumption of~~
1045 ~~alcoholic beverages in the city. The tax shall be at the same rate as the sales tax levied~~
1046 ~~under this chapter, but there shall be deducted from the tax levied under this section an~~
1047 ~~amount equal to any sales tax paid by the buyer that was levied and collected on the~~
1048 ~~sale of the alcoholic beverage.~~
1049 ~~B. The buyer shall pay the tax. A person outside the city who receives an order for~~
1050 ~~alcoholic beverages to be shipped by the seller or seller's agent or employee to an~~
1051 ~~address or person in the city shall collect the tax and remit the tax collected or required~~
1052 ~~to be collected to the city in the same manner as required for sales taxes levied by the~~
1053 ~~city. Such seller shall be liable for the remittance of the use tax in the same manner as a~~
1054 ~~person who is required to collect the city sales tax on the sale of other goods. The buyer~~
1055 ~~shall be liable to the city for all use taxes not collected by a seller.~~
1056 ~~C. The provisions of the chapter applicable to sales tax shall apply to the use tax~~
1057 ~~levied under this section, including, but not limited to, provisions regarding computation,~~
1058 ~~collection, holding, reporting, record keeping, remittance to the city, interest, penalties,~~
1059 ~~enforcement, remedies, assessment of delinquent taxes, liability, audit, appeal and~~
1060 ~~refund. When the sales tax provisions are applied to the use tax, the phrase "sales tax"~~
1061 ~~shall be read as "use tax" where appropriate.~~
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EDITOR'S NOTE** the following strikeouts and underlines represent amendments from the Finance Committee on the complete repeal and replacement of the above Chapter 4.16. The single underlined text represented the original text presented to the Finance Committee in their consideration, the double underlined text reflects the language the finance committee inserted and the strikeouts represent the finance committees removal of text from the ordinance proposed to them. Amendments made by the City Council are presented in brackets [] with strikeouts representing the language being removed and underlines representing language being added.

The document is presented this way to the Council to show what was considered/reviewed by the Finance Committee in their evaluation of the replacement of the Chapter.

Amendments made by Council are on lines:

- 1425-1440
- 1763
- 1781-1782

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- 1108
- 1109 4.16.010 Definitions
- 1110 4.16.020 Declaration and Policy
- 1111 4.16.030 Interpretation
- 1112 4.16.040 Presumption of Taxability
- 1113 4.16.050 Rules Applicable to Particular Businesses or Occupations
- 1114 4.16.060 Title to Collected Sales Tax
- 1115 4.16.070 Imposition – Rate
- 1116 4.16.080 Payment and Collection
- 1117 4.16.090 Sales Tax Collection – Registration Requirement
- 1118 4.16.100 Certificate to be Displayed
- 1119 4.16.110 Certificate Non-Transferable/Non-Assignable
- 1120 4.16.120 Injunction Prohibiting Operation of Business for Failure to Register or
- 1121 Failure to Remit Returns
- 1122 ~~4.16.130 Seller Education~~
- 1123 ~~4.16.135 Limits of Liability~~
- 1124 ~~4.16.140 Tax Receipts & Posting of Sales Tax Signs~~
- 1125 4.16.150 Tax Exemptions
- 1126 4.16.160 Exemption Cards
- 1127 ~~4.16.170 Special Exemption – Charitable Events~~
- 1128 4.16.180 Revocation of Exemption Status
- 1129 4.16.190 Seller’s Liability for Incorrect Determination
- 1130 4.16.200 Buyer’s Protest of Imposed Taxes
- 1131 4.16.210 Refunds – In General
- 1132 4.16.220 Refunds for Construction Materials and Services
- 1133 4.16.230 Tax Filing Schedule
- 1134 4.16.240 Contents of Tax Return
- 1135 4.16.250 Security Deposits/Bonds
- 1136 4.16.260 Extension of Time to File Tax Return
- 1137 4.16.270 Penalties and Interest for Late Filings
- 1138 4.16.280 Repayment Plans
- 1139 4.16.290 Forgiveness of Uncollected Taxes, Penalties and Interest
- 1140 4.16.300 Application of Payments
- 1141 4.16.310 Application of Overpayments
- 1142 4.16.320 Amended Returns
- 1143 4.16.330 Recordkeeping Required of All Sellers
- 1144 4.16.340 Loss of Records
- 1145 4.16.350 Audits
- 1146 4.16.360 Estimated Taxes
- 1147 4.16.370 Accelerated Returns
- 1148 4.16.380 Cessation or Transfer of Business
- 1149 4.16.390 Use of Information on Tax Returns
- 1150 4.16.400 Publication of Delinquent Sellers

- 1151 4.16.410 Liens
- 1152 4.16.420 Violations
- 1153 4.16.430 Penalties for Violations
- 1154 4.16.440 Appeals
- 1155 4.16.450 Transition Period

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1157 **4.16.010 Definitions**

1158 For purposes of this chapter, certain words and phrases are defined as follows:

- 1159 A. "Buyer" means and includes persons who acquire interest in real or personal property, or the
1160 right to use or occupy property, or who receives a service for consideration.
- 1161 B. "City" means the City of Bethel.
- 1162 C. "Coin-Operated Machine" means a slot machine, juke box, merchandise vending
1163 machine, laundry and any other service dispensing machine or amusement device of
1164 any kind which requires the insertion of currency to make it operative.
- 1165 D. "Consumer" means the person who, in the ordinary meaning of the term, takes title
1166 to, takes possession of, or rents property, or receives services for consideration.
- 1167 E. "Engaging in Business" means carrying on or causing to be carried on any activity
1168 with the purpose of direct or indirect benefit;
- 1169 F. "Federally Recognized Indian Tribe" means an Indian or Alaska Native tribe, band,
1170 nation, pueblo, village or community that the Secretary of the Interior has
1171 acknowledged to exist as an Indian tribe pursuant to the Federally Recognized
1172 Indian Tribe List Act of 1994, Public Law 103-454, 25 USC 479a.
- 1173 G. "Finance Director" means the finance director of the City or the designee of the
1174 finance director, the City Manager or the City Council; the designee may be an
1175 employee of the City, an accountant or other person who is not an employee of the
1176 City, a certified public accounting firm or other type of firm.
- 1177 H. "Goods," "fixtures," "investment securities," "general intangibles," "accounts,"
1178 "chattel paper," "documents," "instruments" and "money" and their singulars, have
1179 the meanings given the terms by the Alaska Uniform Commercial Code, AS 45.01 et
1180 seq., as amended.
- 1181 I. "Lease", "Leasing" or "Rental" regardless of whether a transaction is characterized
1182 as a lease or rental under generally accepted accounting principles, means a
1183 transfer of possession or control of tangible personal property or real estate of a
1184 fixed or indeterminate term for consideration; a lease or rental may include future
1185 option to purchase or extend. The provisions of 26 U.S.C. (Internal Revenue Code),
1186 AS 45.01 through AS 45.08, AS 415.12, AS 45.14 and AS 45.29 (Uniform
1187 Commercial Code) shall apply.
- 1188 J. "Person" means an individual, partnership, cooperative, association, joint venture,
1189 corporation, estate trust, business, receiver, or any entity, group or combination
1190 acting as a unit.
- 1191 K. "Political Subdivision" means a local government created by the State of Alaska to
1192 help fulfill its obligations. Political subdivisions include counties, cities, towns,
1193 villages, and special districts such as school districts, water districts, park districts,
1194 and airport districts.

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- 1195 L. "Price" means the amount of money, or the fair market value of consideration other
1196 than money, that the buyer gives to the seller in exchange for the property, the
1197 right to use or occupy the property, or the rendering of services.
- 1198 M. "Rental" means any transfer of the right to use or occupy property for consideration.
- 1199 N. "Responsible individual" means any individual, including a group of individuals such
1200 as a board of directors, partnership, joint venture, corporation or other entity, who
1201 has the responsibility to, is required to, or has the authority to direct or cause
1202 another person to:
- 1203 1. Collect the tax levied under this chapter;
 - 1204 2. Segregate funds in lieu of the direct collection of the tax under this chapter;
 - 1205 3. Remit over to the City taxes required to be collected under this chapter; or
 - 1206 4. Determine which creditors of the seller are to be paid; and may include, but is
1207 not limited to, such officers and employees of a seller as the chief executive
1208 officer, president, vice president for finance, controller, comptroller, treasurer,
1209 bookkeeper, majority shareholder, finance director, manager, partner, managing
1210 partner, chief fiscal or financial officer and accountant if they possess any of the
1211 authority, responsibility or duties described in this definition.
- 1212 O. "Resale" means to sell again and is limited to items which are resold *per se* or are
1213 physically present in a final product which is sold and is subject to tax at the time of
1214 final sale. The item must be easily and readily identifiable in the final product.
- 1215 P. ~~"Retail Sale" means any sale, lease, rental transfer or assignment of real or~~
1216 ~~intangible personal property, including barter, credit, installment and conditional~~
1217 ~~sales, for any purpose other than resale in the regular course of business. The~~
1218 ~~delivery of property in the City by a seller whose principal place of business is~~
1219 ~~outside the City to a buyer or consumer is a retail sale made within the City if such~~
1220 ~~retailer maintains any office, distribution or sales house, warehouse or any other~~
1221 ~~place of business, or solicits business or receives order through an agent, salesman~~
1222 ~~or other type of representation within the City.~~
- 1223 ~~"Sale" and "sales transaction" mean any sale, lease, rental, transfer or assignment of~~
1224 ~~any right, title or interest in any goods, fixtures, real property, things in action,~~
1225 ~~investment securities, future goods, goods to be severed from realty, admission~~
1226 ~~privilege, right of participation or attendance, general intangibles, accounts, chattel~~
1227 ~~paper, documents, instruments or money, and any sale, provision or performance of~~
1228 ~~services, for consideration.~~
- 1229 Q. "Sale" or "retail sale" or "sale at retail" means every sale or rental of real property or
1230 sale or rental of personal property (whether tangible or intangible), every sale or
1231 exchange of services, including barter, credit, lease, installment and conditional
1232 sales, for any purpose other than resale when such resale is made in the regular
1233 course of business.
- 1234 1. A "sale," "retail sale," or "sale at retail" includes, but is not limited to the
1235 following transactions:
 - 1236 a. Selling property; or

- 1237 b. Renting, leasing, or letting of real or personal property, accommodations,
1238 facilities, or services of any nature whatsoever; or
1239 c. Storing for use or consumption any item or article of personal property; or
1240 d. Rendering occupational or professional services of any nature whatsoever; or
1241 e. Furnishing materials and rendering services in connection therewith to
1242 accomplish the installation, construction, repair or completion of a specific
1243 end product or project; or
1244 f. Selling real estate comprising parcels of land and buildings or improvements
1245 thereto, either separately or conjunctively; or
1246 g. Transfer of the product of a manufacture or construction process to the user
1247 of the product; or
1248 h. Importing, or causing to be imported, property from outside the city for sale
1249 or for rent, storage, distribution, use or consumption within the city; or
1250 i. Selling or furnishing, preparing and serving food or beverages, alcoholic or
1251 nonalcoholic, for consumption on or off the premises of the seller; or
1252 j. Selling bingo cards or pull tabs; or
1253 k. Every use or play of a coin-operated machine; or
1254 l. Transacting or engaging in any type of business not enumerated herein
1255 R. "Sales Price" or "Selling Price" means the consideration paid by the buyer, whether
1256 money, credit, rights or other property or interest in property expressed in terms of
1257 money equal to fair market value of the consideration including delivery costs, taxes,
1258 or any other expenses whatsoever and without deduction on account of the cost of
1259 property sold, the cost of materials used, labor costs, discount, delivery costs or
1260 other expenses paid or accrued, and without any deduction on account of losses. In
1261 the case of a sale involving an exchange of property and/or services, the fair market
1262 value of the property or services exchanged, including delivery or installment costs,
1263 but excluding sales tax.
1264 S. "Seller" means every person who, as principal or agent, makes a sales transaction to
1265 a buyer or consumer, every person renting goods, real or personal property and
1266 every person performing or providing services, for consideration. In the event that
1267 retail sales transactions are being conducted in the name of a corporation,
1268 partnership, cooperative, association, joint venture or other entity, the "seller" for
1269 purposes of responsibility and liability for the collection and remittance of sales tax
1270 shall include every director, officer and partner without exception, and also shall
1271 include every employee, agent and other person in a position of control and
1272 authority to collect and remit said sales taxes to the City.
1273 T. "Selling price" (or "Sales Price") means the present fair market value of all detriment
1274 incurred by the buyer in the sales transaction, including cash payments, debt
1275 obligations and the present value of goods, personal property, realty or service that
1276 form part of the consideration for the sale without deduction for the value of trade-
1277 ins, markups, taxes on, collected or paid by the seller or a prior owner or holder of
1278 the subject of the sale, invoice prompt payment discounts or discounts not available
1279 to all purchasers. means the consideration paid by the buyer, whether money,
1280 credit, rights or other property or interest in property expressed in terms of money

1281 equal to the fair market value of the consideration including delivery costs, taxes, or
1282 any other expenses whatsoever and without deduction on account of the cost of
1283 property sold, the cost of materials used, labor costs, discount, delivery costs or
1284 other expenses paid or accrued, and without any deduction on account of losses.

1285 ~~U. "Services" means and includes all species of acts, activities, labor, advice,~~
1286 ~~consultation, advertising, brokering, retainers, representation and intercession but~~
1287 ~~does not include services rendered to an employer by an employee.~~

1288 "Services" means and includes all services of every manner and description which are
1289 performed or furnished for compensation of any kind, except services rendered to an
1290 employer by an employee, including but not limited to:

- 1291 1. Professional services;
- 1292 2. Services in which a product or sale of property may be involved including
1293 personal property made to order;
- 1294 3. The sale of transportation services;
- 1295 4. Services rendered for compensation by any person who furnishes any services in
1296 the course of their business or occupation;
- 1297 5. Services wherein labor and materials are used to accomplish a specified result;
- 1298 6. Commissions earned during business conducted within the city; and
- 1299 7. Any other services including advertising, maintenance, recreation, amusement
1300 and craftsmen's services.

1301 V. "Time of Sale" for installment sales is the time at which the initial payment is made.

1302 W. "Transaction" means any transfer of property or the right to use or occupy property,
1303 or the rendering of a service, for consideration.

1304 X. "Wholesaler" means a merchant who sells goods, in the regular course of business,
1305 to retailers who sell to consumers, or sell goods in the regular course of business to
1306 dealers or other wholesalers, for the purpose of taxable resale in the City. To
1307 qualify as a wholesaler, a merchant must be regularly recognized as such, and
1308 known to the trade as such.

1309 Y. "Wholesale Sale" means a sale of goods by a merchant selling them in the regular
1310 course of business; or a sale of goods by a merchant selling them in the regular
1311 course of business at wholesale prices to dealers or other wholesalers for the
1312 purpose of taxable resale in the City. The term does not include a sale by a
1313 wholesaler to users or consumers when such sale is not for taxable resale in the
1314 City.

1315 Z. "Z Tape" means the report feature of a cash register which records the total
1316 transactions, such as sales by type, the number of customers and the number of
1317 items rung in for the period; the transactional total of the current day's receipts.

1318

1319 **4.16.020 Declaration and Policy**

1320 A. It is the policy of the City of Bethel to recognize that:

- 1321 1. The voters of the City of Bethel have granted to the City government the power
1322 to levy sales taxes and, by doing so, have entrusted the City to administer those

- 1323 taxes fairly, effectively, efficiently, and in full compliance with State and City
1324 laws.
- 1325 2. State law imposes a fiduciary duty upon the City of Bethel to collect sales taxes
1326 levied within the City.
- 1327 3. Proceeds from the sales taxes levied by the City of Bethel constitute, by far, the
1328 principal sources of municipal tax revenues.
- 1329 4. A substantial portion of the proceeds of the sales taxes levied by the City are
1330 used to fund essential services and facilities provided by the City.
- 1331 5. Any sales taxes levied by the City that are not properly collected and remitted
1332 diminish the fiscal resources available to fund core local governmental services.
- 1333 6. Any sales taxes that are not properly collected and remitted shift the financial
1334 burden of funding local governmental facilities and services to other taxpayers,
1335 citizens and businesses.
- 1336 7. To the extent, if any, that businesses do not collect and remit taxes on taxable
1337 sales, those businesses have a distinct and unfair competitive advantage over
1338 businesses that are properly collecting and remitting sales taxes.
- 1339 8. Sales taxes are paid by purchasers of goods and services, not the businesses
1340 that collect those taxes. To the extent, if any, that sales taxes are collected but
1341 not remitted by businesses, the trust obligations of those businesses are not
1342 being fulfilled, and the interests of the greater community of Bethel suffer.
- 1343 9. Bethel area businesses perform a valuable service to the residents and visitors of
1344 Bethel by collecting and remitting sales taxes. While not compensated directly for
1345 that service, those businesses and other property owners in Bethel enjoy the
1346 benefits provided by those taxes.
- 1347 10. It is the duty, function, and responsibility of the City finance director as head of
1348 the City finance department to collect City sales taxes, along with penalties and
1349 interest on those taxes when due, to issue citations for violations of the City code
1350 regarding collection of sales taxes, and otherwise administer the collection of
1351 sales taxes.
- 1352 11. It is the duty and responsibility of the city manager to supervise and control,
1353 directly and indirectly, the finance department and all other administrative
1354 departments, agencies, officers, and all other employees of the City except the
1355 city clerk, city clerk's office, city attorney, and city attorney's office.
- 1356 12. The city council has exercised its legislative and policy-making functions relating
1357 to the levy and collection of sales taxes by enacting laws governing these
1358 matters.
- 1359 13. The city manager and finance director are charged with carrying out the
1360 administration of the City's sales tax in a manner that is fair, effective, efficient,
1361 and in compliance with the laws of the state of Alaska and the City.
- 1362 B. Within the constraints outlined in the City code, the city manager shall keep the city
1363 council regularly informed regarding the collection of City sales taxes.

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4.16.030 Interpretation.

A. The application of the tax levied under this chapter shall be broadly construed and shall favor inclusion rather than exclusion.

B. The exemptions from the tax levied under this chapter shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this chapter.

4.16.040 Presumption of Taxability

A. In order to prevent evasion of the sales tax and to aid in its administration, it is presumed that all sales by a person engaging in business are subject to the sales tax; and

~~B. For the purposes of the tax levied by this section, a sale of tangible personal property is made within the City if:~~

~~1. The sale is made by a business located within the City and delivery occurs within the City;~~

~~2. The sale is made by a business located within the City, the order is received or solicited within the City or payment is received within the City, and delivery is made to a purchaser within the City;~~

~~C. For the purposes of the tax levied by this section, services are made within the City if, regardless of the location of the business rendering the services:~~

~~1. The services, or any essential or substantial part thereof, are rendered within the City; or~~

~~2. The order for the services is solicited or received within the City or payment is received within the City, the services are rendered by a business maintaining an office, agent or employee within the City, and the services benefit or directly relate to any person, property or organization within the City. There is levied by the City a sales tax on all retail sales, services and rentals which either commence or terminate within the City, or which are in any part rendered, supplied or provided within the City, except as expressly provided otherwise in this chapter.~~

D. A sales tax applies to all real property within the City that is either rented or sold. The tax applies to commissions on the sale or rental of real property, on the rental of real property, and as limited in section 4.16.150, on the sale of real property. The tax applies regardless of whether the seller, buyer, renter, lessee or tenant reside within or outside the City of Bethel.

E. For the purposes of this section, any building or other place of business shall be considered to be within the City if any part thereof or any substantial part of a contiguous parking area or other supporting facility is within the City.

F. ~~In a sale in which the amount of money paid does not represent the value of the property or service purchased, the sales tax must be imposed on the value of the property or service purchased.~~

1406 G. For purposes of this chapter, the sales price or purchase price of property must be
1407 determined as of the time of acquisition.

1408 H. For purposes of this chapter, a sale of services occurs at the time the services are
1409 provided.

1410

1411 **4.16.050 Rules Applicable to Particular Businesses or Occupations**

1412 A. Commissions / Fees

1413 1. Commissions on sales of real property located in the City are subject to sales tax,
1414 regardless of the location of the person to whom the commission is payable.

1415 ~~2. Commissions on sales of real property payable to a person who maintains an~~
1416 ~~office in the City are subject to sales tax, regardless of the location of the real~~
1417 ~~property.~~

1418 3. Commissions/Fees received as a result of professional services performed within
1419 the City, are subject to sales tax regardless of the location of the person to
1420 whom the commission is payable when the subject of the services occurred
1421 within the City.

1422 B. Sales from Coin-Operated Machines. An amount equal to the gross receipts from
1423 each coin-operated machine that the seller operates in the City, shall be subject to
1424 sales tax.

1425 C. [Gaming:

1426 ~~1. Each operator or permittee conducting games of chance within the City must file~~
1427 ~~with the finance director a Gaming Sales Tax Report quarterly on the same~~
1428 ~~schedule as the filing of the State of Alaska Operator Quarterly Report for~~
1429 ~~gaming is filed. A copy of the quarterly and annual reports that are required to~~
1430 ~~be filed with the State of Alaska must also be filed with the quarterly report filed~~
1431 ~~with the City. These copies must be filed simultaneous to the filing of the~~
1432 ~~quarterly City Gaming Tax Report.~~

1433 ~~2. For Bingo games, the operator, vendor or permittee shall pay to the City the sum~~
1434 ~~of six (6%) [3.9% 6%] of the gross sales as demonstrated on the daily "Z" tape.~~

1435 ~~3. For Pull-Tab games, the operator, vendor or permittee shall pay to the City the~~
1436 ~~sum of six (6%) [3.9% 6%] of the gross sales. "Gross sales" is to be calculated~~
1437 ~~based on the number of cards in the box to be sold times the sale price x the~~
1438 ~~tax. For example: 1000 cards x \$1.00/card = \$1,000 x 6% tax = \$60 tax.~~

1439 ~~4. For all other games of chance, the operator, vendor or permittee shall pay the~~
1440 ~~City the sum of six (6%) of the gross sales.]~~

1441

1442 **4.16.060 Title to Collected Sales Tax**

1443 Upon collection by the seller, title to sales tax vests in the City. The seller holds
1444 collected sales tax in trust for the City, and is accountable to the City therefore.

1445

1446 **4.16.070 Imposition – Rate.**

1447 A. To the fullest extent permitted by law, a sales tax is hereby levied and assessed on
1448 all retail sales, services and rentals within the City unless specifically exempted.

1449 B. The tax rate added to the sale price, shall be:

Action:
Vote:

- 1450 1. Twelve (12%) Percent for transient lodging (see chapter 4.14)
1451 2. Twelve (12%) Percent for Alcohol sales (see chapter 5.08)
1452 3. Fifteen (15%) Percent for marijuana sales (see chapter 5.10)
1453 4. Six (6%) Percent for all other sales/services, including, delivery charges.
1454 C. The applicable tax rate shall be added to the sales price.
1455 ~~D. Any one sale of items separately priced shall be taxed upon the aggregate amount.~~
1456 E. When a sale is made on an installment basis, the sales tax shall be collected at the
1457 time of the sale, calculated at the sales tax rate in effect at the time of the sale.
1458

4.16.080 Payment and Collection

- 1460 A. Taxes imposed by this chapter shall be due and paid by the buyer to the seller at
1461 the time of sale or service, or with respect to credit transactions, at the time of
1462 collection. It shall be the duty of each seller making sales taxable under this chapter
1463 to collect the taxes imposed by this chapter from the buyer at the time of each sale,
1464 or with respect to a credit transaction, at the time of collection of sales, and to hold
1465 those taxes in trust for the City. Failure by the seller to collect the tax shall not
1466 affect the seller's responsibility for payment therefore to the City.
1467 ~~B. If a seller collects a tax in excess of the tax imposed by this chapter, both the tax~~
1468 ~~and the excess must be remitted to the City.~~
1469 ~~C. No seller may advertise to absorb or refund taxes required to be collected within the~~
1470 ~~City.~~
1471

4.16.090 Sales Tax Collection – Registration Requirement

- 1472
1473 A. No person may engage in any taxable transactions within the City without first
1474 procuring an annual sales tax collection license from the City finance department.
1475 B. A new business shall apply for a sales tax collection license not later than ten (10)
1476 days after the date of commencing business or opening additional places of
1477 business.
1478 C. Existing businesses shall apply for a sales tax collection license within thirty (30)
1479 days of the passage of this ordinance and annually thereafter by June 30th of each
1480 year concurrent with their business license renewal. All existing businesses must be
1481 compliant with this section no later than December 31, 2019
1482 D. A person, firm, partnership, corporation or other business entity shall file an
1483 application for registration with the finance department, on a form provided by the
1484 City, prior to conducting business within the City. The complete application shall be
1485 returned to the finance department along with a copy of the business entity's Alaska
1486 state business license and City of Bethel business license. Registration will not be
1487 complete until all of these requirements have been met.
1488 E. Each business entity shall be registered under the advertised name and each
1489 separate business shall be registered under its own account.
1490 F. No sales tax collection license shall be issued to or renewed for:
1491 1. A person who does not meet the licensing requirements set out in chapter 5.04
1492 (Business licenses); or

- 1493 2. A person who has failed to pay any necessary fees due to the City; or
1494 3. A person owing a judgment, delinquent taxes or a utility bill to the City, unless
1495 the person is in a satisfactory repayment plan.
1496 G. Where the application or City records indicate that applicant is currently in violation
1497 of filing and/or remittance requirements of the City's sales tax provisions, the
1498 finance director may deny the application registration until such time as applicant
1499 enters a binding agreement setting out a method by which full compliance will be
1500 attained.
1501 H. The sales tax collection license of any seller will be suspended when such seller fails
1502 to pay delinquent taxes, penalties and interest within thirty (30) days after notice of
1503 delinquency is given or mailed provided such seller shall be afforded due process
1504 before the license suspension.
1505

1506 **4.16.100 Certificate to be Displayed**

- 1507 A. Upon receipt of a properly executed application, the finance director shall issue to
1508 the seller a certificate of authority to collect City sales tax. The certificate shall state
1509 the name of the business as well the address of the place of business to which it is
1510 applicable, and shall authorize the seller to collect the tax.
1511 B. The certificate must be prominently displayed at the place of business named in the
1512 certificate. A seller who has no regular place of business shall attach such certificate
1513 to his stand, truck or other merchandising device.
1514 C. Upon notification, the finance director shall issue a duplicate sales tax certificate to
1515 any seller whose certificate has been lost or destroyed.
1516

1517 **4.16.110 Certificate Non-Transferable/Non-Assignable**

1518 The certificate of authorization to collect sales taxes is non-assignable and non-
1519 transferable and must be surrendered to the finance director by the seller to whom it
1520 was issued upon its ceasing to do business at the location named therein or upon its
1521 revocation or suspension. If there is a change in the form of organization such as from
1522 a single proprietorship to a partnership or a corporation, the seller making such change
1523 shall surrender the old certificate to the finance director for cancelation. The successor
1524 seller is required to file a new application for a certificate of registration. Upon receipt
1525 of such application, properly executed, as provided in this chapter, a new certificate
1526 may issue to such successor seller.
1527

1528 **4.16.120 Injunction Prohibiting Operation of Business for Failure to**
1529 **Register or Failure to Remit Returns**

- 1530 A. A proceeding requesting the issuance of an injunction prohibiting a business from
1531 continuing to conduct business within the City may be filed by the City in the
1532 superior court fifteen (15) days after providing notice either by hand delivery or by
1533 regular mail to any business which has failed to file a sales tax return or has failed
1534 to pay the sales taxes due even if a sales tax return has been filed.
1535 B. A proceeding requesting the issuance of an injunction prohibiting a business from
1536 continuing to conduct business within the City may be filed by the City in the

1537 superior court fifteen (15) days after providing notice either by hand delivery or by
1538 regular mail to any business which has failed to file a sales tax return or filed a sales
1539 tax return without remitting the payment due.

1540

1541 **4.16.125 Revocation Hearing**

- 1542 A. A hearing shall be conducted before a hearing officer within fifteen (15) calendar
1543 days of receipt of a written demand therefore from the person seeking the hearing
1544 unless such person waives the right to a speedy hearing.
1545 B. The hearing officer shall conduct the hearing in an informal manner and shall not be
1546 bound by technical rules of evidence.
1547 C. The person demanding the hearing shall carry the burden of establishing that such
1548 person has the right to represent the business (is an owner, agent or attorney hired
1549 for the proceeding).
1550 D. The Finance Director shall carry the burden by clear and convincing evidence.
1551 E. At the conclusion of the hearing, the hearing officer shall prepare a written decision.
1552 A copy of such decision and the reasons therefore shall be provided to the person
1553 demanding the hearing and the owner of the business if such owner is not the
1554 person requesting the hearing.
1555 F. The hearing officer's decision in no way affects any civil proceeding in connection
1556 with the matter in question and any civil charges involved in such proceeding may
1557 only be challenged in the appropriate court. The decision of the hearing officer is
1558 final.
1559 G. Failure of the owner, operator, master, or managing agent to request or attend a
1560 scheduled hearing shall be deemed a waiver of the right to such hearing.

1561

1562 **4.16.130 — Seller Education**

- 1563 ~~A. Each person who owns or operates a business that makes taxable sales within the~~
1564 ~~City shall attend a general information and education class conducted by the City.~~
1565 ~~Attendance shall be by the owner or an officer or employee of the business who is~~
1566 ~~responsible for the monitoring and accounting of sales tax collection and the~~
1567 ~~reporting and payment of sales taxes to the City. Attendance by the owner, an~~
1568 ~~officer or employee shall occur at least once every four (4) years. Thereafter, an~~
1569 ~~officer or at least one (1) individual in its employment who has not attended the~~
1570 ~~class within the last four (4) years may substitute for the owner.~~
1571 ~~B. The general information and education classes shall be conducted at least once each~~
1572 ~~quarter. The finance director shall be responsible for assembling course material,~~
1573 ~~instructors and other resources that may be necessary for the classes. Classes shall~~
1574 ~~be scheduled at times that take into account the availability of business personnel to~~
1575 ~~attend.~~
1576 ~~C. A business may be required by the finance director to have its owner, an officer or~~
1577 ~~an appropriate employee attend a class without regard to how recently an individual~~
1578 ~~from the business has attended a prior class if the business has failed to:~~
1579 ~~1. Timely file two (2) or more sales tax returns within a six (6) month period;~~

- 1580 ~~2. Collect or pay over all taxes required to be collected under this chapter; or~~
1581 ~~3. Keep or produce records required to be kept or produced under this chapter.~~
1582 ~~D. A person, who, at the time the person's City business license is to be renewed, has~~
1583 ~~not met the requirements for class attendance under this section shall pay a penalty~~
1584 ~~of two hundred fifty (\$250) dollars prior to issuance of the business license.~~
1585 ~~Payment of the penalty does not excuse and is not a substitute for the required~~
1586 ~~class attendance. In addition, a person who fails to comply with the requirements of~~
1587 ~~this section will have his or her business license suspended as set forth in chapter~~
1588 ~~5.04.~~
1589 ~~E. Upon determination by the finance director that a business does not meet the~~
1590 ~~requirements of subsection A of this section, the finance director shall notify the~~
1591 ~~business of the deficiency. The business shall come into compliance by not later~~
1592 ~~than the conclusion of the second class conducted under this section following the~~
1593 ~~date of the notice of deficiency. A business that fails to have an appropriate person~~
1594 ~~attend one of the two classes following the notice, or, fails to come into compliance~~
1595 ~~with the requirements of this section, shall pay a penalty of two hundred fifty (\$250)~~
1596 ~~dollars with the sales tax return next due following the second class. In addition, a~~
1597 ~~person who fails to comply with the requirements of this section will have his or her~~
1598 ~~business license suspended as set forth in chapter 5.04.~~
1599

1600 **4.16.135 Limit of Liability**

- 1601 A. Questions regarding the applicability of this Code, its interpretation, forms or any
1602 other matter relating to sales taxes shall be submitted in writing to the Finance
1603 Director or an appointed designee. Oral statements are not binding on the City.
1604 Only written interpretations, properly requested may be relied upon. The
1605 authority granted to the Finance Director shall not create an obligation or duty
1606 requiring the Finance Director to take any action to protect or notify any seller or
1607 buyer within the City regarding their tax rights. The City assumes no liability for
1608 loss or damage caused by individual interpretation and application of this Code
1609 or forms related thereto. Sellers are encouraged to work with their accountants
1610 and/or attorneys.
1611 **B. Electronic Transactions.** To the extent that the City of Bethel sends and
1612 accepts electronic records and electronic signatures, those electronic records and
1613 electronic signatures are governed by the Uniform Electronic Transactions Act,
1614 AS 09.80.10., et. seq.
1615

1616 **4.16.140 Tax Receipts & Posting of Sales Tax Signs**

- 1617 ~~A. Each person making sales within the City, including those who engage solely in tax~~
1618 ~~exempt sales, shall provide to the buyer (and shall retain a copy of) a receipt or~~
1619 ~~invoice documenting the details of the sale. The following types of businesses shall~~
1620 ~~provide a cash register receipt for all sales transactions, including those that are~~
1621 ~~wholly exempt from taxes:~~
1622 ~~1. Retail Sellers – to include, but not be limited to, supermarkets, sellers of~~
1623 ~~fuel, boutiques, stores,~~

- 1624 2. Restaurant/Eating Establishments
- 1625 3. Movie Theaters
- 1626 4. Coffee Stands
- 1627 B. The following types of businesses shall provide either a receipt or an invoice for all
- 1628 sales transactions, including those that are wholly exempt from taxes:
- 1629 1. Construction;
- 1630 2. Trades – For example, plumbing, electrical, carpet installation, etc.
- 1631 3. Professional Services – For example, accounting, tax preparation,
- 1632 veterinary care,
- 1633 4. Transient Lodging
- 1634 C. Receipt Exceptions: The following types of businesses are exempt from the
- 1635 receipt/invoice requirements as outlined below:
- 1636 1. Lessors – When a valid lease Rental Agreement exists covering the period
- 1637 for which the rent amount was received;
- 1638 2. Vending machine sales;
- 1639 3. Insurance Sales;
- 1640 4. Legal Services – when such services are performed under a contract or
- 1641 other agreement for services;
- 1642 5. Vehicles for Hire – Provided registration and licensing is up to date with
- 1643 the City;
- 1644 D. Each receipt or invoice shall:
- 1645 1. Be dated; and
- 1646 2. Be sequentially pre-numbered, but may be sequentially machine-numbered if the
- 1647 number printed on the receipt or invoice is machine generated; and
- 1648 3. Show the quantity, description and price of the goods sold, services rendered or
- 1649 sold or rentals made; and
- 1650 4. Show the amount of the sales tax on the sale.
- 1651 E. The seller shall, whenever feasible, separately state the tax to the buyer on each
- 1652 taxable transaction. When not feasible to state separately, the seller shall
- 1653 prominently display a sign indicating the imposition of the tax.
- 1654 F. ~~A seller shall not advertise, hold out or state to the public or to any buyer, directly or~~
- 1655 ~~indirectly, that the tax payment or any part thereof imposed by this chapter will be~~
- 1656 ~~assumed or absorbed by the seller, or that it will be added to the sales price or that~~
- 1657 ~~it will be refunded or assumed, in whole or in part.~~
- 1658 G. Exempt Sales: If any part of the sale is exempt, it must be shown on the sales
- 1659 receipt. Exempt sales can only be made upon showing of a valid exemption card or
- 1660 certificate. For each such sale, the seller shall:
- 1661 1. Record the date of the sale; and
- 1662 2. Record the exempt card/certificate number presented (when applicable); and
- 1663 3. Record the expiration date for the exempt card/certificate presented (when
- 1664 applicable); and
- 1665 4. Record the name of the person making the exempt sale; and
- 1666 5. Record the name of the entity/business claiming the exemption; and

1667 6. Record the receipt number for the sale.

1668

1669 **4.16.150 Tax Exemptions**

1670 The following sales and services are exempt from the tax levied under this chapter
1671 only in accordance with the limitations provided for in this section:

1672 A. Admissions: Sales of admission to school entertainments, school athletic events, and
1673 events conducted for the benefit of charitable or community organizations. This
1674 exemption does not apply to sales of gaming property.

1675 B. ATVs/Boats: That portion of the selling price of an all-terrain vehicle (ATV), snow
1676 machine, boat, or boat motor in excess of Three Thousand Five Hundred (\$3,500)
1677 Dollars is exempt regardless of whether or not such items are purchased
1678 simultaneously, or are invoiced or otherwise billed on the same billing document.

1679 C. Banking: The following fees, sales and services charged by banks, savings and loan
1680 associations, credit unions and investment banks:

1681 1. Fees for the sale, exchange or transfer of currency, stocks, bonds and other
1682 securities

1683 2. Loans: The principal amount of the loan, the interest charged for loaning of
1684 money, and escrow collection services, and any fees associated with the loaning
1685 of money are exempt. Any fees associated with the loaning of money are
1686 subject to sales;

1687 3. Services associated with the sale, exchange or transfer of currency, stocks,
1688 bonds and other securities;

1689 4. Pass-through charges on loan transactions which include sales tax;

1690 5. Sale of insurance policies, bonds of guaranty and fidelity (AS 21.09.210).

1691 D. Casual and isolated sales, services or rentals: Proceeds from casual, occasional or
1692 isolated sales which are easily identified as the sale of personal goods or property at
1693 such private functions as moving, garage, yard, food and bake sales, sale of private
1694 vehicles when the seller is not a dealer in used vehicles, or services such as
1695 babysitting or house-sitting provided the seller does not regularly engage in the
1696 business of selling such goods or services or rentals but only if:

1697 1. The sales of goods and services do not occur for more than five (5) days in a
1698 calendar year, and are not made through a dealer, broker, agent or consignee;
1699 or

1700 2. The rental of personal tangible property that does not exceed sixty (60) days in a
1701 calendar year, whether or not consecutive. The rental of real estate is not
1702 exempt.

1703 3. Sales or rentals made pursuant to a business license or by sellers representing
1704 themselves to be in the business of making sure sales, rentals or services are not
1705 exempt.

1706 E. Cemetery Plots: The sale of cemetery/burial plots is exempt.

1707 F. Commerce: Freight and wharfage charges, whether arising out of foreign, interstate
1708 or intrastate commerce are exempt. Warehouse and storage services are not
1709 exempt. Transportation of goods, equipment, or other property from one point to
1710 another within the City limits by commercial movers is not exempt.

- 1711 G. Compliance with Laws:
1712 1. Gross receipts or proceeds derived from sales or services which the City is
1713 prohibited from taxing under the laws of the state or under the laws and the
1714 Constitution of the United States, including, but not limited to:
1715 a. Sales by the U.S. Postal Service;
1716 b. Purchases made under the authority of or made with any type of certificate
1717 issued pursuant to 42 U.S.C. Sections 1771-1789 (Child Nutrition Act of
1718 1966);
1719 c. Interstate Sales;
1720 d. Air transportation including that portion of any chartered fishing or hunting
1721 expedition which covers the cost of air transportation;
1722 e. Gross receipts or proceeds derived from sales to the United States
1723 Government, the state, a city or any political department thereof. However,
1724 the exemption shall not apply to the sale of materials and supplies to
1725 contractors for the manufacture or production of property or rendering
1726 services for sale to such government units or agencies on a contract bid
1727 award, in which event the contractor shall be deemed the buyer, subject to
1728 the payment of the tax;
1729 2. A sale or rental to an employee of the state, its political subdivisions, or the
1730 federal government is only exempt when the government employee provides
1731 proof that the sale is for government business by paying for the sale with a
1732 government voucher, purchase order, check, credit card, or warrant, or providing
1733 other verifiable documentation to the seller to allow the seller to readily
1734 determine that the sale is for government business;
1735 3. A sale or rental to a federally recognized tribe when the Tribal employee provides
1736 proof that the sale is for tribal government business by paying for the sale with a
1737 tribal voucher, purchase order, check, credit card, or warrant, or providing other
1738 verifiable documentation to the seller to allow the seller to readily determine that
1739 the sale is for tribal government business;
1740 H. Credit Unions: Sales to or by federally chartered credit unions or credit unions
1741 organized under AS 06.45;
1742 I. Dues: Dues or fees paid to clubs, labor unions and other organizations solely for the
1743 privilege of membership;
1744 J. Freight and Wharfage: Freight and wharfage charges, whether arising out of
1745 foreign, interstate or intrastate commerce, are exempt. Warehouse, storage
1746 services, and delivery services that begin and end within the City of Bethel are
1747 taxable, unless such delivery services are included in a through bill of lading in
1748 conjunction with interstate commerce.
1749 K. Maximum Tax: That portion of the selling price for a single piece of equipment or
1750 tangible personal property by an individual unit price in excess of Ten Thousand
1751 (\$10,000) Dollars is exempt. A single sales unit is any retail merchandise sale where
1752 the selling price is totaled on one invoice or on any sales slip, although this

1753 exemption does not apply if any portion of the invoice or sales slip refers to more
1754 than one calendar day.

1755 L. Medical Services:

- 1756 1. Services of a person licensed or certified by the State of Alaska as a doctor of
1757 medicine and surgery, a doctor of osteopath and surgery, a chiropractor, a
1758 dentist, an optometrist, an audiologist, a hospital, an occupational therapist, a
1759 physical therapist or a licensed or practical nurse; provided, that the service is
1760 within the scope of the state license or certificate;
1761 2. Services of a person licensed or certified by the State of Alaska as a psychologist
1762 or psychological associate, a clinical social worker, an alcohol or drug counselor,
1763 [or] a marital and family therapist [or a licensed professional counselor];
1764 provided, that the service is within the scope of the state license or certificate;
1765 3. Fees for supplies, equipment and services provided by a hospital, medical clinic
1766 or dental clinic for patient treatment, including laboratory and x-ray services;
1767 4. Assisted living services provided in accordance with an assisted living plan and in
1768 an assisted living home licensed as such by the State;
1769 5. Gross receipts or proceeds of the retail sale of prescription drugs;
1770 6. Services rendered by masseurs, even those working for a hospital, chiropractor
1771 or other medical provider, are not exempt.

1772 M. Newspapers: Sales of newspapers are exempt. periodicals that are made directly by
1773 carriers to consumers or users of newspapers or periodicals.

1774 N. Non-Profits: A sale of goods or services to any entity that, at the time of the sale,
1775 is: (1) legally constituted and legitimately acting in accordance with a duly
1776 authorized federal tax exempt status pursuant to IRS Regulations, Section
1777 501(c)(3)(4) or (19); and if the same goods or services are used exclusively in the
1778 fulfillment of activities within the federal tax exempt status (2) provided any income
1779 from the exempt sale is exempt from federal taxation and (3) provided the non-
1780 profit produces a sales tax exemption card.

1781 Exceptions: [The sale of bingo, pull tabs or other gaming activities is not
1782 exempt.] Activities provided by the entity where such organization is engaged in
1783 business for profit OR is competing with other persons engaged in the same manner
1784 or in a similar business is not exempt.

1785 O. Public Assistance: Purchases made with food coupons, food stamps, or other type of
1786 certificate issued under 7 USC Sections 2011 – 2025 (Food Stamp Act) or other
1787 certificates issued under 42 U.S.C 1786 (Special Supplemental Food Program for
1788 Women, Infants and Children).

1789 P. Real Estate Sales: That portion of the selling price of real property in excess of Two
1790 Hundred Seventy Five Thousand Dollars (\$275,000) of the selling price is exempt.*
1791 Everything else is taxed as follows: six (6%) percent of the first twenty (20%) of the
1792 sale price.

1793

1794 Example: Home selling for \$275,000

1795 ————— \$275,000 x 20% = \$55,000 (first 20% of the sale price)

1796 ————— \$55,000 x 6% (Tax) = \$3300 Tax Due to City

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1797

1798 ~~———— Home selling for \$125,000~~

1799 ~~———— \$125,000 x 20% = \$25,000 (first 20% of the sale price)~~

1800 ~~———— \$25,000 x 6% = \$1,500 Tax Due to City~~

1801

1802 Only the first twenty (20%) percent of the sale price of real property is subject to
1803 City sales tax*.

1804

1805 Example: Home selling for \$275,000

1806 \$275,000 x 20% = \$55,000 (first 20% of the sale price)

1807 \$55,000 x 6% (Sales Tax) = \$3,300 Sales Tax due to city

1808

1809 Home selling for \$450,000

1810 \$450,000 x 20% = \$90,000 (first 20% of the sale price)

1811 \$90,000 x 6% = \$5,400 Sales Tax due to City

1812

1813 *This exemption does not apply to rentals of real property. This exemption applies
1814 to all sales of real property, including casual and isolated sales

1815 Q. Recreational Vehicles: That portion of the selling price of an all-terrain vehicle (ATV),
1816 snow machine, boat, or boat motor in excess of three thousand five hundred dollars
1817 (\$3,500) is exempt regardless of whether or not such items are purchased
1818 simultaneously, or are invoiced or otherwise billed on the same billing document.

1819 R. Rental Units: Costs incurred by owners/landlords for rental units, such as included
1820 utilities, fuel, or any other expenses, are not exempt.

1821 S. Retail Sales of Foods: Are exempt in the following circumstances:

1822 1. When served in cafeterias or lunchrooms of elementary, secondary, post-
1823 secondary schools, colleges or universities which are operated primarily for
1824 students and staff, and are not operated for the public or for profit;

1825 2. When served to clients and staff, and not to the public or for profit, as part of
1826 services provided by a nonprofit hospital or other nonprofit government
1827 organization licensed by the State of Alaska for the care of humans;

1828 3. Meals delivered by a nonprofit organization to handicapped or senior citizens at
1829 their place of residence or meals served on the premises of a nonprofit to senior
1830 citizens or the homeless or disadvantaged provided that the sale price of such
1831 meals does not exceed the cost of delivery or service of such meals;

1832 T. Sales to Retailers: Are exempt only if the buyer presents to the seller a valid
1833 exemption card, issued by the City pursuant to this section, and

1834 1. The sale of goods, wares or merchandise to a retail dealer, manufacturer or
1835 contractor is for resale within the City as is or incorporated into a product or
1836 commodity to be sold by the dealer, manufacturer or contractor within the City,
1837 if the subsequent sale is subject to the City sales tax; and

- 1838 2. The product is an item sold as part of the reseller's primary business and must
1839 be of such nature that it can be purchased by the general public in a transaction
1840 that is not dependent upon the purchase of another product or service.
1841 3. The exemption card must be for the class of activities involving the resale of the
1842 type of goods for which the exemption is sought.
1843 4. Food products that are purchased for resale must be purchased and sold as is or
1844 prepared in a commercial kitchen. ~~that is DEC-certified in order to qualify for~~
1845 ~~sales tax exemptions. Proof of certification must be available upon request.~~
1846 5. If a purchaser buys goods for resale in accordance with this subsection and for
1847 personal or other use at the same time, only the goods that are to be sold for
1848 resale in accordance with this subsection shall be exempt.
1849 6. Supplies, services, tools, repair services, equipment or any other goods or
1850 services purchased to support a business but not for resale in accordance with
1851 this subsection are not exempt.

1852 U. School:

- 1853 1. Fees and charges for extracurricular activities or events promoted or undertaken
1854 by educational or student organizations;
1855 2. Sales by any student organization, parent/teacher organization or booster club
1856 recognized by the school or educational organization in which it operates, which
1857 proceeds are utilized to further the purposes for which the organization was
1858 formed;
1859 3. Sales and services by schools or other educational organizations made in the
1860 course of their regular functions and activities, which proceeds are utilized to
1861 further the purposes for which such organization was formed;
1862 4. Sales of food and beverages at educational lunchrooms which are operated
1863 primarily for staff and/or students, and which are not operated for the purpose
1864 of sale to the general public for profit;
1865 5. The service of transporting ~~transportation of~~ students to and from a elementary,
1866 ~~junior high and high schools in motor or other vehicles when in the regular~~
1867 course of that business.

1868 V. Securities: The sale of insurance and bonds of guaranty and fidelity, and the
1869 commission thereon (AS 21.09.210(f), 21.79.130, 21.80.130);

1870 W. Senior Citizen Exemptions: The following are exempt only if the buyer, or their
1871 designee, present a valid senior citizen exemption certificate and the product or
1872 service is intended primarily for the senior citizen holding the exemption card:

- 1873 1. The sale to a senior citizen of food intended for consumption by the senior
1874 citizen, his or her spouse or same sex partner living in the same household, or
1875 the un-emancipated minor children of either the senior citizen or his or her
1876 spouse or same sex partner, who live in the same household. For purposes of
1877 this subsection, "food" is defined in accordance with 7 USC Section 2012(g)
1878 (definition of "food" for purposes of the Food Stamp Act);
1879 2. The payment of rent by a senior citizen on a single dwelling occupied as the
1880 senior citizen's primary residence and permanent place of abode.

- 1881 3. Payment for telephone, electric, water and sewer utility services by a senior
1882 citizen on a single dwelling occupied as the senior citizen's primary residence and
1883 permanent place of abode.
1884 4. The payment for ~~No. 1 stove oil~~ used as heating fuel used by a senior citizen for
1885 a single dwelling occupied as the senior citizen's primary residence and
1886 permanent place of abode.
1887 5. The sale of alcohol, tobacco, bingo cards, raffle tickets, pull-tabs, other games of
1888 chance and/or marijuana to a senior citizen is not exempt.

1889 X. Transportation:

- 1890 1. The following types of transportation services are exempt:
1891 a. The sale of services for transporting passengers by river taxi, taxicab, bus,
1892 commercial airline, air charter, air taxi, hover craft; or
1893 b. The sale of passenger seat tickets by a commercial airline is exempt; or
1894 c. ~~The service of transporting students to and from a school in vehicles when in~~
1895 ~~the regular course of that business or~~
1896 d. The service of transporting disabled or handicapped individuals when in the
1897 regular course of that business.
1898 2. The following are not exempt:
1899 a. The lease of vehicle for hire permits are not exempt;
1900 b. The portions of a sale of flight seeing or air/water/shore excursion travel or
1901 adventure services which are not charges for transportation of persons on a
1902 federal airway;
1903 c. The lease or rental of vehicles is not exempt.

1904 Y. Utilities: Payment for City water, sewer and refuse utility services by any and all
1905 persons or entities.

1906 Z. Wholesale: Proceeds from products sold as wholesale sales to businesses designated
1907 by the State of Alaska as wholesalers. These include sales of goods, wares or
1908 merchandise to a retail dealer, manufacturer or contractor for resale within the City
1909 as is or incorporated into a product or commodity to be sold by the dealer,
1910 manufacturer or contractor within the City, if the subsequent sale is subject to the
1911 City sales tax. In this connection a retailer must stock that merchandise for resale,
1912 display the same to the public and hold himself out as regularly engaged in the
1913 business of selling such products.

1914
1915 **4.16.160 Exemption Cards**

- 1916 A. Sales to retailers, wholesalers, and senior citizens ~~No sales in the City shall be~~
1917 exempted from sales tax ~~unless and until~~ only if the person requesting the
1918 exemption has obtained and produces a valid ~~an~~ exemption authorization card.
1919 B. Federal, State, and Tribal entities are not required to produce exemption cards.
1920 Sales to these entities are only exempt when the method of payment is made
1921 directly by the federal, state or tribal entity. Payments made by cash, personal
1922 check or personal credit card, even if on behalf of a federal, state or tribal entity, are
1923 never exempt.

- 1924 C. Cost: The annual charge for an exemption card are as follows:
1925 (i) Retailer/Wholesaler: \$100 (Maximum 2 cards)
1926 (ii) Senior Citizens: \$15 Initial Card - Free (maximum 1 card)
1927 (iii) Senior Proxy Card: Initial Proxies – Free; Replacement/Substitute Proxies
1928 (\$15/each)
1929 (iv) Non-Profits: \$30 per card (maximum 5 cards)
1930 (v) Replacement Cards: \$30 each (1st card); \$45 (all subsequent replacement
1931 cards)
- 1932 D. With the exception of non-profit organizations which are covered in section 4.16.165
1933 of this ordinance, Any person, corporation or other organization claiming an
1934 exemption under BMC 4.16.150 shall apply to the City for an exemption
1935 authorization card within one (1) month of operating or conducting business or sales
1936 or performing services within the City in the first year in which sales are made, and
1937 thereafter shall apply by November 15th of each year for the following calendar year.
1938 Numbered exemption authorization cards will be issued by the City. The exemption
1939 authorization card must be shown to all sellers and must be recorded at the time of
1940 sale by the seller. The exemption is valid only for those items that are purchased
1941 for resale as described under section 4.16.150 or are purchased by persons,
1942 agencies and organizations that are exempted by City, state or federal law. Any
1943 person that believes an attempt to purchase unauthorized items as tax exempt is
1944 being made at his place of business may refuse to accept the exemption card.
- 1945 E. The following require an exemption card in order to qualify for the exemption:
1946 1. Exemptions for Sales for Resale (Sales to Retailers);
1947 2. Exemptions for Sales to Non-Profits;
1948 3. Exemptions for Sales to Wholesalers; and
1949 4. Exemptions for Senior Citizens.
- 1950 F. Persons requesting an exemption card shall apply at the finance department on a
1951 form approved by the finance director. The application shall be accompanied by any
1952 applicable fee that is required under this section. The Finance Director may require
1953 additional information of the applicant as necessary to determine whether the
1954 application should be granted.
- 1955 G. With the exception of Senior Citizen exemptions, all exemption cards shall expire on
1956 December 31st of the year in which they were issued. Senior Citizen exemption
1957 cards shall expire bi-annually on November 1st.
- 1958 H. The exemption card will include, at a minimum:
1959 1. For Resale or Wholesale:
1960 (i) General character of property or service sold by the purchaser in the
1961 regular course of business intended for resale;
1962 (ii) Name and address of the purchaser;
1963 (iii) Signature of the purchaser;
1964 (iv) Expiration date; and
1965 (v) City of Bethel authorization exemption number.
1966 2. For senior citizen:
1967 (i) Name and address of the qualified senior citizen or proxy;

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- 1968 (ii) Signature of qualified senior citizen or proxy;
1969 (iii) Expiration date;
1970 (iv) City of Bethel authorization exemption number.
1971 ~~3. For Non-Profits:~~
1972 (i) ~~— Type of 501 designation;~~
1973 (ii) ~~— General character of services performed;~~
1974 (iii) ~~— Expiration date~~
1975 4. For all others:
1976 (i) Name and address of the exempt entity;
1977 (ii) Name and address of the qualified purchaser(s);
1978 (iii) Expiration date; and
1979 (iv) City of Bethel authorized exemption number.
1980 I. Timeframe:
1981 1. For Resale or Wholesale: An exemption card is issued for two (2) years and
1982 expires on December 31st.
1983 2. For Seniors Citizen: An exemption card expires five (5) years from the date of
1984 issuance.
1985 3. For Senior Proxies: An exemption card expires two (2) years from the date of
1986 issuance.
1987 ~~J. Cost: The annual charge for an exemption card are as follows:~~
1988 (vi) ~~Retailer/Wholesaler: \$100 (Maximum 2 cards)~~
1989 (vii) ~~Senior Citizens: No cost (maximum 3 cards: 1 for senior plus 2 proxies)~~
1990 (viii) ~~Non-Profits: \$30 per card (maximum 5 cards)~~
1991 (ix) ~~Replacement Cards: \$30 each (1st card); \$45 (all subsequent replacement~~
1992 ~~cards)~~
1993 K. Proof: The finance director may require, at a minimum, the following proof before
1994 issuance of an exemption card:
1995 1. Retailer Exemption Cards:
1996 (i) City of Bethel business license;
1997 (ii) State of Alaska business license
1998 (iii) If tobacco is to be purchased, must also present proof of State and City tobacco
1999 licenses
2000 2. Senior Citizen Exemption Cards:
2001 (i) Proof of meeting the age requirement (must be at least sixty-five (65) years of
2002 age on January 1st of the year for which the exemption card is applied for); and
2003 (ii) Proof of residence within the City of Bethel;
2004 ~~3. Non-Profits:~~
2005 (i) ~~Proof of City of Bethel business license;~~
2006 (ii) ~~State of Alaska business license;~~
2007 (iii) ~~NAICS Code~~
2008 (iv) ~~Proof of Federal 501(c) status;~~
2009 (v) ~~Copy of previous year's federal tax return.~~

- 2010 L. Residency Requirement for Senior Citizen Exemption Cards: Only bona fide residents
2011 of the City of Bethel are eligible to hold and use a senior citizen sales tax exemption
2012 card. In the event the person ceases to be a bona fide resident of the City,
2013 entitlement to the sales tax exemption shall automatically terminate, and the card
2014 shall be void as to that sales tax exemption.
- 2015 1. For the purposes of this section, "resident of the City of Bethel" means a person
2016 who has established a residence in the City and has the intent to remain in the
2017 City indefinitely and makes his or her home in the City. A person demonstrates
2018 the intent required under this subsection by maintaining a principal place of
2019 abode in the City for at least one hundred eight (180) consecutive days
2020 immediately preceding the date of application for the exemption card.
- 2021 2. The one hundred eighty (180) day consecutive day period provided for in this
2022 section may be reduced to thirty (30) days if:
- 2023 (i) The person has not been absent from the City of Bethel for more than
2024 twelve (12) months; and
- 2025 (ii) The person establishes to the satisfaction of the finance director that
2026 either: (a) the absence was for medical treatment of the person or an
2027 immediate family member, or (b) the absence was due to circumstances
2028 beyond their control.
- 2029 M. Proxy for Senior Citizen Exemption Cards: If a person who is authorized to receive a
2030 senior citizen exemption authorization card is physically or mentally disabled so that
2031 the applicant is physically unable to use the card, the applicant may designate up to
2032 two (2) proxies on their exemption application. Proxy cards are non-transferable.
2033 Only those purchases on behalf of the senior citizen are exempted from the sales
2034 tax. Before a proxy card can be issued, the finance director shall require:
- 2035 1. The names, addresses and legal identifications of the proxy shoppers;
2036 2. Proof that the senior citizen is unable to personally use the card and requires a
2037 proxy;
- 2038 3. Legal proof that the proxy has the authority to represent the senior citizen (for
2039 example, a court order appointment the proxy as guardian or a valid power of
2040 attorney).
- 2041 N. Non-Transferable: An exemption authorization card is non-transferable and must be
2042 surrendered to the City finance office upon disqualification for use for any reason.
- 2043 O. An exemption authorization card executed by the purchaser must be in the
2044 possession of the purchaser at the time that an exempt transaction occurs.
- 2045 P. The finance director may revoke an exemption authorization card after notice to the
2046 holder of the certificate and hearing, if the director finds that the holder:
- 2047 1. Gave materially false information when applying for the exemption authorization
2048 card;
- 2049 2. Used the exemption authorization card in a transaction that was not exempt
2050 from sales;
- 2051 3. Permitted the use of the exemption authorization card by a person other than an
2052 authorized agent or employee of the holder of the exemption; or
- 2053 4. Ceased to be entitled to exemption from sales tax.

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2054 Q. If the finance director revoke's a person's exemption authorization card, that person
2055 is no longer exempt from paying sales tax under this chapter until the person
2056 obtains a new exemption authorization card which may not occur sooner than one
2057 (1) year after the revocation.

2058 R. If the finance director revoke's a person's authorization card, that person must pay
2059 sales tax, interest, penalties, etc., on all sales made to or by the person which were
2060 not duly exempt.

2061

2062 **4.16.165 Non-Profit Exemption Certificates**

2063 A. No sales to a Non-Profit Organization shall be exempted from sales tax unless and
2064 until the non-profit organization has applied for and received an exemption
2065 certificate from the Finance Director.

2066 B. There shall be no cost for a non-profit exemption certificate.

2067 C. Any seller may demand proof of or copies of the non-profit exemption certificate at
2068 any time prior to exempting a sale.

2069 D. Non-Profits requesting an exemption certificate shall apply to the finance
2070 department on a form approved by the Finance Director. The Finance Director may
2071 require additional information of the applicant as necessary to determine whether
2072 the application should be granted.

2073 E. Non-Profit certificates shall expire within four (4) years from the date of issuance.

2074 F. Non-Profit exemption certificates shall include, at a minimum, the following
2075 information:

2076 1. Type of 501 designation;

2077 2. General Character of Services Performed;

2078 3. Expiration Date

2079 G. Proof. The Finance Director may require, at a minimum, the following proof before
2080 issuance of the exemption certificate:

2081 1. Proof of a City of Bethel business license;

2082 2. Copy of a State of Alaska business license;

2083 3. NCAICS Code;

2084 4. Proof of Federal 501(c) status;

2085 H. Non-Transferable. The exemption authorization certificate is non-transferable and
2086 must be surrendered to the Finance Director upon disqualification for use by any
2087 reason.

2088 I. The Finance Director may revoke an exemption authorization card after notice to the
2089 holder of the certificate and after a hearing, if the director finds that the holder:

2090 1. Gave materially false information when applying for the exemption
2091 authorization certificate;

2092 2. Used the exemption authorization certificate in a transaction that was not
2093 exempt from sales;

2094 3. Permitted the use of the exemption certificate by a person other than an
2095 authorized agent or employee of the holder of the exemption certificate;
2096 or

- 2097 4. Ceased to be entitled to exemption from sales tax.
2098 J. If the Finance Director revokes an organization's exemption authorization
2099 certificate, that organization is no longer exempt from paying sales tax under this
2100 chapter until the organization obtains a new exemption certificate which may not
2101 occur sooner than one (1) year after the revocation.
2102 K. If the Finance Director revokes an organization's authorization card, that
2103 organization must pay sales tax, interest, penalties, etc., on all sales made to or
2104 by the organization which were not duly exempt.
2105

2106 **~~4.16.170—Special Exemption for Charitable Events~~**

- 2107 ~~A.—A special sales tax exemption may be granted no more than two (2) times in a~~
2108 ~~calendar year to an nonprofit organization or nonprofit institution business~~
2109 ~~exempting the organization or business institution from the obligation to collect sales~~
2110 ~~taxes on sales of tangible personal property or admissions sold by such organization~~
2111 ~~or business as part of a project to raise funds for a particular charitable project,~~
2112 ~~upon the filing of an application for a charitable project sales tax exemption permit~~
2113 ~~filed not less than thirty (30) days prior to the date for commencement of the~~
2114 ~~exemption on a form required by the City and compliance with each of the following~~
2115 ~~requirements:~~
2116 ~~1.—The nonprofit organization or institution is organized exclusively for~~
2117 ~~religious, educational or charitable purposes;~~
2118 ~~2.—The fundraising project must be to raise funds to be used and expended~~
2119 ~~solely and exclusively for a qualified charitable project as set forth and~~
2120 ~~specified in the application;~~
2121 ~~3.—All proceeds and revenues received from the sales from the project, less~~
2122 ~~only the actual cost of the items sold, including shipping, must be used~~
2123 ~~solely and exclusively for the specific charitable purpose that is identified~~
2124 ~~and approved in the application and permit as issued;~~
2125 ~~4.—Separate accounting records as required by the finance department shall~~
2126 ~~be kept as to all sales; and~~
2127 ~~5.—A tax return on such form as is required by the finance director shall be~~
2128 ~~filed no later than thirty (30) days after the date specified in the~~
2129 ~~application for conclusion of the fundraising project which tax return shall~~
2130 ~~specify:~~
2131 ~~(i)——The total amount of gross receipts received;~~
2132 ~~(ii)——The amount actually paid to the charitable organization to be~~
2133 ~~funded as specified in the application and permit; and~~
2134 ~~(iii)——Such further and additional information, data and verification as is~~
2135 ~~deemed appropriate by the finance director.~~
2136 ~~6.—Sales taxes collected shall be submitted no later than the last day of the~~
2137 ~~month following the month of collection along with the properly~~
2138 ~~completed tax return form.~~

Introduced by: Finance Committee
Introduction Date: July 11, 2017
Public Hearing: July 25, 2017
August 8, 2017

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- 2139 ~~B. Requests for exemptions of \$999 or less may be approved by the Finance Director.~~
2140 ~~All requests for exemptions totaling \$1,000 or more will require City Council~~
2141 ~~approval prior to the exemption being granted.~~
- 2142 ~~C. In the event a tax return is not filed as herein provided, or if all of the funds are not~~
2143 ~~paid in the manner and to the specific charity as required by the permit, the~~
2144 ~~permittee shall be liable and responsible for payment of the entire amount of sales~~
2145 ~~tax that would have been collected and remitted had the sales not been conducted~~
2146 ~~as sales tax exempt, plus interest and penalties thereon as provided for in this~~
2147 ~~chapter from the date the sales tax amount would have become due.~~
- 2148 ~~D. No applicant may be granted a permit under this subsection to exempt more than~~
2149 ~~sixty (60) calendar days or more than ten thousand (\$10,000) dollars in gross sales,~~
2150 ~~in any calendar year.~~

2151

2152 **4.16.180 Revocation of Exemption Status**

- 2153 A. The finance director may revoke any exemption authorization card, or other
2154 authority to obtain an exemption, if the person holding the exemption has been
2155 found to have used the exemption authorization card to obtain an exemption to
2156 which the holder or any other person is not entitled. The burden of proving an
2157 exemption shall be on the person claiming an exemption.
- 2158 B. Upon a determination by the finance director that an exemption holder has misused
2159 or permitted another to misuse the sales tax exemption authorization issued to the
2160 holder, the finance director may revoke the sales tax exemption authorization of
2161 such person by sending written notice via certified mail to the exemption holder.
2162 Before such action, the finance director shall send written notice to the exemption
2163 holder, via certified mail, advising the holder of the violation and that the holder has
2164 the right to request a meeting with the finance director to discuss and resolve the
2165 issue without revocation of the sales tax exemption authorization. Should the holder
2166 not respond within ten (10) calendar days of receipt of the certified letter or should
2167 the holder refuse service of the certified letter, the finance director may revoke the
2168 sales tax exemption authorization of the holder without further action.
- 2169 C. The revocation shall be permanent unless the finance director provides for a shorter
2170 period in the revocation order. In no event, however, shall a revocation be for a
2171 period of less than one (1) year.

2172

2173 **4.16.190 Seller's Liability for Incorrect Determination**

- 2174 A seller shall determine in the first instance whether a sale is exempt under this
2175 chapter. However, if a seller incorrectly determines that a sale is exempt, and does not
2176 collect the tax from the buyer, then the seller is liable to the City for the uncollected
2177 tax.

2178 **4.16.200 Buyer's Protest of Imposed Taxes**

- 2179 A. If a seller determines that a transaction is not exempt, but the buyer believes the
2180 transaction to be exempt, then the buyer may protest but only after paying the tax
2181 deemed due by the seller.
- 2182 B. A buyer who has remitted sales tax under protest in accordance with subsection A of
2183 this section shall file with the finance director a statement of protest on a form
2184 provided by the finance director accompanied by a copy of the receipt or invoice for
2185 the sale within ~~thirty (30) ninety (90)~~ thirty (30) calendar days after the date of the
2186 sale. The buyer shall state on the form the terms of the sale, the amount of the
2187 sale, the goods, rental or service purchased, the location from which the seller
2188 fulfilled the order, and all other information necessary to support the exemption of
2189 the transaction from taxation. A buyer who fails to make a timely filing of a
2190 completed statement of protest waives the right to protest the tax or otherwise to
2191 challenge the imposition of the tax.
- 2192 C. A buyer who files a statement of protest under subsection B of this section bears the
2193 burden of proving that a transaction is exempt from taxation. In addition, the
2194 finance director may investigate facts related to the claim of exemption, and seek
2195 the advice of the city attorney on the claim. The finance director shall issue a
2196 written decision within ~~thirty (30) forty-five (45)~~ calendar days after the filing,
2197 stating the reasons for granting or denying the protest. The ruling will be mailed to
2198 the buyer and the seller at the addresses given on the protest.
- 2199 D. If a protest is granted, the City shall refund the protested tax amount to the buyer
2200 along with the written decision of the finance director.
- 2201 E. If a protest is denied, the buyer may appeal the denial by filing an appeal to the city
2202 manager pursuant to the appeal procedure set out in section 4.16.440.

2203
2204 **4.16.210 Refunds – In General**

- 2205 A. A claim for refund of payment of sales tax which is made more than six (6) months
2206 from the date on which the tax was paid or became due and payable is forever
2207 barred, except for a refund for construction materials and services as set forth in
2208 BMC 4.16.220.
- 2209 B. A claim for refund of payment shall be made by filing with the finance director a
2210 statement of claim, specifying the date the tax was imposed, the amount of protest
2211 or refund claimed and the basis upon which the protest or claim for refund is made.
- 2212 C. The finance director shall respond, in writing, within ~~thirty (30) forty-five (45)~~
2213 calendar days. If the finance director does not respond within ~~thirty (30) days forty-~~
2214 five (45), the claim of refund or protest shall be deemed to be approved.

2215
2216 **~~4.16.220 Refunds for Construction Materials and Services~~**

- 2217 ~~A. The sale of construction materials and services exceeding Three Thousand (\$3,000)~~
2218 ~~dollars for a single family residence in which a private individual resides full-time,~~
2219 ~~including labor and materials for the construction, improvement, renovation, or~~
2220 ~~remodel of such a single family residence, is eligible for a sales tax rebate only if:~~

Action:
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- 2221 1. ~~The sale of such labor and materials is to the private individual who resides in~~
2222 ~~the residence; and~~
2223 2. ~~The homeowner has obtained a site plan permit from the City prior to the start~~
2224 ~~of the project; and~~
2225 3. ~~The materials become a part of the permanent structure; and~~
2226 4. ~~The building or construction services are performed on site, except for the~~
2227 ~~delivery of materials to, or away from, the construction site.~~
2228 B. ~~Purchasers shall pay all sales taxes on such materials and services and shall apply~~
2229 ~~for a refund on a form approved by the finance director.~~
2230 C. ~~Where the new construction is a remodel that creates additional living space,~~
2231 ~~material used in the creation of additional square footage of living space may be~~
2232 ~~eligible if square footage was increased by more than ten (10%) percent of the size~~
2233 ~~of the structure prior to the remodel. Materials used on portions of a remodel that~~
2234 ~~do not increase living space by at least ten (10%) percent are not eligible for the~~
2235 ~~exemption.~~
2236 D. ~~If the dwelling is a duplex, it may only qualify to the extent of those portions of tax~~
2237 ~~attributable to improvements in the owner-occupied permanent principle place of~~
2238 ~~residence portion of the duplex.~~
2239 E. ~~A purchaser seeking a refund for construction materials and services shall submit to~~
2240 ~~the finance director, no later than February 1st of each year, a completed sales tax~~
2241 ~~refund form for the previous year.~~
2242 F. ~~The purchaser shall attach a copy of the site plan permit issued for the project for~~
2243 ~~which the refund is sought, and receipts for all purchases of construction materials~~
2244 ~~and services within the City for each project for which the purchaser seeks a refund.~~
2245 G. ~~Applications for refund shall be made to the finance director and shall be supported~~
2246 ~~by detailed invoices. Such invoices must be presented in an orderly fashion with the~~
2247 ~~total amount of refund being applied for totaled. The finance director will disallow~~
2248 ~~unsupported applications or portions thereof.~~
2249 H. ~~If a project is not completed within one (1) year, the purchaser shall submit an~~
2250 ~~affidavit with the sales tax refund form stating that the work on the same project is~~
2251 ~~continuing in order to obtain a refund for the following year. The total time period~~
2252 ~~for sales tax refunds on any one (1) project cannot exceed two (2) years.~~
2253 I. ~~The refund shall be the amount of sales tax actually paid for materials and services~~
2254 ~~used in the construction. This shall include lumber, building materials, electrical and~~
2255 ~~plumbing supplies or services, furnace and other heating apparatus and permanent~~
2256 ~~carpeting and major appliances, such as a kitchen stove, refrigerator, washer, dryer~~
2257 ~~or freezer. Items not included are throw rugs, televisions, furniture, drapery,~~
2258 ~~pictures, minor appliances and other similar non-permanent or construction related~~
2259 ~~items. Also not included are tools and machinery purchased or rented to use in the~~
2260 ~~construction of the dwelling, nor shall it include spare material(s) not used.~~
2261 J. ~~Upon application for a refund, the applicant shall certify, under penalty of perjury:~~
2262 1. ~~The sales tax requested to be refunded has actually already been paid to the~~
2263 ~~supplier(s);~~

- 2264 2. ~~That all items for which a refund is requested were consumed in the~~
2265 ~~construction of the dwelling or have actually been installed in the dwelling;~~
2266 3. ~~That all services were used to prepare the lot for construction, construct the~~
2267 ~~dwelling or install materials in the dwelling.~~
2268 K. ~~Only one refund will be issued in conjunction with the same site plan permit. If a~~
2269 ~~homeowner chooses to apply for a refund prior to completion of construction during~~
2270 ~~the two (2) year period commencing with the issuance of the site plan permit and~~
2271 ~~subsequently incurs additional construction costs after the issuance of a refund,~~
2272 ~~sales taxes paid on those additional costs will not be refunded, even if incurred,~~
2273 ~~within two (2) years after the issuance of the site plan permit.~~
2274 L. ~~All services for the repair or maintenance of real property are excluded from this~~
2275 ~~exemption.~~
2276

2277 **4.16.230 Tax Filing Schedule**

- 2278 A. All persons subject to this chapter shall file a return on a form or in a format
2279 prescribed by the City and shall pay the tax due. Each person engaged in business
2280 in the City subject to taxation shall file a return in accordance with the following:
2281
2282 1. Quarterly. Unless as otherwise provided for in this section, sellers shall file on or
2283 before 3:00 pm local time on the last day of the month following the end of each
2284 quarter year ending March 31st, June 30th, September 30th and December 31st.
2285 2. Monthly. If a seller fails to file or is late in filing returns for two (2) of the last
2286 four (4) quarters, the finance director may require the seller to submit returns
2287 and payments each month. The finance director may also require a seller to
2288 submit returns and payments monthly for other good cause, including, but not
2289 limited, to a lack of sales history, seasonal sales, etc.
2290 3. Yearly. Upon approval of the finance director, a seller that has a documented
2291 history of less than twenty-four thousand (\$24,000) dollars in taxable sales
2292 annually as well as a documented history of on-time filings and payments, may
2293 file its sales tax return and remittance of taxes on an annual basis. Returns and
2294 taxes filed and paid on an annual basis must be received no later than July 15th
2295 following the calendar year for which the tax return is required to be submitted.
2296 Penalties for late filing of an annual return and for the late remittance of taxes
2297 shall be double the rate applicable to monthly returns and interest shall accrue
2298 on late annual remittances from July 1st of the preceding year.
2299 4. Filing to be continuous. A person who has filed a sales tax return will be
2300 presumed to be making sales in successive quarters unless the person files a
2301 return showing a termination or sale of their business in accordance with section
2302 4.16.380.
2303 B. **Special and/or Seasonal Events.** For all sellers only operating at special and/or
2304 seasonal events, the tax return shall be due on or before the 5th business day last
2305 business day of the month following the event(s).
2306 C. It is the duty and responsibility of every seller liable for the collection of any tax
2307 imposed herein, unless otherwise provided herein, to file with the City upon forms

- 2308 prescribed and furnished by the City, a return, prepared under oath, setting forth
2309 the amount of all sales, taxable and nontaxable, the amount of tax thereon and
2310 other information the City may require on the form or forms.
- 2311 D. The completed and executed return, together with the remittance in full for the
2312 amount of the tax due, shall be transmitted to and must be received (not merely
2313 postmarked) by the finance department on or before 3:00 pm local time on:
- 2314 1. Quarterly Filers: The last day of the month following the end of each quarter.
2315 2. Monthly Filers: The last day of the following month.
2316 3. Annual Filers: February 15th of the following year.
2317 4. Seasonal Filers: The 5th business day following the event.
- 2318 Failure of the United States Postal Service or any private delivery service to make
2319 timely delivery of a sales tax return or the related remittance of sales tax shall not
2320 excuse an untimely filing or remittance.
- 2321 E. If the last day of the month following the end of the filing period falls on a Saturday,
2322 Sunday or federal, state or city holiday, the due date will be extended until the next
2323 business day immediately following. Exceptions will be made for proper proof of
2324 remittance (such as certified mail receipt, weigh bill, etc..) showing timely submittal.
- 2325 F. Any person holding or required to hold a City of Bethel business license shall file a
2326 sales tax return even though no tax may be due. This return shall show why no tax
2327 is due. If the person intends to continue doing business they shall file a return
2328 reflecting no sales and a statement indicating their intent to continue doing
2329 business, and shall continue to do so each filing period until they cease doing
2330 business or sell the business. If the person intends to cease doing business they
2331 shall file a final return and statement of business closure, and must register before
2332 restarting operations. If the business is sold, then the person must file a final return
2333 upon sale of the business in accordance with BMC 4.16.380.
- 2334 G. The seller shall prepare the return and remit sales tax to the City on the same basis,
2335 cash or accrual, which the seller uses in preparing its federal income tax return. The
2336 seller shall sign the return, and transmit the return, with the amount of sales tax
2337 that it shows to be due, to the City.
- 2338 H. Sellers failing to comply with the provisions of this chapter shall, if required by the
2339 City, file and transmit collected sales taxes monthly until such time that they have
2340 demonstrated to the City that they are or will be able to comply with the provisions
2341 of this chapter. Six (6) consecutive on-time sales tax filings shall establish the
2342 presumption of compliance and return to quarterly filing status. Any business that
2343 submits two (2) delinquent sales tax returns consecutively will automatically be
2344 required to report monthly until such time they can demonstrate their ability to
2345 comply with the provisions of this chapter.
- 2346 I. Sales tax returns shall be accompanied by proof, satisfactory to the City, as to
2347 claimed exemptions or exceptions from tax herein imposed. In the absence of
2348 proof, the sales, rentals or services shall be deemed to have been taxable. The
2349 burden of establishing any tax exemption is upon the claimant.

2350 ~~J. The failure of the U.S. Postal Service or any private delivery service to make timely~~
2351 ~~delivery of a sales tax return or the related remittance of sales tax shall not excuse~~
2352 ~~an untimely filing or remittance.~~

2353 K. The preparer of the sales tax return form shall keep and maintain all documentation
2354 supporting any and all claims of exempted sales and purchases and be able to
2355 produce the documentation if requested by the City. Documentation for exempted
2356 sales should include the number of the City exemption authorization card presented
2357 by the buyer at the time of the purchase, the date of the purchase, the name of the
2358 person making the purchase, the organization making the purchase, the total
2359 amount of the purchase and the amount of sales taxes exempted. Failure to
2360 provide such documentation may invalidate that portion of the claim of exemption
2361 for which no documentation is provided.
2362

04.16.240 Contents of Tax Returns

2364 A. Every seller required by this chapter to collect sales tax shall file with the City, upon
2365 forms furnished by the City, a return setting forth the following information with
2366 totals rounded to the nearest cent:

2367 1. Gross Receipts, divided into the following categories:

2368 (i) Sales – both retail and wholesale, including materials;

2369 (ii) Rentals of property or equipment;

2370 (iii) Services

2371 2. Exemptions – by exemption category with a detailed explanation as to buyer,
2372 amount of sale, sale date, class of exemption;

2373 3. Computation of taxes to be remitted;

2374 4. Such other information as may be required by the City.

2375 B. Each tax return remitted by a seller shall be signed by a responsible individual who
2376 shall attest as to the completeness and accuracy of the information on the tax
2377 return.

2378 C. Seller's operating within the City of Bethel for even one day of the month shall file a
2379 tax return for that reporting period even if no tax may be due.

2380 D. The City reserves the right to reject a filed return for failure to comply with the
2381 requirements of this chapter for up to three (3) months from the date of filing. The
2382 City shall give written notice to a seller, via certified mail, that a return has been
2383 rejected, including the reason for the rejection.
2384

4.16.250 Security Deposits/Bonds

2386 A. The City may require a seller to deposit with the City security in the form and
2387 amount that the City determines is appropriate. The deposit may not be more than
2388 twice the estimated average liability for the period for which the return is required to
2389 be filed or ten thousand (\$10,000) dollars, whichever is less. The amount of
2390 security may be increased or decreased by the City subject to the limitations
2391 provided in this section.

- 2392 B. If necessary, the City may apply the security to recover a sales tax amount required
2393 to be collected, including interest and penalties. Notice of the intent to apply the
2394 security shall be sent to the person who deposited the security.
2395 C. In lieu of a security, the City will require a seller to file a bond issued by a surety
2396 company authorized to transact business in the State of Alaska to guarantee the
2397 solvency and responsibility if such seller failed to remit sales tax on a previous
2398 business to the City.
2399 D. In addition to the other requirements of this section, the City will require the
2400 corporate officers or directors of a corporation to provide a personal guaranty and
2401 assumption of liability for the payment of the tax due under this chapter.
2402

4.16.260 Extension of Time to File Tax Return

- 2404 A. Upon written application of a seller, stating the reasons therefore, the finance
2405 director may extend the time to file a sales tax return but only if the finance director
2406 finds each of the following:
2407 1. For reasons beyond the seller's reasonable control, the seller has been unable to
2408 maintain in a current condition the books and records that contain the
2409 information required to complete the return;
2410 2. Such extension is a dire necessity for bookkeeping reasons and would avert
2411 undue hardship upon the seller;
2412 3. The seller has a reasonable plan to cure the problem that caused the seller to
2413 apply for an extension and the seller will commence and agrees to proceed with
2414 diligence to cure the problem, and the problem will be cured within a reasonable
2415 time;
2416 4. At the time of the application, the seller is not delinquent in filing any other sales
2417 tax return, in remitting sales tax to the City or otherwise in violation of this
2418 chapter
2419 5. No such extension shall be made retroactively to cover existing delinquencies.
2420 B. ~~A penalty assessed under this section for the delinquent remittance of sales tax for~~
2421 ~~failure to file a sales tax return may be waived by the finance director, upon written~~
2422 ~~application of the seller accompanied by a payment of all delinquent sales tax,~~
2423 ~~interest and penalty otherwise owed by the seller to the City, within forty five (45)~~
2424 ~~business days after the date of delinquency. A seller may not be granted more than~~
2425 ~~one waiver of penalty under this subsection in any period of twenty four (24)~~
2426 ~~consecutive months. The finance director shall report all such waivers of penalty to~~
2427 ~~the council in writing, at least once each calendar quarter.~~
2428

4.16.270 Penalties and Interest for Late Filing

- 2430 A. A late filing fee of Twenty-Five (\$25) dollars per month or partial month shall be
2431 added to all late-filed sales tax reports in addition to interest and penalties.
2432 B. Delinquent sales tax bears interest at the rate of fifteen (15%) percent per annum
2433 until paid.

2434 C. In addition, delinquent sales tax shall be subject to a late payment an additional
 2435 penalty as follows:

<u>If payment made:</u>	<u>Additional Penalty (Percentage of Tax)</u>
<u>Within seven (7) calendar days after delinquency date</u>	<u>One (1%) percent</u>
<u>More than seven (7) calendar days but less than thirty (30) calendar days after delinquency date</u>	<u>Seven (7%) percent</u>
<u>Thirty (30) calendar days or more but less than sixty (60) calendar days</u>	<u>Fifteen (15%) percent</u>
<u>Sixty calendar days or more</u>	<u>Twenty (20%) percent</u>

2436 The penalty does not bear interest. The penalty shall be imposed for each
 2437 month or part of a month during which the delinquency or failure to file exists.

2438 D. Penalties and interest shall be assessed and collected in the same manner as the tax
 2439 is assessed and collected.

2440 E. The filing of an incomplete return, or the failure to remit all taxes, shall be treated
 2441 as the filing of no return.

2442 F. A penalty assessed under this section for the delinquent remittance of sales tax for
 2443 failure to file a sales tax return may be waived by the finance director, upon written
 2444 application of the seller accompanied by a payment of all delinquent sales tax,
 2445 interest and penalty otherwise owed by the seller to the City, within forty-five (45)
 2446 business days after the date of delinquency. A seller may not be granted more than
 2447 one waiver of penalty under this subsection in any period of twenty-four (24)
 2448 consecutive months. The finance director shall report all such waivers of penalty to
 2449 the council in writing, at least once each calendar quarter.

2450
 2451 **4.16.280 Repayment Plans**

2452 A. The City may agree to enter into a repayment plan with a delinquent seller. No
 2453 repayment plan shall be valid unless agreed to by both parties in writing.

2454 B. A seller shall not be eligible to enter into a repayment plan with the City if the seller
 2455 has defaulted on a repayment plan in the previous two (2) calendar years.

2456 C. The repayment plan shall include a secured promissory note that substantially
 2457 complies with the following terms:

- 2458 1. The seller agrees to pay a minimum of ten (10%) percent down payment on the
 2459 tax, interest and penalty amount due. The down payment shall be applied first
 2460 to penalty, then to accumulated interest, and then to the tax owed.

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- 2461 2. The seller agrees to pay the balance of the tax, penalty and interest owed in
2462 monthly installments over a period not to exceed two (2) years.
2463 3. Interest at a rate of fifteen (15%) percent per annum shall accrue on the
2464 principal sum due. Interest shall not apply to penalties owed or to interest
2465 accrued at the time the repayment plan is executed or accruing during the term
2466 of the repayment plan.
2467 4. If the seller is a corporation or a limited liability entity the seller agrees to
2468 provide a personal guarantee of the obligations under the repayment plan.
2469 5. The seller agrees to pay all future tax bills in accordance with the provisions of
2470 this chapter.
2471 6. The seller agrees to provide a security interest in the form of a sales tax lien for
2472 the entire unpaid balance of the promissory note to be recorded by the City at
2473 the time the repayment plan is signed. The seller shall be responsible for the
2474 cost of recording the tax lien.
2475 D. If a seller fails to pay two (2) or more payments as required by the repayment plan
2476 agreement, the seller shall be in default and the entire amount owed at the time of
2477 default shall become immediately due. The City will send the seller a notice of
2478 default. The City may immediately foreclose on the sales tax lien or take any other
2479 remedy available under the law including placing the seller on the City's denied
2480 vendor list.
2481

2482 **4.16.290 Forgiveness of Uncollected Taxes, Penalties and Interest**

- 2483 A. The city manager, with the concurrence of the city council, may forgive the payment
2484 of uncollected sales taxes, interest and penalties owed by a seller to the City upon a
2485 determination by the city manager, with confirmation by the city attorney, that:
2486 1. Such uncollected taxes have never been collected by a substantial portion of a
2487 clearly definable class of sellers; or
2488 2. Such uncollected taxes have never been collected on a clearly defined type of
2489 transaction or service.
2490 B. The city manager may, upon recommendation of the city attorney, and with the
2491 concurrence of the city council, authorize forgiveness of uncollected sales taxes,
2492 interest and penalty thereon and penalties for failure to file, as part of the
2493 compromise and settlement of a disputed claim in an action for collection of such
2494 funds.
2495 C. Except as provided in subsections A and B, the City may not forgive or waive any
2496 amount of uncollected sales tax, interest or penalty. This section shall not prevent
2497 the Finance Director, with the concurrence of the City Manager, from discharging
2498 debts determined to cost more to collect than what is owed. Such discharges shall
2499 occur quarterly and a report shall be provided to the Council of all such discharges
2500 at the next regularly scheduled meeting following said discharge.

2501 **4.16.300 Application of Sales Tax Payments.**
2502

- 2503 A. Payments on sales tax accounts shall be applied to the oldest balance due, by sales
2504 tax period, in the following order: (1) first to accrued fees and costs, (2) then
2505 accrued interest, (3) then accrued penalty, (4) then to the tax principal; and (5)
2506 then the next oldest balance due, in the above order, and so forth, until the
2507 payment is applied in full; except as otherwise provided in this section.
2508 B. Payment on sales taxes submitted with sales tax returns shall be applied to the most
2509 current return period, in the following order: (1) first to accrued interest, (2) then to
2510 accrued penalty, and (3) then to the tax principal. Any remaining moneys shall be
2511 applied as in subsection A above.
2512 C. Payments on sales tax accounts where sales tax liens have been recorded to secure
2513 payment on the accounts shall be applied to the oldest unsecured balance due, by
2514 sales tax period, in the order listed in subsection A above.
2515

4.16.310 Application of Overpayments

- 2517 A. A seller in good standing who, through clerical or similar error, remits a tax under
2518 this chapter that exceeds the amount actually due or to which the City is not entitled
2519 by law, may, within one (1) calendar year from the due date of the tax or the
2520 collection of the tax, whichever is earlier, apply in writing to the finance director for
2521 a refund.
2522 B. A claim for refund is barred unless:
2523 1. The claimant files an amended tax return within one (1) calendar year of the due
2524 date of the return, on the form prescribed by the City;
2525 2. Made timely (the failure to file a claim for refund within the time allowed shall
2526 forever bar the claim); and
2527 3. The claimant files an amended return pursuant to the requirements of section
2528 4.16.320. this chapter.
2529 C. When the City initiates an audit or estimate pursuant to BMC 4.16.350, .360, the
2530 period for claiming a refund under subsections A, above, is the same as the period
2531 under audit, but in no case more than three (3) years from the date of sale.
2532 D. The City shall not be liable for interest on any refund claimed or paid, or for any costs
2533 incurred by a buyer or seller in claiming or obtaining a refund.
2534 E. If the finance director determines, in writing, a refund is not due or is not due in the
2535 amount claimed, then the taxpayer may appeal pursuant to the provisions set out in
2536 BMC 4.16.440.
2537 F. The procedure set forth in this section is the recognized procedure whereby a refund
2538 may be made; and the taxpayer must first duly comply with this section and BMC
2539 4.16.440 [appeals] as conditions precedent to bringing a suit to recover said taxes.
2540 Any person who has not timely availed themselves of these procedures shall be
2541 deemed to have waived any right to such refund as well as the right to recover said
2542 tax and interest.

4.16.320 Amended returns.

- 2544 A. A seller may file an amended sales tax return, with supporting documentation, and
2545 the City may accept the amended return, but only in the following circumstances:

- 2546 1. The amended return is filed within one (1) year of the original due date for the
2547 return; and
2548 2. The seller provides a written justification for requesting approval of the amended
2549 return; and
2550 3. The seller held a current City business license for the period for which the
2551 amended return was filed and filed an original return for that period; and
2552 4. The seller agrees to submit to an audit upon request of the City.
2553 C. The City shall notify the seller in writing whether it accepts or rejects an amended
2554 return, including the reasons for any rejection.
2555 D. The City may adjust a return for a seller if, after investigation, the City determines
2556 the figure included in the original returns are incorrect, and that additional sales
2557 taxes are due; and the City adjusts the return within two (2) years of the original
2558 due date for the return.
2559

4.16.330 Recordkeeping Required of all Sellers

- 2560 A. Every seller engaged in activity subject to this chapter shall keep and preserve
2561 suitable records of all sales made by the seller and such other books or accounts as
2562 may be necessary to determine the amount of tax which it is obliged to collect,
2563 including records of the gross daily sales, together with invoices of purchases and
2564 sales, bills of lading, bills of sale or other pertinent records and documents as will
2565 substantiate and prove the accuracy of a tax return.
2566 B. It shall also be the duty of every seller who makes exempt sales to keep records of
2567 such sales, which shall be subject to examination by the City, or any authorized
2568 agent thereof, while engaged in checking or auditing the records of any seller
2569 required to make a report under the terms of this chapter.
2570 C. "Suitable records of all sales made" as used in subsection A of this section shall
2571 mean at a minimum a daily "Z" or "Z-total" report or equivalent, for all businesses
2572 with a cash register (A "Z" or "Z-total" report is the report generated by the cash
2573 register at the end of each business day, which calculates, at least, the totals for
2574 each department key, total sales and total receipts – although some cash registers
2575 have more detailed "Z" or "Z-total" reports). All sales made at businesses with cash
2576 registers must be rung on the cash registers. Businesses that do not have cash
2577 registers shall use another method, such as sequentially numbered invoices or
2578 sequentially numbered cash receipt books, for recording daily sales. Summaries of
2579 invoices are suitable records of all sales made, provided that copies of all back-up
2580 invoices are preserved as required under this chapter. Whatever records are kept
2581 must reflect the total daily purchases of taxable items. If no taxable sales are made
2582 on a business day, the records kept shall so reflect "zero" sales on that day.
2583 Records must also be kept to substantiate any claimed deductions or exclusions
2584 authorized by law. Records may be written, stored on data processing equipment or
2585 may be in any form that the City may readily examine.
2586 D. Unless a specific, written exception has been granted by the finance director, with
2587 the approval of the city manager, all sellers within the City required to provide
2588

- 2589 receipts as per section 4.16.140(A) who sell food, beverages, fuel and/or goods
2590 that have gross monthly sales of two hundred (\$200) dollars or more on an
2591 annualized basis must have a cash register and must record each retail sale on a
2592 cash register that provides, at a minimum, a daily "Z" or "Z-total" report, or
2593 equivalent, as set forth in subsection C of this section.
- 2594 E. Records shall be kept in a systematic manner conforming to accepted accounting
2595 methods and procedures. Such records include:
- 2596 1. The books of accounts ordinarily maintained by a prudent business person.
2597 Records and accounting information stored on computers or in an electronic
2598 format must be provided to the City in a readable form when requested by the
2599 City.
- 2600 2. Documents of original entry such as original source documents, pre-numbered
2601 sequential source documents, pre-numbered sequential receipts, cash register
2602 tapes, sales journals, invoices, job orders, contracts, or other documents of
2603 original entry that support the entries in the books of accounts;
- 2604 3. All schedules or working papers used to prepare gross and taxable sales results,
2605 including receipts or invoices showing exempt sales.
- 2606 F. Records must show:
- 2607 1. Gross receipts and amounts due from all taxable and exempt sales; and
2608 2. All exemptions or deductions from gross sales, as set out in section 4.16.150;
2609 and
- 2610 3. The total purchase price of all goods and other property purchased for sale,
2611 resale, consumption, or lease.
- 2612 G. Every seller shall preserve suitable records of sales for a period of three (3) years
2613 from the date of the return reporting such sales, and shall preserve for a period of
2614 three (3) years all invoices of goods and merchandise purchased for resale, and all
2615 such other books, invoices and records as may be necessary to accurately determine
2616 the amount of taxes which the seller was obliged to collect under this chapter.
- 2617 H. The City finance department may examine and audit any relevant books, papers,
2618 records, returns or memoranda of any seller, may require the attendance of any
2619 seller, or any officer or employee of a seller, at a meeting or hearing, and may
2620 require production of all relevant business records, in order to determine whether
2621 the seller has complied with this chapter.
- 2622 I. The burden of proving that a sale, rental or service was not taxable shall be upon
2623 the seller.

4.16.340 Loss of Records

2626 A seller shall immediately notify the City of any fire, theft or other casualty which
2627 prevents their compliance with this chapter. The casualty constitutes a defense to any
2628 penalty provided in this chapter if determined to be the proximate cause of the failure
2629 to comply for a given reporting period, but does not excuse the seller from liability for
2630 taxes due. Accidental loss of funds or records is not a defense against penalties of this
2631 chapter.

2633 **4.16.350 Audits.**

- 2634 A. Any seller who has established a sales tax account with the City, who is required to
2635 collect and remit sales tax, or who is required to submit a sales tax return, is subject
2636 to a discretionary sales tax audit at any time. The purpose of such an audit is to
2637 examine the business records of the seller in order to determine whether
2638 appropriate amounts of sales tax revenue have been collected by the seller and
2639 remitted to the City.
- 2640 B. The City is not bound to accept a sales tax return as correct. The finance director
2641 may make an independent investigation of all retail sales or transactions conducted
2642 within the City.
- 2643 C. The records that a seller is required to maintain under this chapter shall be subject
2644 to inspection and copying by authorized employees or agents of the City for the
2645 purpose of auditing any return filed under this chapter, or to determine the seller's
2646 liability for sales tax where no return has been filed.
- 2647 D. In addition to the information required on returns, the City may request, and the
2648 seller must furnish, any additional reasonable information deemed necessary for a
2649 correct computation of the tax.
- 2650 E. The City may adjust a return for a seller if, after investigation or audit, the City
2651 determines that the figures included in the original return are incorrect, and that
2652 additional sales taxes are due; and the City adjusts the return within three (3) years
2653 of the original due date for the return.
- 2654 F. For the purpose of ascertaining the correctness of a return or the amount of taxes
2655 owed when a return has not been filed, the finance director may conduct
2656 investigations, hearings and audits and to that end may examine any relevant
2657 books, papers, statements, memoranda, records, accounts or other writings of any
2658 seller at any reasonable hour on the premises of the seller and may require the
2659 attendance of any officer or employee of the seller. Upon written demand by the
2660 finance director, the seller shall present for examination, in the office of the finance
2661 director, such books, papers, statements, memoranda, records, accounts and other
2662 written material as may be set out in the demand unless the finance director and
2663 the person upon whom the demand is made agree to presentation of such materials
2664 at a different place.
- 2665 G. The city manager may issue subpoenas to compel attendance or to require
2666 production of relevant books, papers, records or memoranda. If any person refuses
2667 to obey any such subpoena, the city manager may refer the matter to the city
2668 attorney for an application to the superior court for an order requiring the person to
2669 comply therewith.
- 2670 H. Any seller or person engaged in business who is unable or unwilling to submit their
2671 records within the City shall be required to pay the City for all necessary expenses
2672 incurred for the examination and inspection of their records maintained outside the
2673 City.

- 2674 I. After the completion of a sales tax audit, sellers subject to the audit will be notified
2675 of the results of the audit by letter. the results of the audit will be sent to the
2676 business owner's address of record.
2677 J. In the event the finance director, upon completion of an audit, discovers more than
2678 five hundred (\$500) dollars in additional sales taxes due from a seller resulting from
2679 a seller's failure to accurately report sales and taxes due thereupon, the seller shall
2680 bear responsibility for the full cost of the audit. The audit fee assessment will be in
2681 addition to interest and penalties applicable to amounts deemed to be delinquent by
2682 the finance director at the time of the conclusion of the audit.
2683

4.16.360 Estimated Tax.

- 2685 A. In the event the finance director is unable to ascertain the tax due from a seller by
2686 reason of the failure of the seller to keep accurate books, allow inspection, or file a
2687 return, or by reason of the seller filing a false or inaccurate return, the finance
2688 director may make an estimate of the tax due based on any evidence in their
2689 possession.
2690 B. Sales taxes may also be estimated, based on any information available, whenever
2691 the finance director has reasonable cause to believe that any information on a sales
2692 tax return is not accurate.
2693 C. A seller's tax liability under this chapter may be determined and assessed for a
2694 period of three (3) years after the date the return was filed or due to be filed with
2695 the City. No civil action for the collection of such tax may be commenced after the
2696 expiration of the three (3) year period except an action for taxes, penalties and
2697 interest due from those filing periods that are the subject of a written demand or
2698 assessment made within the three (3) year period, unless the seller waives the
2699 protection of this section.
2700 D. The City shall notify the seller, in writing, that the City has estimated the amount of
2701 sales tax that is due from the seller, stating the estimated amount. The City shall
2702 serve the notice on the seller by delivering the notice to the seller's place of
2703 business, or by mailing the notice by certified mail, return receipt requested, to the
2704 seller's last known mailing address. A seller who refuses the certified mail will be
2705 considered to have accepted the certified mail for purposes of service.
2706 E. The City's estimate of the amount of sales tax that is due from a seller shall become
2707 a final determination of the amount that is due unless the seller, within fifteen (15)
2708 calendar days after service of notice of the estimated tax:
2709 1. Files a complete and accurate sales tax return for the delinquent periods
2710 supported by satisfactory records and accompanied by a full remittance of all
2711 taxes, interest, penalties, costs and other charges due; or
2712 2. Files a written notice with the finance director appealing the estimated tax
2713 amount in accordance with the appeal procedures set out in section 4.16.440 of
2714 this chapter.
2715 3. Arguments or reasons for failure to timely file a return and remit taxes collected
2716 shall not be considered a valid basis or grounds for granting an appeal. The
2717 basis and grounds for granting an appeal of an assessment are:

- 2718 (i) The identity of the seller is in error;
2719 (ii) The amount of the debt is erroneous due to a clerical error (and the nature
2720 and extent of the error is specified in the request for appeal); or
2721 (iii) The seller disputes the denial of exemption(s) for certain sales.
2722 F. The amount of sales tax finally determined to be due under this section shall bear
2723 interest and penalty as provided in Section 04.16.270, from the date that the sales
2724 tax originally was due, plus an additional civil penalty of fifty dollars (\$50.00) for
2725 each calendar month or partial month for which the amount of sales tax that is due
2726 has been determined.
2727 G. ~~If the seller protests liability for sales tax, penalties or interest, the seller shall pay~~
2728 ~~the tax, penalties and interest under a written protest filed before or with the~~
2729 ~~payment and setting forth the basis for the protest. No appeal from the sales tax or~~
2730 ~~any action for a refund may be filed or maintained nor may a defense to~~
2731 ~~nonpayment be maintained in a civil action unless the amount in dispute has been~~
2732 ~~paid under protest as provided in this section.~~
2733

4.16.370 Accelerated Returns

- 2734
2735 A. A seller who is required to file a return and remit taxes to the City, who fails for
2736 more than sixty (60) days to file a return or remit the taxes due or who has, within a
2737 twelve (12) month period, filed or paid taxes late on two (2) or more occasions, may
2738 be required to file and remit on an accelerated basis.
2739 B. The timeframe for filing on an accelerated basis will be determined by the finance
2740 director and will be communicated in writing prior to implementation.
2741

4.16.380 Cessation or Transfer of Business.

- 2742
2743 A. A seller who sells, leases, conveys, forfeits, transfers or assigns any portion of their
2744 business interest, including a creditor or secured party, shall make a final sales tax
2745 return within fifteen (15) days after the date of such conveyance.
2746 B. At least ten (10) business days before any such sale is completed, the seller shall send
2747 to the finance director, by certified first-class mail, postage prepaid, a notice that the
2748 seller's interest is to be conveyed and shall include the name, address and telephone
2749 number of the person or entity to whom the interest is to be conveyed.
2750 C. Upon notice of sale and disclosure of buyer, the Finance Director, shall be authorized
2751 to disclose the status of the seller's sales tax account to the named buyer or assignee.
2752 D. Upon receipt of notice of a sale or transfer, the Finance Director shall send the
2753 transferee a copy of the sales tax code with this section highlighted.
2754 E. Neither the Finance Director's failure to give the notice nor the transferee's failure to
2755 receive the notice shall relieve the transferee of any obligations under this section.
2756 F. Following receipt of said notice, the City shall have sixty (60) days in which to perform
2757 a final sales tax audit and assess sales tax liability against the seller of the business.
2758 If the notice is not mailed at least ten (10) business days before the sale is completed,
2759 the City shall have twelve (12) months from the later of the completion of the sale or
2760 the City's knowledge of the completion of the sale within which to begin a final sales

2761 tax audit and assess sales tax liability against the seller of the business. The City may
2762 also initiate an estimated assessment if the requirements for such an assessment
2763 exist.

2764 G. A person acquiring any interest of a seller in a business required to collect the tax
2765 under this chapter assumes the liability of the seller for all taxes due the City, whether
2766 current or delinquent, whether known to the City or discovered later, and for all
2767 interest, penalties, costs and charges on such taxes.

2768 H. Before the effective date of the transfer, the transferee of a business shall obtain from
2769 the City, an estimate of the delinquent sales tax, penalty and interest, if any, owed by
2770 the seller as of the date of the transfer, and shall withhold that amount from the
2771 consideration payable for the transfer, until the seller has produced a receipt from the
2772 City showing that all tax obligations imposed by this chapter have been paid. A
2773 transferee that fails to withhold the amount required under this subsection shall be
2774 liable to the City for the lesser of the amount of delinquent sales tax, penalty and
2775 interest due from the seller as of the date of transfer, and the amount that the
2776 transferee was required to withhold.

2777 I. In this section, the term "transfer" includes the following:

2778 1. A change in voting control, or in more than fifty (50%) percent of the ownership
2779 interest in a seller that is a corporation, limited liability company or partnership;
2780 or

2781 2. A sale of substantially all of the assets used in the business of the seller; or

2782 3. The initiation of a lease, management agreement or other arrangement under
2783 which another person becomes entitled to the seller's gross receipts from sales,
2784 rentals or services.

2785 J. Subsection H shall not apply to any person who acquires their ownership interest in
2786 the ongoing business as a result of the foreclosure of a lien that has priority over the
2787 City's sales tax lien.

2788 K. Upon termination, dissolution or abandonment of a corporate business, any officer
2789 having control or supervision of sales tax funds collected or who is charged with
2790 responsibility for the filing of returns or the payment of sales tax funds collected,
2791 shall be personally liable for any unpaid taxes, interest, administrative costs and
2792 penalties on those taxes if such officer willfully fails to pay or cause to be paid any
2793 taxes due from the corporation. In addition, regardless of willfulness, each director
2794 of the corporation shall be jointly and severally liable for said amounts. The officer
2795 shall be liable only for taxes collected which became due during the period he or she
2796 had the control, supervision, responsibility or duty to act for the corporation. This
2797 section does not relieve the corporation of other tax liabilities or otherwise impair
2798 other tax collection remedies afforded by law.

2799 L. A seller who terminates his or her business without the benefit of a purchaser,
2800 successor or assign, shall make a final tax return and settlement of tax obligations
2801 within thirty (30) days after such termination. If a final return and settlement are not
2802 received within thirty (30) days of the termination, the seller shall pay a penalty of
2803 one hundred dollars (\$100), plus an additional penalty of twenty-five dollars (\$25) for
2804 each additional thirty (30) day period, or part of such a period, during which the final

2805 return and settlement have not been made, for a maximum of six (6) additional
2806 periods.

2807 M. A new or renewed business license may not be issued to a seller who has failed to
2808 make the return and settlement under this section until the return and settlement
2809 required have been made and the penalty imposed has been paid.

2810
2811 ~~A. A seller that ceases to engage in business in the City without a transfer of the~~
2812 ~~business shall file with the City a final sales tax return, and remit any sales tax due,~~
2813 ~~for the period ending on the date that the seller ceases to engage in business in the~~
2814 ~~City, not later than fifteen (15) days after that date.~~

2815 ~~B. A seller that transfers its business in the City shall provide the transferee with~~
2816 ~~written notice of the transferee's obligations under this section not less than fifteen~~
2817 ~~(15) days before the effective date of the transfer, but neither the seller's failure to~~
2818 ~~give the notice nor the transferee's failure to receive the notice shall relieve the~~
2819 ~~transferee of any such obligation. The seller shall file with the City a final sales tax~~
2820 ~~return, and remit any sales tax due, for the period ending on the effective date of~~
2821 ~~the transfer, not later than fifteen (15) days after the effective date, and provide a~~
2822 ~~copy of the return to the transferee. The seller shall file with the final sales tax~~
2823 ~~return proof that it provided the transferee with the written notice described in the~~
2824 ~~first sentence of this subsection.~~

2825 ~~C. The transferee of a business shall obtain from the City, before the effective date of~~
2826 ~~the transfer, an estimate of the delinquent sales tax, penalty and interest, if any,~~
2827 ~~owed by the seller as of the date of the transfer, and shall withhold that amount~~
2828 ~~from the consideration payable for the transfer, until the seller has produced a~~
2829 ~~receipt from the City showing that all tax obligations imposed by this chapter have~~
2830 ~~been paid. A transferee that fails to withhold the amount required under this~~
2831 ~~subsection shall be liable to the City for the lesser of the amount of delinquent sales~~
2832 ~~tax, penalty and interest due from the seller as of the date of transfer, and the~~
2833 ~~amount that the transferee was required to withhold.~~

2834 ~~E. A seller who terminates their business without the benefit of a purchaser, successor~~
2835 ~~or assign, shall make a final tax return and settlement of tax obligations within thirty~~
2836 ~~(30) days after such termination. If a final return and settlement are not received~~
2837 ~~within thirty (30) days of the termination, the seller shall pay a penalty of one~~
2838 ~~hundred (\$100) dollars, plus an additional penalty of fifty (\$50) dollars for each~~
2839 ~~additional thirty (30) day period, or part of such period, during which the final return~~
2840 ~~and settlement have not been made, for a maximum of six (6) additional periods. A~~
2841 ~~new or renewed business license may not be issued to a seller who has failed to~~
2842 ~~make the return and settlement under this section until the return and settlement~~
2843 ~~required have been made and the imposed penalty has been paid.~~

2844

2845

2846

2847

2848 **4.16.390 Use of Information on Tax Returns**

- 2849 A. Except as otherwise provided in this chapter, all returns, reports and information
2850 required to be filed with the City under this chapter, and all information contained
2851 therein, shall be kept confidential and shall be subject to inspection only by:
2852 1. Employees and agents of the City whose job responsibilities are directly related
2853 to such returns, reports and information;
2854 2. The person supplying such returns, reports and information; and
2855 3. Persons authorized in writing by the person supplying such returns, reports and
2856 information.
- 2857 B. The City will release information described in subsection A of this section pursuant
2858 to subpoena, order of a court or administrative agency of competent jurisdiction,
2859 and where otherwise required by law to do so.
- 2860 C. Notwithstanding subsection A of this section, the following information is available
2861 for public inspection:
2862 1. The name and address of a person who holds a current City business license;
2863 2. The name and address of sellers, whether or not the business is registered to
2864 collect taxes;
2865 3. Whether a business is registered to collect taxes under this chapter;
2866 4. The name and address of businesses that are sixty (60) days or more delinquent
2867 in filing returns and/or in remitting sales tax; and, if so delinquent, the amount
2868 of estimated sales tax due, and the number of returns not filed;
- 2869 D. The City may provide the public statistical information related to sales tax
2870 collections, provided that no information identifiable to a particular seller is
2871 disclosed.
- 2872 E. Nothing in this section shall be construed to prohibit the delivery to a person, or his
2873 duly authorized representative, a copy of any return or report filed by him, nor to
2874 prohibit the publication of statistics so classified as to prevent the identification of
2875 particular buyers and sellers, nor to prohibit the furnishing of information on a
2876 reciprocal basis to other agencies or political subdivisions of the state or the United
2877 States concerned with the enforcement of tax laws.
- 2878 F. Nothing in this section shall be construed to prohibit the disclosure through the
2879 enforcement action proceedings or by public inspection or publication of the name,
2880 estimated balance due, and current status of payments, and filings of any seller or
2881 agent of any seller required to collect sales taxes or file returns under this chapter,
2882 who fails to file any return and/or remit in full all sales taxes due within sixty (60)
2883 days after the required date for that business. Entry into an agreement whether
2884 pursuant to the provisions of this chapter or otherwise shall not act as any
2885 prohibition to disclosure of the records of that seller as otherwise provided in this
2886 chapter.
- 2887 G. A prospective lessee or purchaser of any business or business interest may inquire
2888 as to the obligation or tax status of any business upon presenting to the finance

2889 director a release of tax information request signed by the registered owner of the
2890 business.

2891 H. All returns referred to in this chapter, and all data taken therefrom, shall be kept
2892 secure from public inspection, and from all private inspection.

2893

2894 **4.16.400 Publication of Delinquent Sellers**

2895 A. As soon as practicable after the expiration of sixty (60) days following the end of
2896 each calendar quarter, the City shall publish in a newspaper of general or customary
2897 circulation in the appropriate area of the City, as well as on the City's website, a list
2898 of every seller, including the "doing business as" name under which the seller is
2899 doing business who:

2900 1. Was conducting business in the City and was required to file a return during the
2901 quarter, but who has not filed the required returns, unless the seller has paid any
2902 balance due for that period in full; and

2903 2. Did not pay all balances due, as long as the balance is greater than Five-Hundred
2904 (\$500) Dollars.

2905 B. Notwithstanding subsection (A) above, the City is not required to include in the
2906 quarterly publication a closed business which has been published in the preceding
2907 four (4) publications.

2908 C. The names of sellers who have entered into and are satisfactorily complying with a
2909 payment agreement with the City will not be published.

2910 D. The publication of such delinquent sales tax accounts shall not be considered a
2911 disclosure within the provisions of this chapter.

2912

2913 **4.16.410 Lien**

2914 A. The tax, penalty and interest as imposed by this chapter, together with all
2915 administrative and legal costs incurred, shall constitute a lien in favor of the City
2916 upon all of the seller's real and personal property. The lien arises upon the
2917 delinquency, and continues until the liability for the amount is satisfied, or the
2918 property is sold at a foreclosure sale.

2919 B. The lien imposed by this section arises and attaches at the time that payment
2920 becomes delinquent and continues until the entire amount has been paid.

2921 C. If delinquent sales taxes, interest, penalties and other costs are not paid within ten
2922 (10) calendar days from the mailing of notice and demand for payment thereof, a
2923 notice of lien may be recorded in the office of the district recorder in any recording
2924 district where the person liable has assets or property, and upon recordation, a lien
2925 arising under this section has priority over any other liens except those for special
2926 assessments or those granted priority by state and federal law (the lien has priority
2927 as allowed by AS 29.45.650(e)).

2928 D. The City may record subsequent notices of lien of amount due after the recording of
2929 a previous notice of lien. The City may also record amended notices of lien to
2930 correct any errors or to provide notice of the then current amount owing.

- 2931 E. Within ten (10) calendar days of receiving the conformed, filed notice of lien, or
2932 amended notice of lien from the recorder's office, the City shall mail a copy of the
2933 notice by certified mail, return receipt requested, to the last known address of seller;
2934 provided failure to so mail the copy shall not void the lien or lessen its priority.
2935 F. The city attorney, at the request and consent of the city council, may file an action
2936 to foreclose the lien of the City for the tax upon property and rights to property, real
2937 or personal, and sell the same, applying the proceeds thereof to the payment of the
2938 tax, interest, penalty, fees and costs. The action shall be commenced and pursued
2939 in the manner provided for the foreclosure of liens by applicable Alaska Statutes
2940 (currently AS 09.45.170 through 9.45.220); provided, however, upon
2941 commencement, the City shall provide written notice of the action to all reasonably
2942 known persons having an interest of record in the property being foreclosed,
2943 including persons in possession of the property. The action may be commenced
2944 within six (6) years after the lien arises.
2945 G. The remedy provided in this section is not exclusive and shall be in addition to all
2946 other remedies available to the City to collect the sales taxes, interest, penalties and
2947 costs due under this chapter.
2948 H. The failure to record a lien does not constitute a waiver or abrogation of any
2949 priorities, rights or interest of the City at law or in equity.
2950 I. Fees for the filing and releasing of liens shall be as set out in the Bethel Fee and
2951 Rate Schedule.
2952 J. Upon full satisfaction of payment of all taxes, interest and costs, including the
2953 administrative costs for the filing and release of the liens due and owing to the City,
2954 the finance director shall file a certificate discharging the lien.
2955

4.16.420 Violations

- 2956 A. Failure to comply with any of the provisions of this chapter shall be a violation and
2957 will be considered an infraction.
2958 B. Each act or omission in violation of this chapter, and each day in which the act or
2959 omission occurs, is a separate violation of this chapter.
2960 C. A seller that fails to file a sales tax return or remit sales tax when due, in addition to
2961 any other liability imposed by this chapter, shall pay to the City all costs incurred by
2962 the City to determine the amount of the seller's sales tax liability or to collect the
2963 sales tax, including without limitation, costs of obtaining, reviewing and auditing the
2964 seller's business records, collection agency fees, and actual reasonable attorney's
2965 fees.
2966 D. A person who causes or permits a corporation of which the person is an officer or
2967 director, a limited liability company of which the person is a member or manager, or
2968 a partnership of which the person is a partner, to fail to collect sales tax or to remit
2969 sales tax to the City as required by this chapter shall be liable to the City for the
2970 amount that should have been collected or remitted, plus any applicable interest and
2971 penalty.
2972 E. In addition to issuing citations for violation of this chapter, the City may bring a civil
2973 action to:
2974

- 2975 1. Enjoin a violation of this chapter. On application for injunctive relief and a finding
2976 of a violation or threatened violation, the superior court shall enjoin the violation.
2977 2. Collect delinquent sales tax, penalty, interest and costs of collection, either
2978 before or after estimating the amount of sales tax due under Section 4.16.360.
2979 3. Recover a civil penalty of up to five hundred dollars (\$500.00) for each violation
2980 of this chapter.
2981 4. Foreclose a recorded sales tax lien as provided by law.
2982 F. All remedies hereunder are cumulative and are in addition to those existing at law or
2983 equity.
2984

2985 **4.16.430 Penalties for Violations**

- 2986 A. A person, who is convicted of a violation of this chapter, where a fine is not
2987 otherwise specifically described in this section, shall be subject to a fine of not more
2988 than five hundred dollars (\$500.00) plus any surcharge required to be imposed by
2989 AS 29.25.074.
2990 ~~B. Failure to file two (2) or more returns in any one (1) calendar year after notice from~~
2991 ~~the City to the seller's last registered address is subject to a fine of Five Hundred~~
2992 ~~(\$500) Dollars.~~
2993 C. A buyer or seller who knowingly or negligently submits false information in a
2994 document filed with the City pursuant to this Chapter is subject to a fine of Five
2995 Hundred (\$500) Dollars.
2996 D. A seller who knowingly or negligently falsifies or conceals information related to its
2997 business activities within the City is subject to a fine of Five Hundred (\$500) Dollars.
2998 E. A person who knowingly or negligently provides false information when applying for
2999 a certificate of exemption is subject to a fine of Three Hundred (\$300) Dollars.
3000 F. Any seller who fails to file a return required under this chapter within fifteen (15)
3001 days of written notification by regular mail, regardless of whether any taxes were
3002 due for the reporting period for which the return was required, shall be subject to a
3003 penalty of twenty-five (\$25) dollars for the first sales tax return not timely filed, and
3004 fifty (\$50) dollars for each ~~next~~ subsequent sales tax return not timely filed within a
3005 one (1) year period thereafter. The filing of an incomplete return shall be treated as
3006 the filing of no return.
3007 G. Sellers who have not filed returns for two (2) consecutive reporting periods shall be
3008 assumed to have ceased conducting business and shall be removed from the roll of
3009 active businesses. Reinstatement of a business removed from the active role by this
3010 section shall require the payment of a mandatory reinstatement fee.
3011 H. A person subject to the requirements of BMC 4.16.140, who fails to provide a
3012 written receipt or invoice setting out the amount of tax due on the transaction when
3013 the amount of the tax is required to be shown on the receipt or invoice, shall pay a
3014 penalty to the City equal to twice the amount of the tax due on the sale, however
3015 the minimum penalty is twenty-five (\$25) dollars.
3016 I. A seller who fails or refuses to produce requested records or to allow inspection of
3017 their books and records, shall pay to the City a penalty equal to three (3) times any

- 3018 deficiency found or estimated by the finance department with a minimum penalty of
3019 five hundred (\$500) dollars. [penalty equal to 10% of any deficiency or estimate..]
3020 J. A seller who falsifies or misrepresents any record filed with the City is guilty of an
3021 infraction and subject to a penalty of five hundred (\$500) dollars per document.
3022 K. Misuse of an exemption card is an infraction and subject to a penalty of:
3023 1. Fifty (\$50) Dollars for a first occurrence and a one (1) month suspension of the
3024 privilege to use an exemption card;
3025 2. One Hundred Dollars (\$100) for a second occurrence and a one year suspension
3026 of the privilege to use an exemption card; and
3027 3. Five Hundred Dollars (\$500) for a third occurrence and the potential lifetime
3028 revocation of the privilege to use an exemption card issued by the City.
3029 ~~L. A seller who engages in sales when their sales tax collection license has been~~
3030 ~~suspended, revoked or not renewed is in violation of City ordinance and is subject to~~
3031 ~~a fine of One Hundred (\$100) dollars per day.~~
3032 ~~M. A seller who engages in sales when without first obtaining a sales tax collection~~
3033 ~~license is in violation of City ordinance and is subject to a fine of One Hundred Fifty~~
3034 ~~(\$150) dollars per day.~~
3035 N. A penalty imposed under any part of this section may not be waived or reduced
3036 except upon a clear showing of reasons beyond the control of the person upon
3037 whom the penalty is imposed and only with the written consent of the City Attorney.
3038 Any other waiver or reduction of penalties shall only occur with the consent of the
3039 City Council.
3040 O. All remedies for violations of this chapter are cumulative and are in addition to any
3041 others existing at law or in equity.
3042 P. Nothing in this chapter shall be construed as preventing the City from filing and
3043 maintaining an action at law to recover any taxes, penalties, interest and fees due
3044 from a seller. The City may also recover full actual reasonable attorney's fees in any
3045 action against a delinquent seller.
3046 Q. If the City Manager or finance director have reason to believe that a seller who has
3047 been removed from the roll of active businesses pursuant to this section is in fact
3048 continuing to conduct business, the City Manager may cause a proceeding to be
3049 filed in the Superior Court requesting the issuance of an injunction prohibiting that
3050 business from continuing to conduct business.

3051
3052 **4.16.440 Appeals**

- 3053 A. Unless a different timeframe is specified, a seller aggrieved by an action of the
3054 finance director in fixing the amount of tax or in imposing a penalty or interest shall
3055 appeal to the City Manager within thirty (30) calendar days from the date of the
3056 postmark on the finance director's written notification. A tax payer who has a cause
3057 of action, grievance or protest concerning the legality, collection or payment of the
3058 sales tax shall appeal in this manner and within the same timeframe. All right to an
3059 appeal shall be deemed waived if not timely requested as set forth in this
3060 subsection.

Action:
Vote:

- 3061 ~~B. An aggrieved seller/taxpayer has the right to appeal a final decision of the finance~~
3062 ~~director to the City Manager or their designee.~~
- 3063 C. All appeals shall be filed in writing addressed to the City Manager, must be signed
3064 by the seller/taxpayer (or counsel therefore) and shall contain the following
3065 information:
- 3066 1. Name, address and telephone number of aggrieved seller/taxpayer;
 - 3067 2. A specific and detailed statement of the amount of tax, interest or penalty
3068 contested, the basis and grounds upon which the appeal is made, and all
3069 pertinent records, documents or other evidence substantiating the grounds as
3070 stated; and
 - 3071 3. A statement of the relief sought.
- 3072 D. Failure to file an timely appeal within the time and manner provided shall be
3073 deemed a waiver of that right and to any appellate review to which the aggrieved
3074 party might have otherwise been entitled.
- 3075 E. Arguments or reasons for failure to timely file a return and remit taxes collected
3076 shall not be considered a valid basis or grounds for granting an appeal. The basis
3077 and grounds for granting any appeal are limited to:
- 3078 1. The identity of the seller is in error;
 - 3079 2. The amount of the debt is erroneous due to a clerical error (and the nature and
3080 extent of the error is specified in the request for a hearing);
 - 3081 3. The seller disputes the denial of exemption(s) for certain sales;
 - 3082 4. Taxes have been levied and forgiven; or
 - 3083 5. The Bethel Municipal Code has been misinterpreted, misapplied or not followed.
- 3084 F. A request for appeal is filed on the date it is personally delivered or, if delivered to
3085 the City Manager by United States mail, the date of the United States Postal Service
3086 postmark stamped on the properly addressed cover in which the request is mailed.
- 3087 G. A current mailing address must be provided to the City Manager with the request for
3088 appeal, and any change in mailing address after the request for appeal is filed must
3089 be reported to the City Manager.
- 3090 H. Upon notice of the filing of a written appeal, the finance director shall immediately
3091 send a copy of their decision and any information or documents utilized in reaching
3092 their decision, to the City Manager with a copy to the City Attorney and the party
3093 filing the appeal.
- 3094 I. The City Manager shall decide the appeal based upon the pertinent records provided
3095 by the parties involved.
- 3096 J. The taxpayer must prove by a preponderance of the evidence the factual basis upon
3097 which he or she is relying.
- 3098 K. The City Manager's determination shall be based upon the evidence received and
3099 any written materials submitted by the parties. The determination need not make
3100 formal findings of fact or conclusions of law, but the written determination shall
3101 state the reasons for the decision and indicate the evidence relied upon. Such
3102 determination shall be issued no later than fifteen (15) calendar days after the
3103 appeal is filed. Such determination shall be final.

- 3104 L. The City Manager may retain the services of the City Attorney to assist him/her in
3105 making their decision.
- 3106 M. A seller who is not satisfied with a final written ruling of the City Manager may
3107 appeal the decision by requesting an appellate hearing before the Hearing Officer.
3108 The process for seeking appellate review of the City Manager's decision is as
3109 follows:
- 3110 1. Completing a written request for appeal;
 - 3111 2. Submitting the appropriate appeal fee;
 - 3112 3. Filing both with the City Clerk no later than twenty (20) calendar days from the
3113 date of the City Manager's written decision.
- 3114 N. Appeals of the City Manager's decision shall contain the following information:
- 3115 1. Name of appellant, Name of business (if different than appellant), address and
3116 telephone number of aggrieved tax payer;
 - 3117 2. A specific and detailed statement outlining the procedural, factual or legal error
3118 on which the appeal is based; and
 - 3119 3. A statement of the relief sought.
- 3120 O. Upon a properly filed appealed, the City Clerk shall request a full copy of the record
3121 used by the City Manager. That record will be forwarded to the Hearing Officer with
3122 a copy to the party filing the appeal.
- 3123 P. An appeal of the City Manager's decision shall be limited solely to the information
3124 previously provided. No new evidence will be permitted during the appeal. The
3125 parties will be allowed an opportunity to argue their case before the Hearing Officer.
- 3126 Q. The order of presentation will be:
- 3127 1. Brief opening statement by the City's representative (optional);
 - 3128 2. Brief opening statement by the taxpayer/appellant (optional);
 - 3129 3. Argument and presentation of evidence by the City's representative;
 - 3130 4. Argument and presentation of evidence by the taxpayer/appellant;
 - 3131 5. Rebuttal as necessary;
- 3132 R. All testimony shall be under oath. The proceedings shall be recorded. Upon written
3133 request, the appellant is entitled to a copy of the recording at no charge. The
3134 appellant or their legal counsel and the City may examine and cross-examine
3135 witnesses. Exhibits may be introduced. The rules of evidence need not be strictly
3136 followed; however, irrelevant or unduly repetitious evidence may be excluded.
- 3137 S. The factual record is closed at the close of the hearing. The Hearing Officer may
3138 continue the hearing for good cause.
- 3139 T. The Hearing Officer may choose to rule orally on the record or may choose to take
3140 the matter under advisement and issue a written decision at a later time. In either
3141 scenario, no later than twenty (20) calendar days from the date of the appeal
3142 hearing, a written decision will be issued. This decision will be final and may be
3143 appealed to the superior court as provided in the Alaska Rules of Appellate
3144 Procedure.
- 3145 U. Contested taxes, penalties and interest that have been paid and are found to be
3146 overpaid shall be refunded with interest at the rate of five (5%) percent from the
3147 date of the payment.

3148 V. Contested taxes, penalties and interest that remain unpaid shall continue to accrue
3149 penalty and interest as provided by this chapter until paid.
3150

3151 **4.16.450 Transition Period**

- 3152 A. Sellers already licensed to do business at the time of the passage of this chapter
3153 shall be provided the following timelines for compliance:
- 3154 1. Equipment – Sellers shall have ~~one (1) year~~ six (6) months from the date of the
3155 passage of this chapter to implement all of the requirements for compliance with
3156 the necessary equipment, hardware and/or software requirements.
 - 3157 (i) Except as set forth herein, no additional implementation or preparation
3158 time may be granted to sellers except for those who have taken timely,
3159 verifiable, good faith steps to comply with the provisions of this chapter
3160 and yet, through extraordinary circumstances beyond the control of seller,
3161 need additional time to comply.
 - 3162 (ii) In such cases, the finance director may grant no more than ninety (90)
3163 additional calendar days.
 - 3164 (iii) Requests for such additional time to comply shall be in writing, setting out
3165 the specific, extraordinary circumstances, which merit consideration for
3166 additional time.
 - 3167 (iv) Inadvertence, neglect or delay on the part of a seller is not grounds for an
3168 extension of time.
 - 3169 (v) Only one (1) extension may be granted to any given seller.
 - 3170 2. Sales Tax Collection License Registration – Existing businesses shall register upon
3171 renewal of their sales tax license but in no event shall application for a sales tax
3172 collection license occur later than December 31, 2019. Sellers shall have six (6)
3173 months from the date of the passage of this chapter to register for and obtain
3174 the required sales tax collection certificate.
 - 3175 ~~3. Seller Education – Sellers already licensed to do business within the City of~~
3176 ~~Bethel on the passage of this chapter, shall have until their next business license~~
3177 ~~renewal to comply with this requirement.~~
 - 3178 4. ~~Exemption Cards – Sellers already licensed to do business within the City of~~
3179 ~~Bethel shall have three (3) months from the date of the passage of this chapter~~
3180 ~~to come into full compliance with the requirements for acceptance of and record~~
3181 ~~keeping for acceptance of exemption cards.~~
 - 3182 5. Filing Status Changes – Sellers already licensed to do business within the City of
3183 Bethel who are filing other than as now prescribed in this chapter, shall have six
3184 (6) months from the date of passage of this chapter to change their filing status
3185 to meet the new requirements as set out herewith. This change will not apply to
3186 those sellers specifically notified by the finance director to remain monthly due to
3187 poor sales tax payment history.
 - 3188 6. Seasonal Businesses – Sellers who wish to change their status to a seasonal
3189 business may do so any time after the passage of this chapter.

3190 B. This section does not apply to the obligations of sellers under this chapter to collect
3191 and remit applicable sales taxes mandated by this chapter. The collection and
3192 remission of the City's sales tax must be done in a timely manner, regardless of any
3193 extensions of time sought for other obligations imposed by this chapter. Likewise,
3194 all the remedies, penalties and interest assessed for failure to properly collect and
3195 remit the City's sales tax obligations are applicable to sellers who fail to do so, as
3196 required by this chapter.

3197
3198 **SECTION 3. Effective Date.** This ordinance shall become effective ninety (90) days
3199 from the passage of this Ordinance.

3200
3201 **ENACTED THIS _____ DAY OF JULY 2017, BY A VOTE OF _____ IN FAVOR**
3202 **AND _____ OPPOSED.**

3203
3204
3205 ATTEST: _____
3206 Richard Robb, Mayor

3207
3208
3209 _____
3210 Lori Strickler, City Clerk
3211

Suggestion by City Attorney

4.16.040 Presumption of Taxability

- A. In order to prevent evasion of the sales tax and to aid in its administration, it is presumed that all sales by a person engaging in business are subject to the sales tax; and
- B. There is levied by the City a sales tax on all retail sales, services and rentals which either commence or terminate within the City, ~~or and for which a substantial portion~~ of the sale, service or rental, is ~~are in any part rendered~~, supplied or provided within the City, ~~except as expressly provided otherwise in this chapter.~~
- C. A sales tax applies to all real property within the City that is either rented or sold. The tax applies to commissions on the sale or rental of real property, on the rental of real property, and as limited in section 4.16.150, on the sale of real property. The tax applies regardless of whether the seller, buyer, renter, lessee or tenant reside within or outside the City of Bethel.
- D. For the purposes of this section, any building or other place of business shall be considered to be within the City if any part thereof or any substantial part of a contiguous parking area or other supporting facility is within the City.
- E. For purposes of this chapter, the sales price or purchase price of property must be determined as of the time of acquisition.
- F. For purposes of this chapter, a sale of services occurs at the time the services are provided.



City of Bethel

Committees and Commissions

Recommendation to City Council

Committees and Commissions that wish to make a recommendation to City Council should turn this form in to the City Clerk or to the City Council representative on the committee or commission.

Committee/Commission: Finance Committee	Chairman: Jon Cochrane
Date Submitted: July 25, 2017	Council Rep: Leif Albertson
<p>4.16.150 Tax Exemptions <u>Non-Profits: A sale of goods or services to any entity that, at the time of the sale, is: (1) legally constituted and legitimately acting in accordance with a duly authorized federal tax exempt status pursuant to IRS Regulations, Section 501(c)(3)(4) or (19); and if the same goods or services are used exclusively in the fulfillment of activities within the federal tax exempt status (2) provided any income from the exempt sale is exempt from federal taxation and (3) provided the non-profit produces a sales tax exemption card.</u> <u>Exceptions: The sale of bingo, pull tabs or other gaming activities is not exempt. Activities provided by the entity where such organization is engaged in business for profit OR is competing with other persons engaged in the same manner or in a similar business is not exempt.</u></p>	
<p>5.04.050 Additional fees for businesses selling games of skill and chance. A. Each business selling games of skill and chance shall pay an additional fee equal to six (6) percent <u>three (3%) percent</u> of the gross revenues from sales of games of skill and chance. Gross revenues from a sale is the total cost to the player for the right to each single chance or play, whether paid to the operator or qualified organization in cash or by relinquishment of winnings or in exchange for other things of value.</p>	

Other: Passed unanimously (6-0) by the Finance Committee on July 17, 2017

Received by: _____
Date: _____

4.16.150 Exemptions

V. Services. That portion of the selling price of a single service that exceeds \$12,000. This amount will be adjusted in 2019 and every two (2) calendar years thereafter consistent with the Consumer Price Index for all urban consumers for Anchorage metropolitan area compiled by the United States Department of Labor, Bureau of Labor Statistics. Adjustments to the amount listed will be rounded to the nearest \$100. For the purposes of this subsection, a single service is interrelated and interdependent function necessary to perform a specified action. For the purposes of this subsection, a single service is an interrelated and interdependent function necessary to perform a specified action. If a single service is performed over a period exceeding one month, the selling price must be apportioned to a monthly or invoice basis, whichever is more frequent, proportionate to the service performed, except for:

- a) a commission paid to an agent for negotiating the sale of real property (the commission is taxed at the first \$12,000 of the sale regardless of the length of time the agent has in selling the property); or
- b) a written contingency fee agreement award or settlement (to be collected on the first \$12,000 of the fee award regardless of the length of time taken to resolve the case).

CITY OF BETHEL, ALASKA

Ordinance #17-40

AN ORDINANCE AMENDING BETHEL MUNICIPAL CODE SECTION 7.10.130 CODE ADOPTION

WHEREAS, the City Clerk would like to improve the potential of having a fully staffed precinct for all City Elections by increasing the pay for election officials;

WHEREAS, the current rate of pay for the election officials is \$9.50 per hour for the standard worker and \$10.00 for the precinct chair and language translator;

WHEREAS, recruitment for these positions has become difficult, as many people are not able to take off work to work the elections;

WHEREAS, the City Clerk would like to increase the pay from the State's rate to \$15.00 and \$18.00 per hour total changes to the election budget would be about \$1,100 per election;

NOW, BE IT FURTHER ORDAINED, the City Council adopts the updated section 1.01 of the Bethel Municipal Code as outlined in this Ordinance;

SECTION 1. Classification. This is a Codified Ordinance and shall become part of the Bethel Municipal Code.

SECTION 2. Amendments. Bethel Municipal Code Section 7.10.130, Code Adoption, is amended as follows (old language is stricken, new language is underlined):

Subsection 7.10.130

A. The city shall pay all necessary expenses relating to the conduct of each city election, including those of securing polling places and providing ballot boxes, ballots, voting booths or screens, national flags and other supplies, and any wages due to election officials except that all expenses of making a recount shall be apportioned pursuant to BMC [7.90.070](#).

B. The city shall pay each election official an hourly rate for time spent at his election duties, including the receiving of instructions and posting of notices. The ~~election supervisor~~ clerk shall set the hourly compensation to be paid for time spent by election

Introduced by: Mayor Robb
Introduction Date: July 25, 2017
Public Hearing: August 8, 2017
Action:
Vote:

officials at a rate comparable to that paid by the state for state elections. The clerk shall retain a record for auditing and payment of election expenses, including the cost of giving notice, renting polling places, paying election officials, securing ballot boxes, booths and other election necessities.

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

ENACTED THIS _____ DAY OF MARCH 2017, BY A VOTE OF ____ IN FAVOR AND _____ OPPOSED.

ATTEST:

Richard Robb, Mayor

Lori Strickler, City Clerk

Estimated Cost Variation with the Proposed Increases to Election Official's Hourly Rates of Pay

	Hourly Rate Per Official	Number of Officials	Total Hourly Rate	Total Hours on Election Day	Total Cost
Current Costs					
Election Officials	\$9.50	8	\$76.00	14	\$1,064.00
Chair, Vice-Chair and Language Translators	\$10.00	6	\$60.00	14	\$840.00
					\$1,904.00

	Hourly Rate	Number of Officials	Number of Officials	Number of Hours	Total Cost
Proposed Increase					
Election Officials	\$13.00	8	\$104.00	14	\$1,456.00
Vice-Chair and Language Translators	\$15.00	4	\$60.00	14	\$840.00
Chair	\$17.00	2	\$34.00	14	\$476.00
					\$2,772.00

The estimated cost variation between the current rates and the proposed rates: \$868.00

Poll workers perform a critical function that is essential to ensure the ability of all voters to cast their ballots. This increase will assist in the City Clerk's recruitment and retention of poll workers for current and future elections.

The City Clerk's Office will not be requesting a budget modification if Ordinance 17-41 passes. However next year, the Office will be requesting an additional \$900 to account for this adjustment.



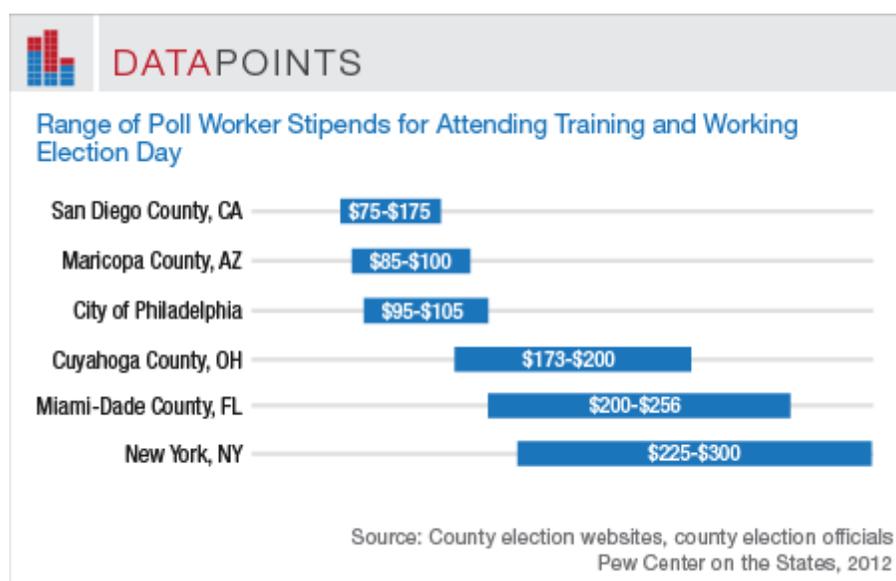
The Pew Charitable Trusts / Research & Analysis / Poll Worker Pay

ANALYSIS

Poll Worker Pay

October 17, 2012

Election Initiatives



New research from the Pew Center on the States examines poll worker stipends from the country's most populous election jurisdictions—Pew researchers looked at these counties' election websites and contacted their elections offices—and found significant variation. For example, poll workers in New York City will collect nearly \$200 each for working the upcoming November election, but in Maricopa County, Arizona, they will receive between \$85 and \$100.

Local election offices may also offer additional incentives to attract workers with experience or in-demand skills, or as compensation for the use of personal resources for election business. For example:

- San Diego offers an additional \$15 to poll workers who are bilingual.
- Several jurisdictions compensate poll workers for mileage incurred when transporting supplies.
- In Chicago, workers who use personal cell phones for Election Day business receive \$5.
- New York City provides an extra \$35 to poll workers who work two elections in one year.

Poll Worker Stipends for Attending Training and Working Election Day

Jurisdiction	Stipend range
San Diego County, CA	\$75-\$175
Maricopa County, AZ	\$85-\$100
City of Philadelphia	\$95 - \$105
Santa Clara County, CA	\$95-\$180
Dallas County, TX	\$96-\$108
Harris County, TX	\$102-\$151
Los Angeles County, CA	\$105-\$175

Orange County, CA	\$120-\$225
Broward County, FL	\$165-\$200
Chicago, IL	\$170
Cook County, IL	\$170
Cuyahoga County, OH	\$172-\$200
Miami-Dade County, FL	\$200-\$256
New York, NY	\$225-\$300

Note: Stipend ranges are taken from jurisdictions' websites and from calls for poll workers appearing in local news sources. Stipends are hourly in Dallas and Harris Counties in Texas and in Orange County, California and in these jurisdictions, Election Day compensation is calculated based on how long polls are open.

TOPICS

Election Administration, Governing

PLACES

Arizona

PROJECTS

Election Initiatives

New Business

Introduced by: Finance Committee
Introduction Date: August 8, 2017
Public Hearing Date: August 22, 2017
Date:
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #17-41

AMENDING THE BETHEL MUNICIPAL CODE CHAPTER 5.04.050(A), ADDITIONAL FEES FOR BUSINESSES SELLING GAMES OF SKILL AND CHANCE

Whereas, the Finance Committee has been working on the updated sales tax code for nearly a full year;

Whereas, prior to the updated sales tax code, the local charitable organizations have come to the Finance Committee seeking relief from the high fees imposed on gaming;

Whereas, attendance at gaming events has decreased significantly over the years while costs have increased;

Whereas, as a result, the charitable organizations are finding it difficult to break even;

Whereas, the difficult financial situation has forced some gaming operations to close their doors permanently;

Whereas, pursuant to Alaska law, all profits earned from gaming operations within the City are used to provide charitable donations to persons in need;

Whereas, in order to continue providing the much needed services, the charitable organizations desperately need a reduction in the fees collected by the City so that there are sufficient monies left over to distribute to those who need it the most;

Now, Therefore Be It enacted by the City Council of Bethel Alaska as follows:

Section 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

Section 2. Amendment: Bethel Municipal Code 5.04.040 is amended, new language is underlined, removed language is stricken.

Introduced by: Finance Committee
Introduction Date: August 8, 2017
Public Hearing Date: August 22, 2017
Date:
Action:
Vote:

5.04.050(A) ADDITIONAL FEES FOR BUSINESSES SELLING GAMES OF SKILL AND CHANCE

Each business selling games of skill and chance shall pay an additional fee equal to ~~six~~ three (6 3%) percent of the gross revenues from sales of games of skill and chance. Gross revenues from a sale is the total cost to the player for the right to each single chance or play, whether paid to the operator or qualified organization in cash or by relinquishment of winnings or in exchange for other things of value.

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

ENACTED THIS __ DAY OF AUGUST, 2017, BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

ATTEST:

Richard Robb, Mayor

Lori Strickler, City Clerk

Introduced by: Council Member Albertson
Date: August 8, 2017
Action:
Vote:

CITY OF BETHEL, ALASKA

Resolution # 17-14

CITY OF BETHEL PROTEST OF PACKAGE STORE LIQUOR LICENSE NUMBER 5584, SWANSON'S LIQUOR STORE, LOCATED AT 230 TUNDRA STREET, BETHEL, OWNED BY SWANSON'S LIQUOR STORE, LLC

- WHEREAS,** Swanson's Liquor Store filed application #5584 with the Alaska Alcohol and Marijuana Control Office (AMCO) for a Package Store License to be located at 230 Tundra Street, Bethel, Alaska 99559;
- WHEREAS,** the City Clerk received a copy of this application on June 16, 2017 and has determined that the last day for the Council to file a protest is August 15, 2017;
- WHEREAS,** as provided in 3 AAC 304.110, the license application submitted by Swanson's Liquor Store, was not submitted within 30 days after the immediately preceding application for the license and is therefore not qualified to be considered as a Mutually exclusive and competing application;
- WHEREAS,** City of Bethel Administration submitted a report to the Bethel City Council on July 6, 2017 with the following findings:
1. Planning Director-A conditional Use permit has not been obtained from the Planning Commission.
 2. Police Chief- From January 1, 2017 to June 30, 2017 there were 133 calls for service of which 63 were for pedestrians be intoxicated; 6 vehicle related offences two of which were accidents.
 3. Fire Chief-The proposed location has no sprinkler system, no fire or separation walls, no standpipe system, flammable interior and exterior finishes, insufficient exiting, no fire alarm system, no fire access roads and extreme fire load. Recommending a plan review of this facility should be done regardless of the outcome of the liquor license application.
- WHEREAS,** pursuant Alaska Statutes 04.11.420 Zoning Limitations, a person may not be issued a license or permit in a municipality if a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages unless a variance of the regulations or ordinance has been approved;

Introduced by: Council Member Albertson
Date: August 8, 2017
Action:
Vote:

WHEREAS, as of August 8, 2017 Swanson's Liquor Store has not been granted a conditional use permit from the City of Bethel, as required under Bethel Municipal Code 5.08.060, Conditional Use Permit Required;

WHEREAS, Bethel's population limits the community's package store licenses to three, with one license not yet issued;

WHEREAS, the proposed location is in an area that has received an excessive rate of Police calls between January 1, 2017 and June 30, 2017 with 133 calls for service of which 63 were for intoxicated pedestrians;

WHEREAS, the location must also comply with current fire and life safety codes.

NOW, THEREFORE, BE IT RESOLVED the Bethel City Council hereby protests the issuance of a Package Store License for Swanson's Liquor Store for the reasons listed above.

ENACTED THIS ___ DAY OF AUGUST 2017 BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk



City of Bethel

Administration
P.O. Box 1388 Bethel, Alaska 99559
Phone # 907-543-1371
Fax # 907-543-4171

July 6, 2017

Bethel City Council
P.O. Box 1388
300 state highway
Bethel, AK 99559

Mayor, Vice-Mayor and Members of City Council;

In the matter of an application by Swanson Liquor Store, LLC doing business as Swansons Liquor Store located in Bethel, AK 99559; # 5584 to State of Alaska Alcohol & Marijuana Control Office and in accordance with AS 04.11.150.

Bethel Municipal Code (BMC) 5.08.020(d) requires the City Manager provide a written report to City Council, with a copy to the applicant, listing any objections to the Board issuance of the application.

According to BMC 5.08.020(c) City Planner, City Finance Director, City Fire Chief and Police chief shall forward written statements to the City Manager outlining their findings:

- a) Finance Director- Sales Tax Filings, Utility Bills and City Business License are current.
- b) Planning Director-A conditional use permit has not been submitted yet or a scaled map to determine parking or ingress and egress of a parking lot. Some sort of driveway will be required and the DOT will have to issue a driveway permit due to the business being located alongside a state highway. The DOT permit is due at the July.
- c) Police Chief- The addresses for the furniture store used in this report included; Swansons Furniture; Swanson Grocery; 830 River Street and 240 Tundra Street. All these addresses are used for the same building used as a furniture store known as Swansons Furniture.

From January 1,2017 to June 30,2017 there were 133 calls for service of which 63 were for pedestrians be intoxicated; 6 vehicle related offences two of which were accidents.

From June 2016 to June 2017 there were 181 calls for service for the Police Department's assistance. 89 calls for intoxicated pedestrians; 7 calls involving vehicles, one of which was a hit and run accident.

Because of the numerous calls to this address I've attached the report given to me by the Police Department to this letter.

- d) Fire Chief- Note; These comments were made by the Acting Fire Chief; The building is being used as a furniture store and has an apartment building adjoining it. Off the record it has been mentioned that if the building was used as a liquor store a fire sprinkler system would have to be installed. There were 9 calls which the EMS responded to.

City Manager Concerns-

I recommend that this premise not be allowed a liquor license. I think it is clear that there are serious traffic problems. This part of the highway with its two 90 degree turns, one of which is a three-way intersection. This area has always been dangerous for either driving or walking. To add a parking lot that would be used as much as a liquor store would make the situation worse. I think the call sheets from the Police Dept. clearly shows there are very serious concerns regarding security. There were 24 different types of call this year already and 30 different types of calls last year.

Peter Williams
City Manager, City of Bethel

A Calendar year (01/01/2017 to 06/30/2017) check of our data with the following search criteria "240 Tundra Street" "Swanson's Furniture" Swanson's Grocery" and "830 River" resulted in 129 calls for service.

- 1 Call reporting and abandoned vehicle
- 2 Calls requesting animal control
- 4 Calls reporting an assault
- 1 Call for AST (Troopers)
- 4 Calls requesting a citizen's assist
- 9 Calls reporting concealment of merchandise
- 1 Call reporting a conditions of release violation
- 1 Call reporting damaged property
- 12 Calls reporting a disturbance
- 2 Calls reporting a domestic violence situation
- 2 Calls reporting a driving complaint
- 9 Calls requesting medical services
- 2 Calls requesting fire services
- 1 Call reporting family offenses
- 1 Call reporting a hit and run accident
- 63 Calls reporting an intoxicated pedestrian
- 1 Call reporting lost property
- 2 Calls where officers conducted a security check
- 2 Calls for a subject removal
- 2 Calls reporting a suspicious incident/person
- 1 Call reporting a theft
- 2 Calls reporting a traffic accident
- 7 Calls reporting trespassing
- 1 Call reporting a person with a warrant

A 12-month (06/30/2016 to 06/30/2017) check of our database with the following search criteria

The calls for service are broken down as follows: criteria "240 Tundra Street" "Swanson's Furniture" "Swanson's Grocery" and "830 River" resulted in 191 calls for service.

- 1 Call that was a 9-1-1 Hang-up
- 3 Calls for animal control
- 1 Call for an abandoned vehicle
- 4 calls for a reported assault
- 1 Call for AST (Troopers)
- 4 Calls to provide a citizen's assist
- 1 Call reporting a civil issue
- 13 Calls reporting concealment of merchandise
- 1 Call reporting a violation of conditions of release
- 2 Calls for damaged property
- 16 Calls reporting a disturbance
- 3 Calls reporting a domestic violence situation
- 3 Calls reporting a driving complaint
- 13 Calls requesting medical services
- 3 Calls requesting fire services
- 1 Call reporting a hit and run vehicle accident
- 1 Call reporting a family offense
- 89 Calls reporting an intoxicated pedestrian
- 1 Call reporting lost items
- 5 Calls where officers conducted security checks
- 1 Call for a stolen bicycle
- 4 Calls for a subject removal
- 4 Calls reporting a suspicious person/incident
- 1 Call reporting a theft
- 2 Calls reporting a traffic accident
- 1 Call where officers conducted a traffic stop
- 8 Calls reporting a person trespassing
- 1 Call reporting a violation of a protective order
- 1 Call reporting a person with warrant
- 2 Calls requesting a welfare check

LIQUOR LICENSE APPLICATION REVIEW

Fire Department

Review Swanson's Furniture/Apartments	Status	N/A
Excess calls for service at the location.	Number of Calls in calendar year <u>9</u>	
Excess numbers of convictions or arrests for unlawful activities at the location.	Number of Calls in calendar year <u>0</u>	

Additional Comments:

Pursuant to BMC 5.08.020 (B) (3), I have reviewed the EMS and Fire calls for service for the Swanson Furniture Building. In my opinion, no excessive or unlawful activity that would warrant protest of their application for a liquor license has occurred in the last 12 months.

Pursuant to BMC 5.08.030 (g), I reviewed the proposed package store in the Swanson's furniture building. The applicant indicated the existing furniture store would be converted into the package store. I have concerns for the safety of the occupants of the attached three-story, seven-unit apartment building. I will require a full plan review of both the apartments and planned package store for compliance with current fire and life safety code.

I will not condone this project until the plan review is complete and the recommendations therein are followed. My concerns for this facility include: no sprinklers system, no fire or separation walls, no standpipe system, no escape ladders or stairs balconies from the third floor, flammable interior and exterior finishes, poorly designed stairs and escape lighting, insufficient exiting, no fire alarm system, no fire access roads and extreme fire load of stored goods and furniture in the warehouse.

I am also forwarding my comments to the property owner and the State Fire Marshall's office. A plan review of this facility should be done regardless of the outcome of the liquor license application

Fire Chief's Signature:



June 16, 2017

City of Bethel
Attn: Lori Strickler
VIA Email: lstrickler@cityofbethel.net
Attn: Patty Burley, City Attorney
VIA Email: pburley@cityofbethel.net

License Type:	Package Store	License Number:	5584
Licensee:	Swanson's Liquor Store, LLC		
Doing Business As:	Swanson's Liquor Store		

- New Application**
 Transfer of Ownership Application
 Transfer of Location Application
 Transfer of Controlling Interest Application

We have received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable. To protest the application referenced above, please submit your protest within 60 days and show proof of service upon the applicant.

AS 04.11.491 – AS 04.11.509 provide that the board will deny a license application if the board finds that the license is prohibited under as a result of an election conducted under AS 04.11.507.

AS 04.11.420 provides that the board will not issue a license when a local governing body protests an application on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the alcohol establishment, unless the local government has approved a variance from the local ordinance.

Sincerely,

Jedediah Smith, Local Government Specialist
amco.localgovernmentonly@alaska.gov



Alaska Alcoholic Beverage Control Board
Form AB-00: New License Application

What is this form?

This new license application form is required for all individuals or entities seeking to apply for a new liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260 and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to be licensed.

Licensee:	Swanson's Liquor Store, LLC		
License Type:	Package Store License	Statutory Reference:	04.11.150
Doing Business As:	Swanson's Liquor Store		
Premises Address:	230 Tundra Street		
City:	Bethel	State:	AK
		ZIP:	99559
Local Governing Body:	City of Bethel		
Community Council:			

Mailing Address:	3351 Arctic Blvd		
City:	Anchorage	State:	AK
		ZIP:	99503

Designated Licensee:	David Cottrell		
Contact Phone:	907-751-6800	Business Phone:	907-751-6800
Contact Email:	dcottrell@mcac-cpa.com		

Seasonal License? Yes No If "Yes", write your six-month operating period: _____

OFFICE USE ONLY			
Complete Date:		License Years:	License #: 5584
Board Meeting Date:		Transaction #:	15419
Issue Date:		BRE:	





Alaska Alcoholic Beverage Control Board Form AB-00: New License Application

Section 2 – Premises Information

Premises to be licensed is:

- an existing facility a new building a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

1.4 Miles

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

0.9 Miles

Section 3 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 4.
If more space is needed, please attach a separate sheet with the required information.

The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: applicant affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an: applicant affiliate

Name:					
Address:					
City:		State:		ZIP:	





Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

Section 4 – Entity Ownership Information

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	UCI, LLC				
Title(s):	Member	Phone:	907-751-6800	% Owned:	100
Address:	3351 Arctic Blvd				
City:	Anchorage	State:	AK	ZIP:	99503

Entity Official:	David Cottrell				
Title(s):	Manager	Phone:	907-751-6800	% Owned:	0
Address:	3351 Arctic Blvd				
City:	Anchorage	State:	AK	ZIP:	99503

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	





Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	10059313	AK Formed Date:	5/18/17	Home State:	AK
Registered Agent:	David Cottrell		Agent's Phone:	907-751-6800	
Agent's Mailing Address:	3351 Arctic Blvd				
City:	Anchorage	State:	AK	ZIP:	99503

Residency of Agent: Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

Section 5 - Other Licenses

Ownership and financial interest in other alcoholic beverage businesses: Yes No

Does any representative or owner named in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

UCI, LLC owns Beverage Disp. Tourism Lic#4924 dba Inn at Whittier.

Section 6 - Authorization

Communication with AMCO staff: Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:

The Law offices of Ernouf & Coffey, P.C. Assisting with the license application process.





Alaska Alcoholic Beverage Control Board Form AB-00: New License Application

Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

I certify that all proposed licensees have been listed with the Division of Corporations.

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Signature of licensee

David Cottrell

Printed name of licensee

Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: 4/1/2019

Subscribed and sworn to before me this 22 day of May, 2017.

Notary Public
CHERYL L. ELUSKA
State of Alaska
My Commission Expires Apr 1, 2019

RECEIVED
JUN 12 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA



Alaska Alcoholic Beverage Control Board

Form AB-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The **second page of this form is not required**. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Swanson's Liquor Store, LLC	License Number:	
License Type:	Package Store		
Doing Business As:	Swanson's Liquor Store		
Premises Address:	230 Tundra Street		
City:	Bethel	State:	AK
		ZIP:	99559



Alaska Alcoholic Beverage Control Board

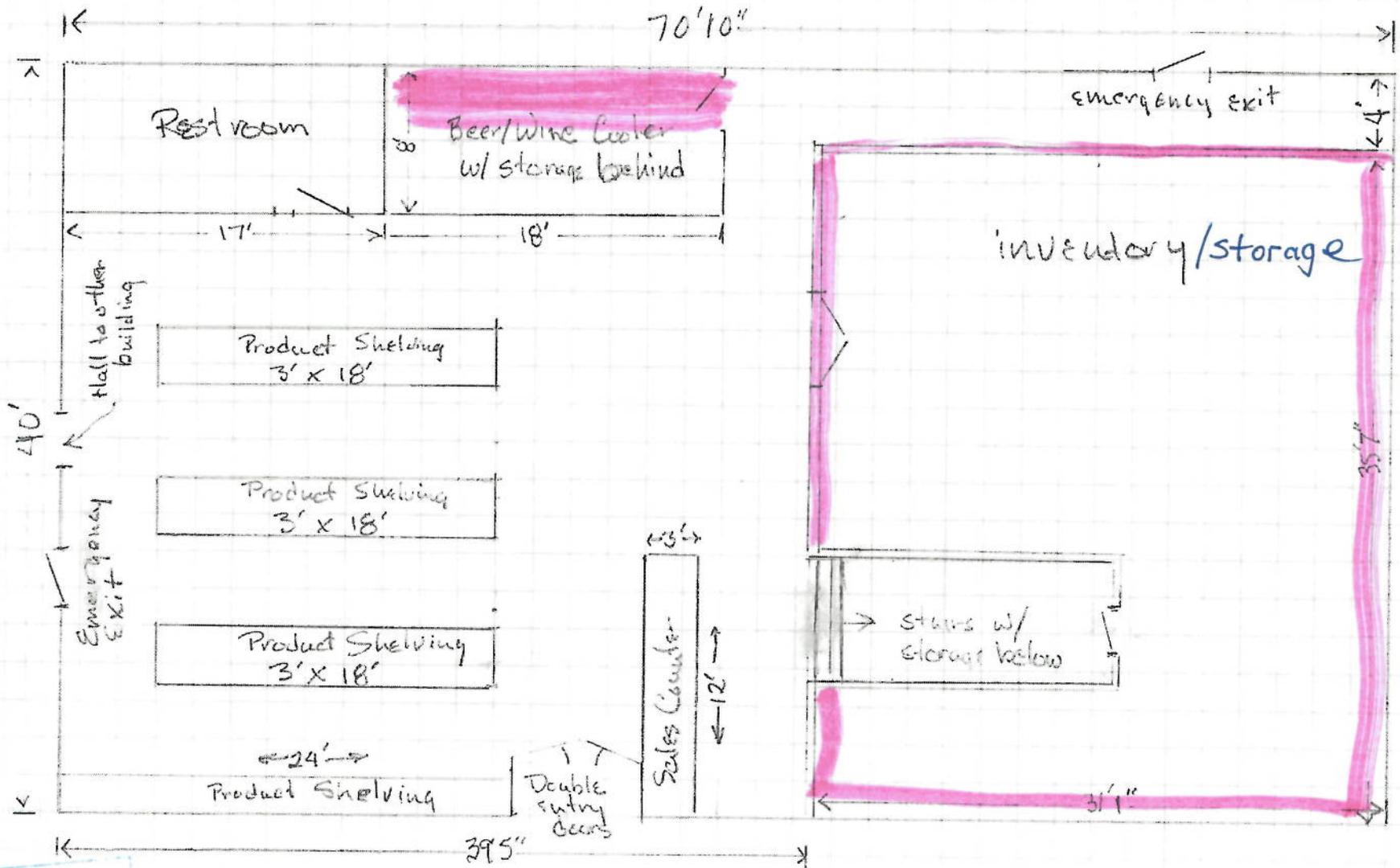
Form AB-02: Premises Diagram

Section 2 – Detailed Premises Diagram

Clearly indicate the boundaries of the premises and the proposed licensed area within that property. Clearly indicate the interior layout of any enclosed areas on the proposed premises. Clearly identify all entrances and exits, walls, bars, and fixtures, and outline in red the perimeter of the areas designated for alcohol storage, service, consumption, and manufacturing. Include dimensions, cross-streets, and points of reference in your drawing. You may attach blueprints or other detailed drawings that meet the requirements of this form.

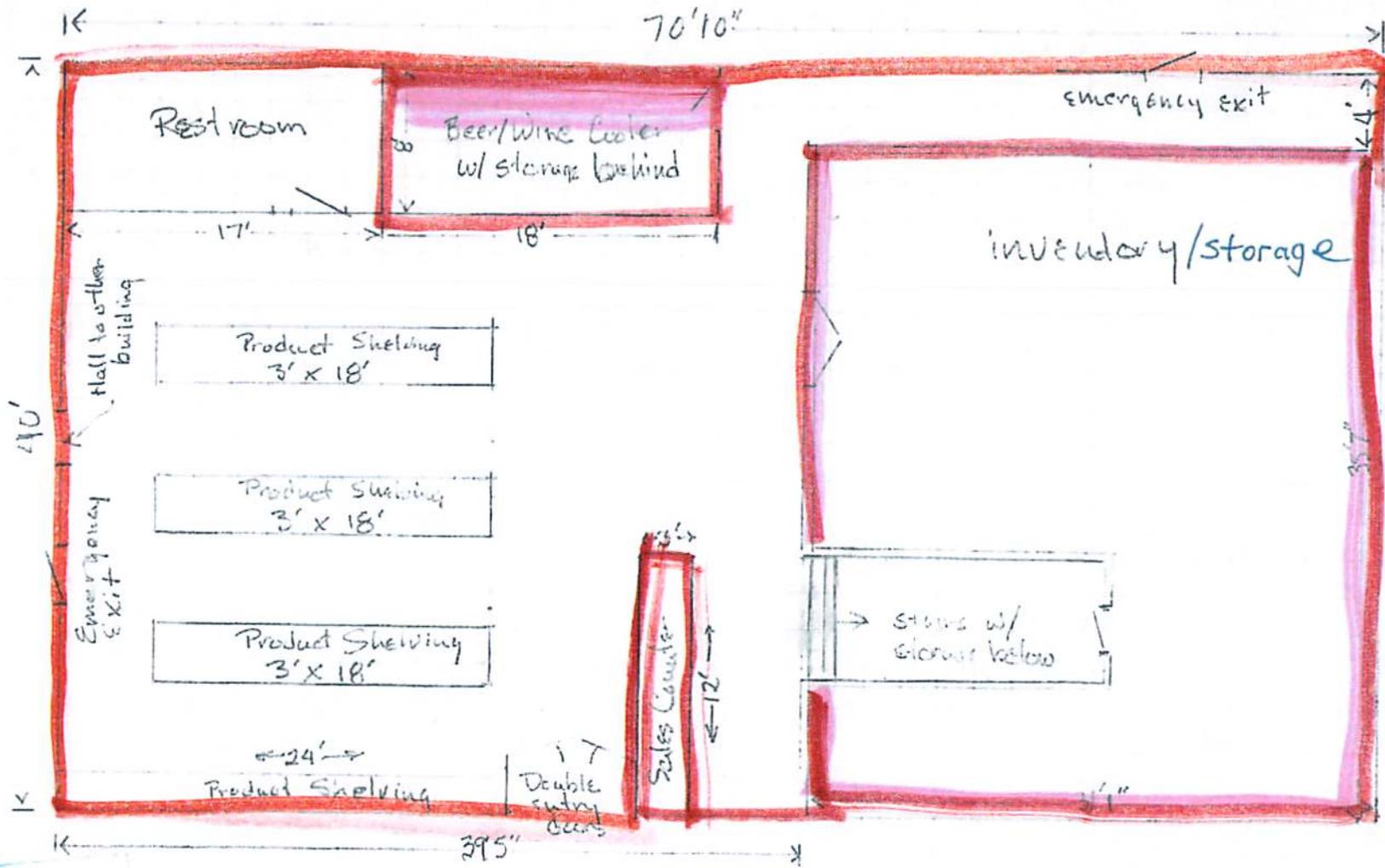
See Attached 2 pages





$\frac{1}{8}'' = 1'$

ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA
JUN 12 2017



ALCOHOL BEVERAGE CONTROL OFFICE
STATE OF ALASKA
JUN 12 2017

1/8" = 1'



Google Earth



Swanson's Liquor Store
Swanson's Grocery store

- Intersection of
- ① Eddie Hoffman Hwy
 - ② Tundra Way
 - ③ Tundra Street
 - ④ River street

RECEIVED
JUN 12 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA



CITY OF BETHEL

300 State Highway, P.O. Box 1388, Bethel, Alaska 99559
907-543-1385
www.cityofbethel.org

July 28, 2017

Swanson's Liquor Store, LLC
3351 Arctic Blvd
Anchorage, Alaska 99559
Re: Package Store License 5584
Tracking: 7016356000073259518

To whom it may concern:

The Bethel City Council will be considering a protest of the State of Alaska, Package Store Liquor License No. 5584 at their Regularly Scheduled Council Meeting, August 8, 2017. As per Bethel Municipal Code 5.08.040, and in accordance with 3 AAC 304.145, you will be provided a reasonable opportunity to defend your application for a Package Store License before the Bethel City Council at this meeting.

The August 8, Council Meeting will be held at City Hall, 300 State Highway, Bethel, and will begin at 6:30p. Resolution 17-14, Protesting the Issuance of a State of Alaska, Package Store License for Swanson's Liquor Store LLC, will be considered under New Business. The Agendas will be posted on Wednesday August 2, and will be available on the City of Bethel website, www.cityofbethel.org.

Attached are documents the Council will use in their consideration of the protest in addition to the regulations provided in Bethel Municipal Code 5.08.

Respectfully,

Lori Strickler,
City Clerk

Enclosures

City of Bethel Action Memorandum

Action memorandum No.	17-54		
Date action introduced:	8-8-2017	Introduced by:	City Manager Williams
Date action taken:		Approved	Denied
Confirmed by:			

Approve the Operations plan for the YK Fitness Center for July 1, 2017 through June 30, 2018.

Attachment(s): Proposed Operations Plan.

Route to:	Department/Individual:	Initials:	Remarks:
X	City Manager		
X	City Attorney		
X	Finance Director		

Amount of fiscal impact:		Account information:
X	Funds are budgeted. If adopted, the proposed increased rates should produce more revenue than what is currently listed in the Budget.	

The contract between the City of Bethel and Health Fitness requires Health Fitness to present for the Council's consideration an Operations and Maintenance Plan (Section 7a of the contract).

The summary of changes to be implemented at the Yukon Kuskokwim Regional Aquatic Health and Safety Center (YK Fitness Center) effective September 2017 are as follows:

- expanding the facility hours of operations to include being 5:30am-9pm and Saturdays and Sundays from 10am-9pm open Monday – Friday from
- Adjusting membership rates to account for the increased access the additional operational hours will provide. This increase includes 10% more hours per week and 14.5% more days per year.
- adjusting the structure of the family membership to equitably accommodate both small and large families.
- the inclusion of Full time positions for a Maintenance Technician and an Operations Manager.

HealthFitness is dedicated to operating the Yukon Kuskokwim Fitness Center to the highest possible standards. To that effect this operations plan will be under regular review and will be updated as best practices for maintaining the facility and meeting the specific needs of the community of Bethel are identified and put into practice.

Sections:

Facility Management

1. **Operational Hours**
 - a. **Regular Hours**
 - b. **Holidays**
 - c. **Operational Exceptions**
2. **Usage Policies**
 - a. **Access**
 - b. **Age Restrictions**
 - c. **Availability**
3. **Fees**
4. **Programs**
5. **Concessions & Pro Shop**
6. **Advertising and Marketing**

Risk Management

1. **Rules & Regulations**
2. **Emergency Procedures**

Personnel Management

1. **Personnel Needs**
2. **Employment Procedures**

Attachments

- A. **FY18 Rates Proposal**
- B. **Natatorium Emergency Action Plans**

Days and Hours of Operation

Normal Operations will be as listed below. With council approval, days/hours may be subject to change if utilization rates show a need for change.

Regular Operational Hours:

- Facility doors will open at the times specified below.
- Sales and admittance will end 30 minutes prior to the end of operational hours to allow desk staff to close, count register tills and to clean and sanitize concessions equipment.
- The Natatorium Area will close 30 minutes before building closure to allow swimmers to utilize locker rooms within building operational hours.
- All patrons are expected to vacate the building by the end of operational hours.

Operational Hours: Through September 1, 2017

Monday: CLOSED

Tuesday – Friday: 6:00 am – 9:00pm

Saturday: 9:00 am – 9:00pm

Sunday: 10:00 am – 9:00pm

Operational Hours: Beginning September 2, 2017

Monday – Friday: 5:30am – 9:00pm

Saturday - Sunday: 10:00 am – 9:00pm

Holiday Hours FY18

July 4th: 2pm-9pm

Labor Day: 9/3/17; 2pm-9pm

Thanksgiving Day: 11/23/17 Closed

Christmas Day: 12/25/17 Closed

New Year's Eve: 12/31/17 Open 9am-4pm

New Year's Day: 1/1/18 Open 2pm-9pm

Easter: 4/1/18 Open 2pm-9pm

Memorial Day: 5/28/18 2pm-9pm

Operational Exceptions:

As listed above the pool deck closes 30 minutes prior to building closure to allow swimmers to utilize locker rooms within building operational hours.

The Natatorium will be closed without notice in the event of any of the following:

- Any condition which disables the pool filtration system, including but not limited to power outages or mechanical failures.
- Any condition which results in unsafe water chemistry, including but not limited to:
 - Bodily fluid contamination
 - Unsafe chlorine levels
 - Unsafe pH levels
 - Poor clarity causing obstruction of view of pool drains

- Any incident or accident which requires the lifeguard to clear the pools in order to provide care to a patron.

Additionally, capacity control measures may be implemented in the occurrence of any of the below situations:

- If aquatic patron numbers exceed the maximum allowable capacity of 111;
- If staffing levels are not able to match user limits.

Facility Use - Access

All patrons entering the facility will be required to check in at the member services desk. In order to be admitted to the facility patrons will need one of the following:

- An active membership
- A day pass (includes bundle passes)
- Be registered for a class or activity
- Be on the guest list for a party or rental group
- Be the attending guardian of a youth falling into one of the above categories.

Facility Use – Age Restrictions

Children under age 11 years MUST be attended by a parent/guardian over age 18 at all times.

- Programs: Excluding Sports Camps/Clubs, if a child under age 11 years is in a program with an instructor, parent must remain in the facility, but may leave the activity area. Parent must let instructor know where to find them in the event of an emergency.

Children age 11-15 years old may use the pool without a parent/guardian as long as the child has passed the swim test and parent/guardian has signed a parent release.

Patrons age 16 years or older may use all public areas of the facility.

Natorium Specific Age Restrictions

- Age: 5 years or less: Parent/Guardian must accompany their child in the water and remain within an arm's length distance or closer to their child.
- Ages 6 to 11 years: Parent/Guardian must remain in the pool area to supervise their child.
- Ages 11 to 15 years are allowed in the pool area without adult supervision if they have passed the swim test and parent/guardian has signed a parent release.

Studio is for use by patrons over the age of 16 unless patron is participating in a Facility program under the supervision of facility staff or instructor.

Spa and Cardio/Weight Room may be used only by patrons aged 16 years or older.

Facility Use - Availability

Cardio/Weight Room: Open to patrons during all hours of operation.

Available for use by patrons age 16 years or older who have a fitness membership or who purchase a fitness area pass.

Patrons are expected to adhere to all facility rules and regulations and to comply with all directions and requests from Facility Staff. Staff are also required to follow appropriate gym etiquette, to share equipment and rotate use of equipment of which there are only single options. In the event of overcrowding during peak hours, user time limits will be implemented.

Studio:

During hours that programs, events or rentals are scheduled, the Studio will be closed to patrons not enrolled or registered for those programs, events or rentals.

During hours that programs, events or rentals are not scheduled, the Studio will be available for use by patrons who have a fitness membership or who purchase a fitness area pass.

Use of the Studio will be prioritized as follows.

1. First priority of studio use goes to Facility programming.
2. Second priority of studio use goes to Facility scheduled Events.
3. Third Priority of Studio use goes to rentals schedule with Facility Management.
4. The Studio will be open for use by patrons who have a fitness membership or who purchase a fitness area pass during any operational hours that do not have programs, events or rentals scheduled.

Natatorium: On all operational days the Natatorium area closes 30 minutes before building closure to allow swimmers to utilize locker rooms within building operational hours.

The Pool is available for use by patrons holding a pool membership or who purchase a pool area pass. During most operational hours space will be made available for a variety of activities including, but not limited to lap swimming, recreation and instruction. Lifeguards will direct patrons to available spaces based on their participation needs. All patrons will be expected to share space appropriately. Pool capacity is limited to no more than 108 patrons at any time.

The Spa is available for use by patrons age 16 years or older holding a pool membership or who purchase a pool area pass. Patrons are expected to follow all posted rules for utilizing the spa. Spa capacity is limited to no more than 17 patrons at a time.

The Slide will be operated at the discretion of management and lifeguards based on patron numbers and lifeguard availability.

The Starting blocks are available for use only by participants being directly supervised by Facility approved coaches or instructors.

Facility Usage Fees

Admission categories as listed below will be utilized to determine facility usage fees.

- Adults: age 18 through 59 years
- Military: with a valid ID card (can only be purchased on site)
- Senior: age 60 years and above (with proof of age)
- Youth: age 3 through 17
- Kids: age 2 & under

Fees Approach: The facility will offer a variety of fee options for utilizing either the Fitness areas or the Natatorium areas as well as options for utilizing both the Fitness and Natatorium areas.

Options include but are not limited to:

- Individual, Family or Corporate memberships
- Day passes and bundled day passes
- Group rentals

Pricing of memberships and admissions fees will be set by council approval and will be reviewed annually. See Attachment A for FY18 pricing proposal.

The Facility Director will have the option of establishing discounted member or admission rates for corporate accounts, rentals and special events.

Facility Rental: All efforts will be made by facility staff to assure that rentals have minimal impact on regular facility operations. Rental requests for exclusive use of the facility will be considered only if the request is for times outside of operational hours or with approval from the City Manager.

The following rental options will be standard options available. Additional rental options may be developed at the discretion of the Facility Director as needed.

- Studio
- Conference Room
- Party Packages
- Locker Rental
- Pool Lane rental

Programs

The Program Manager will be responsible for developing program offerings at the facility. Offerings will be based on availability of qualified staff and on patron interest.

Registration for program offerings will be open to all and pricing will include a discounted rate for facility members with active memberships. Some classes may have age restrictions or eligibility requirements. Class registration will be offered in a variety of formats including but not limited to:

- Classes on a set session schedule that require registration in advance for the session.
- Classes on a set session schedule that allow both registration for the entire session or drop in registration.
- Classes occurring on a rolling basis that allow registration for a specific number of classes or drop in registration.
- One time classes or clinics that will be available for advanced registration or drop in registration.

Concessions and Pro-Shop

The Concessions area and Pro shop will be operated by the desk staff on duty. Procurement and pricing of items for sale will be the responsibility of the Facility Director. Selection of items for sale will be based on patron interest and regular review of sales. Pricing will be set based on market value of items purchased. Every effort will be made to assure essential items are reasonably priced.

Advertising and Marketing

The Facility Director and Program Manager will share responsibility for the ongoing advertising and marketing of the facility. Quarterly Marketing Plans will be submitted to the City Manager prior to the beginning of each quarter.

Website: The website domain ykfitness.org was purchased by Bethel Community Services Foundation (BCSF) for the duration of one year effective August 2016-August 2017. BCSF contracted with Katie Basil for initial design of a webpage. Responsibility for ongoing maintenance and updating of the website are the responsibility of the Facility Director and Program Manager. Ownership of and fiscal responsibility for the page has been assumed by the facility as part of the FY18 budget.

Social media: The City of Bethel holds the rights to the Yukon Kuskokwim Fitness Center Facebook page. Responsibility for managing and updating the page fall to the Facility Director and Program Manager.

Radio: It is the responsibility of the Program Manager to communicate with KYUK and KYKD to broadcast up to date facility information.

Facility Newsletter: Effective July 2017 the Program Manager will send a monthly newsletter to facility members with facility updates and information.

The Facility Director and Program Manager will work with the city Marketing Committee to identify and maximize additional advertising opportunities.

Rules and Regulations

The following rules and regulations have been established to assure the safe operation of the facility and to provide enjoyable recreational opportunities for all. Staff and patrons are expected to observe facility rules and regulations, both posted and unposted. Staff or patrons violating rules and regulations or failing to follow directions or requests from facility staff or management are subject to the revocation of privileges.

General Rules and Expectations

Alcohol, tobacco, and drugs are not permitted on Fitness Center property. This includes the parking area and all walkways leading to the facility entrances/exits.

- All tobacco products, including chew, should be put away before entering the facility grounds.
- Patrons wishing to use tobacco products are required to exit facility grounds.
- Patrons found with alcohol or drugs in the facility or showing signs of being under the influence of drugs or alcohol will be required to leave the property and may be subject to suspension of privileges.
- Patrons found actively ingesting or otherwise using alcohol or drugs while on Fitness Center Property will be required to leave the property and will be subject to revocation of privileges.
- Glass containers are not allowed in the facility.
- Pets are not permitted in the facility. Service animals are permitted but are not allowed in the water of the pool or spa and are not allowed on fitness equipment. Owner must make service registration paperwork available to Fitness Center Management.
- Age Restrictions:
 - Patrons Age 16 years and older may utilize all areas of the facility.
 - Patrons Age 11-15 years of age
 - May attend programs without adult supervision after legal guardian signs program waiver.
 - May use the pool without adult supervision if they are able to pass the facility swim test. Parent or Guardian over the age of 18 must accompany the swimmer to take the swim test.
 - **Patrons under the age of 11 years must be accompanied by an adult at all times unless otherwise stated.**
- Patrons are expected to remain in the public areas of the facility. Patrons are not allowed in staff rooms, filter/boiler rooms, chemical storage areas or offices unless accompanied by Fitness Center Staff.
- Food or refreshments may be consumed in the below designated public areas only.
 - Food may be consumed in the concessions area only.
 - Water in a covered container is allowed in all areas of the facility.
 - Beverages other than water may be consumed only in the concessions area or in the viewing area of the Natatorium.
- Patrons with communicable disease(s) should not use the facility.
- Violence of any kind is not allowed on Fitness Center Property. Any staff or patron expressing physical or verbal violence will be required to leave the property and will be subject to revocation of privileges.

Cardio and Weight Room may be used only by patrons age 16 years old or older.

- YK Fitness Center Management believes in safety first and encourages patrons to contact their health care physician prior to beginning a fitness or weight training regimen.
- Patrons utilizing the cardio and weight area are required to follow all posted rules and policies as well as any requests by facility staff or management.
- Patrons should place personal items in locked lockers and should not create hazards by bringing bags or other items into the Cardio/Weight Room.
- Patrons are asked to disinfect equipment after each use.
- Patrons are required to follow all safety guidelines posted on equipment and to use the equipment only as it is intended.
- We appreciate patrons informing our desk staff if they see any issues with equipment, cleanliness or patron behavior.

Cardiovascular Equipment Guidelines

During peak hours, patrons are requested to limit time on cardio equipment to 30 minutes to allow other patrons the opportunity to use the equipment.

- For patron safety hand weights or dumbbells should not be used while on cardio equipment.
- Wear the safety lanyard when using the treadmills.
- Turn off TVs when done using cardio equipment.
- Please report any equipment issues to the front desk.

Weight Equipment Guidelines

During peak hours, patrons are required to share equipment by allowing other patrons to work in between sets and/or by limiting time with any piece of equipment to 10 minutes.

- Patrons are expected to use controlled lifting techniques of weight appropriate to their strength.
- Patrons should be able to maintain healthy form and return weights to start positions without dropping or slamming them. This applies to all weights and all patrons.
- Plates and bars should be returned to their racks after use and should not be left on the floor or leaning against racks or mirrors.
- Patrons should not place feet or rest bars or weights on upholstered benches.
- Patrons should not wear jeans or any clothing that might damage or mar the upholstered benches.
- Chalk and/or chalk-like substances are not permitted.

Studio: When not in use by programs or rental groups the Studio is open for use by patrons over the age of 16 years.

- Fitness equipment should be used only for its intended purpose.
- Fitness equipment should not be removed from the Studio.
- Patrons must use caution near mirrors.
- Patrons should clean equipment with disinfectant spray after use.
- Audio and video equipment is for use by Fitness Center staff or instructors ONLY.

Natatorium

- Patrons are expected to follow all rules and regulations. **Lifeguards and Facility Staff have the authority to enforce all facility rules, including those not posted.** Patrons who repeatedly violate facility rules or refuse to follow reasonable requests from staff may have their facility use privileges revoked.
- Patrons are not allowed in the Natatorium unless the pool is officially open and a lifeguard is on duty. Entering the pool area when it is not open for public use is prohibited and may result in revocation of privileges.
- All patrons utilizing the pool or spa must be attired in **clean swimming apparel**. Reasonable accommodations will be made for modesty and religious concerns, but all swimming apparel must be made of approved materials. Specifically, **swimwear must be of a colorfast and lightweight material suitable for swimwear, such as Lycra, Spandex or nylon**. All swimwear must be clean of dirt, sweat and any chemicals that might interfere with the water chemistry of the pool or spa. Cottons and other linens that impact the pool filtration system will not be allowed.
- Any patron who is not fully toilet trained and/or who is incontinent, must wear a clean diaper designed for swimming covered by separate rubber/vinyl cover, all of which must fit snugly around the legs and waist. If the diaper becomes soiled, this person must exit the pool immediately and may not return until being completely cleaned and putting on a clean diaper with clean rubber/vinyl pants.
- All patrons must take a cleansing soap shower before entering the water of the pool or spa.
- Any person having a communicable disease, open wound, inflammation or discharge will not be permitted in the pool or spa.
- Any patron experiencing even a mild case of diarrhea may not use the pool or spa. Persons with diarrhea should wait two weeks after symptoms end before returning to the pool.
- Patrons should always walk when in the pool area.
- Prolonged underwater swimming for time and/or distance is not allowed. Competitive or repetitive breath holding can be deadly and is not permitted. Hyperventilation is not permitted.
- Waste is not allowed in the pool. If your swim shorts have pockets, please empty them before entering to pool.
- Food, Drink, Gum, or Tobacco products are not allowed on the pool deck. Water in plastic containers is allowed.
- Pushing, back dives, flips, or spins off the side of the pool are not allowed.
- Patrons may not sit or hang on lane lines unless experiencing difficulty swimming.
- Starting blocks are for use only when under the supervision of Center approved coach or instructor.
- Patrons shall not climb, sit or walk on dividing wall between shallow area and slide area.
- Diving is allowed only in the 7' end of the pool.
- Lifeguards will designate lanes for swimming and lanes for recreation. Recreational swimmers are asked to stay out of lap lanes. Lap swimmer are expected to share lap lanes with other swimmers by circle swimming.
- In order to use the slide patrons must:
 - Be at least four-foot-tall or be able to pass the swim test
 - Go down slide feet first.
- Patrons may not sit or stand on the outside of the slide
- Patrons should not dunk, hang or pull on the basketball hoop.

YK Fitness Center Pool Rules (cont.)**Natatorium Behavior**

No person within the Natatorium shall behave in such a manner as to jeopardize the safety and health of himself/herself and others. Such behavior, including but not limited to the below, may result in revocation of privileges and/or expulsion from the premises.

- Failure to follow the directions of Lifeguards or Facility Staff.
- Use of abusive or profane language.
- Use of or being under the influence of alcohol, tobacco or any other drug
- Loitering
- Running, boisterous or rough play, pushing, acrobatics, dunking, wrestling, offensive or disruptive splashing or yelling, diving or jumping without care and caution, snapping of towels, improper conduct causing undue disturbances on or about the pool area.
- Spitting, spouting water, blowing nose, urinating or defecating in the pool.

Emergency Procedures

In the event of an emergency patrons are expected to remain calm and to follow the below basic guidelines as well as directions of Fitness Center Staff.

Fire: In the event of a fire all patrons should exit the facility by the nearest exit. For safety, patrons should not go to locker rooms or other rooms in the interior of the facility, but should exit quickly and calmly at the nearest exit.

Power Outage: In the event of a power outage, patrons should remain in place until the generator starts up and provides backup lighting. Under normal circumstances the fitness center will remain operational and patrons are encouraged to return to their activities once lighting has been restored. If any issues occur with lighting, HVAC or filtration systems for the pool/spa patrons will be asked to leave the affected areas until systems can be restored.

Natatorium Incident: In the event of an incident in the Natatorium area, patrons may be asked to exit the pool and/or Natatorium area. Patrons will be expected to follow all requests by Lifeguards, Managers or Staff immediately.

Personnel Needs

Personnel needs fall into 2 categories, operational and programming.

Operational Positions: include those positions required to manage and maintain the facility overall and to provide patron safety and customer service during operational hours.

Operational personnel are scheduled based on facility utilization.

Facility Director: Full Time, 40 hours per week

The Facility Director (FD) is responsible for the overall operations and maintenance of the facility and oversees all staff. The FD serves as the primary liaison between HealthFitness and the City of Bethel.

Programs Manager: Full Time. 40 hours per week

The Program Manager (PM) is responsible for the development, planning and implementation of facility programs and events. The PM assists and supports the Facility Director in operations and maintenance of the facility and serves as primary supervisor over part time programming staff and secondary supervisor over operational staff. The PM is responsible for hiring, training and maintaining employee records for all programming staff. The PM is responsible for facility and program marketing.

Operations Manager: Full Time, 40 hours per week

The Operations Manager (OM) assists and supports the Facility Director in operations and maintenance of the facility. The OM serves as primary supervisor over part time operational staff, and is responsible for hiring, training, scheduling and supervising part time operational staff. The OM is responsible for all customer service operations including all front desk operations and with assisting FD with pro shop and concessions inventory and sales. OM is responsible for assuring cleanliness of the facility.

Maintenance Technician: Full Time, 40 hours per week

Responsible for daily maintenance and facility operations. Works directly with Facility Director to keep facility in good working order.

Certified Pool Operators (CPO): Responsible for maintaining chemical balance and filtration systems for the pool and spa. At least 2 operational staff should be Certified Pool Operators. At least one of these roles should be filled by a full time manager, the other may be filled by a part time staff member.

Lifeguards: Part Time, no more than 29 hours per week

Primary responsibility is patron surveillance and assuring the safety of all patrons in the Natatorium. Secondary duties include arranging the pool for programs and events, testing pool chemicals, and maintaining cleanliness of the Natatorium. Lifeguards must maintain up to date Lifeguarding, CPR/AED and First Aid Certificates.

Customer Service Representatives (CSR): Part Time, no more than 29 hours per week
Primary responsibilities include customer service, sales and concessions. Secondary Responsibilities include administrative, cleaning and other tasks as assigned by Management. Must be ServeSafe certified within 30 days of employment.

Facility Attendant: Part Time, no more than 29 hours per week
Responsible for cleanliness of facility.

Maintenance Personnel: Part Time, no more than 29 hours per week
Responsible for assisting Maintenance Technician and Facility Director with maintenance and facility operations.

Programming Positions: include those positions needed to provide programming options and are scheduled based on availability and programming need/interest from patrons.

Instructors: Part Time, no more than 29 hours per week
Includes any staff hired to instruct programs offered by YKFC. Responsible for maintaining any required certifications for assigned programs, utilizing best practices for the assigned program including assuring safety and providing appropriate modifications to allow maximum safe participation.

Youth Programming Attendants: Part Time, no more than 29 hours per week
Includes staff responsible for programs developed to provide youth activities at the facility.

Additional positions may be added to meet specific programming needs as programs are developed and diversified.

Employment Procedures

All employees working at the Facility are hired as employees of Health Fitness. Health Fitness employees are not City of Bethel employees. Health Fitness is responsible for administering all employee:

- Wages;
- Income Tax withholding;
- Social Security Withholding;
- Medicare withholding;
- State unemployment insurance;
- Workman's Compensation Insurance;
- Any additional State of Alaska or Federal requirements applicable to the employee.

Employee candidates apply through the Health Fitness employment website. All applications are reviewed by the Health Fitness Human Resources Department. Applications meeting minimum qualifications as set out in the job description will be sent to the appropriate manager at the YK Fitness Center. The manager responsible for hiring for the position will conduct interviews and reference checks and make hiring determinations. All hiring decisions will be based on the ability shown by the applicant to fulfill the job duties and contribute to the team they will work on. Race, national origin, color, age, creed, religion, sex, sexual orientation, gender identity, political affiliation, marital status, ancestry, disability or status as a disabled veteran are not factors considered in hiring decisions.

Once a determination is made to hire, the applicant will receive an offer letter stating wage rate, start date, requirement to provide proof of eligibility to work in the United States and requirements for background check. The signed offer letter is sent to the Health Fitness Human Resources Department who initiates the background check process. Applicants must successfully complete and pass the background check and provide proof of right to work before beginning work.

Once cleared for work new employees will meet with their immediate supervisor for orientation and training including but not limited to:

- Review of Personnel Policy Manual (includes payroll orientation)
- Review of Position Policy Manual
- Orientation and training in the position specifics
- Establishment of scheduled hours

Additional Employment details are available in the Personnel Policy Manual and Employee Position Manuals.

Attachment A:
FY18 Membership Rates Recommendations – 7/18/17

As discussed during FY18 budget meetings, we recommend the following changes to the facility rates to coincide with the change of facility hours from 6 days per week to 7 days per week. If adopted these rate changes would take effect with the start of the new 7 day per week schedule on September 2nd, 2017.

In reviewing these recommendations please keep in mind that the move to 7 day per week operations is an increase in availability of:

- 16.5 more hours per week, or 10% more hours per week
- 51 more days per year, or 14.5% more days per year

Additionally, rates have not been changed since the facility opened. Industry average rate changes tend to be 3% per year. Therefore, going into year 4, rates should have changed by at least 9%.

Individual Monthly and Annual Fitness OR Pool packages

These packages include those where the individual chooses between using only fitness areas or only pool areas. These packages are the most utilized packages and the recommended change is 10% across all packages.

Monthly	FY17 Price	FY18 Price	Change
Adult - Fitness or Pool	\$60	\$66	\$6
Youth - Fitness or Pool	\$30	\$33	\$3
Senior - Fitness or Pool	\$25	\$28	\$3
Military - Fitness or Pool	\$40	\$44	\$4

Annual	FY17 Price	FY18 Price	Change	Per Month
Adult - Fitness or Pool	\$600	\$660	\$60	\$55
Senior - Fitness or Pool	\$250	\$275	\$25	\$23
Youth - Fitness or Pool	\$300	\$330	\$30	\$28
Military - Fitness or Pool	\$400	\$440	\$40	\$37

Monthly and Annual Fitness AND Pool for Individuals

These packages represent 36% of regular package purchases but 59% of purchases when discounts are available. If we assume there is a desire for these packages, but that the higher rate is a challenge, then it seems best that the increase on these packages be as small as reasonably possible to encourage more purchases of the AND packages and ideally more use of the facility. Consequently, we recommend a rate increase of 7%, which results in a change similar in dollar amount to the changes to the Fitness OR Pool packages.

Monthly	FY17 Rate	FY18 Rate	Change
Adult - Pool&Fitness	\$85	\$90	\$5
Youth - Pool&Fitness	\$50	\$55	\$5
Senior - Pool&Fitness	\$45	\$50	\$5
Military Pool&Fitness	\$50	\$55	\$5

**Attachment A:
FY18 Membership Rates Recommendations – 7/18/17**

Annual	FY17 Rate	FY18 Rate	Change	Per Month
Adult - Fitness&Pool	\$850	\$905	\$55	\$55
Senior - Fitness&Pool	\$450	\$480	\$29	\$40
Youth - Pool&Fitness	\$500	\$530	\$33	\$44
Military - Fitness&Pool	\$600	\$640	\$39	\$53

Family Memberships

Family memberships make up the smallest number of membership purchases. Based on conversations we have had with community members, we believe this is primarily because the current structuring of Family Memberships to include 6 people is cost prohibitive to smaller families. To provide a more cost effective membership option for all families, we recommend changing the structure of the family membership to start with 3 individuals included in the base price, then include the option to add up to 5 additional family members at a discounted rate.

This restructured rate would be based on the current per person rate plus a 10% increase.

Family Annual	FY17 (6 people)	FY18 (3 people)
Fitness or Pool	\$2,250	\$1,240
Pool & Fitness	\$2,950	\$1,625

Family Monthly	FY17 (6 people)	FY18 (3 people)
Fitness or Pool	\$225	\$125
Pool & Fitness	\$295	\$165

The add on rate for family members will be calculated as a 10% discount off the regular rate for that individual. Add on type will be required to match the family membership type (monthly v. annual/OR v. AND).

Monthly	Family Add On
Adult - Fitness or Pool	\$60
Youth - Fitness or Pool	\$30
Senior - Fitness or Pool	\$25
Military - Fitness or Pool	\$40

Annual	Family Add On
Adult - Fitness or Pool	\$600
Senior - Fitness or Pool	\$250
Youth - Fitness or Pool	\$300
Military - Fitness or Pool	\$400

Daily Rate: It is the recommendation that daily rates remain the same. The current per person cost is reasonable, and anyone who wishes to use the facility more than 2 times per week benefits from purchasing a membership.

Bundle Passes: the bundle packages of 10 passes are currently priced at a rate that is 10% off of the cost of 10 individual day passes, with the exception of the Adult Pool & Fitness pass which is priced at a 21% discount. It is our recommendation that the bundle pass rate remain at the 10% discount, with the rate for the Adult Pool & Fitness pass being adjusted to align with the 10% discount. This change would move the Adult Fitness and Pool bundle from \$87 to \$99.

Attachment B:
Natorium Emergency Action Plans

Emergency Action Procedure – 1 Lifeguard on Duty

All Staff MUST have WORKING RADIOS turned ON and tuned to Frequency 3.

- Lifeguard on Pool Deck (Guard 1)
- Lifeguard Certified Manager in the building (Guard 2)
- Front Desk employee

Lifeguard 1

- Recognize Emergency
- Activate EAP:
 - o **Two Long Whistle Blasts**
 - o **Radio** Manager and Desk.
- Perform appropriate rescue
- Provide Appropriate Care
- Complete Incident Report
- Debrief if needed
- Reset Equipment

Lifeguard Certified Manager

- Report to the location given by the Lifeguard
- Assist the Lifeguard with rescue or care as needed.
 - o Clear pool of all patrons.
 - o Brings AED if needed
 - o Calls EMS or communicate with Desk staff to call EMS
 - o Brings Backboard, and/or first aid supplies.
- Assist in completion of incident report
- Interview witnesses if appropriate
- Debrief if needed
- Assist in resetting equipment and any necessary cleanup.

Front Desk

- Assist Lifeguard in alerting manager to emergency.
- Provide Support as needed:
 - o Bring AED
 - o Call EMS
 - o Direct EMS to incident
- Provide Patron Control

All involved staff should help to ensure that an incident report is completed and witness statements are collected.

The Manager on Duty should receive the final report which should ultimately go to the Facility Director.

Attachment B:
Natatorium Emergency Action Plans

Emergency Action Procedure – 2 Lifeguards on Duty

All Staff MUST have WORKING RADIOS turned ON and tuned to Frequency 3.

- Lifeguard on Pool Deck (Guard 1)
- Additional Lifeguard on Pool Deck (Guard 2)
- Manager on Duty
- Front Desk employee

Lifeguard 1

- Recognize Emergency
- Activate EAP:
 - **Two Long Whistle Blasts**
 - **Radio** Manager and Desk.
- Perform appropriate rescue.
- Provide Appropriate Care.
- Complete Incident Report.
- Debrief if needed.
- Reset Equipment.

Lifeguard 2

- Provide Backup Zone Coverage or Clear the Pool.
- Assist Lifeguard 1 with rescue or care as needed.
 - Bring AED if needed
 - Call EMS or communicate with Desk staff to call EMS
 - Bring Backboard, and/or first aid supplies.
- Assist in completion of incident report.
- Interview witnesses if applicable.
- Assist in resetting equipment and any necessary cleanup.

Manager

- Report to the location of the incident
- Provide Assistance as needed:
 - Clear pool of all patrons.
 - Bring AED
 - Call EMS or communicate with Desk staff to call EMS
 - Bring Backboard, and/or first aid supplies.
- Assist in completion of incident report
- Interview witnesses if applicable
- Debrief if needed
- Assist in resetting equipment and any necessary cleanup.

Front Desk

- Assist lifeguard in alerting manager to emergency.
- Provide Support as needed:
 - Bring AED
 - Call EMS
 - Direct EMS to incident
- Provide Patron Control
- Assist with Incident Report Completion

All involved staff should help to ensure that an incident report is completed and witness statements are collected.

The Manager on Duty should receive the final report which should ultimately go to the Facility Director.

Introduced by: Council Member Welch
Date: February 28, 2017
Action: Passed
Vote: 5-1

CITY OF BETHEL, ALASKA

Resolution # 17-03

CITY OF BETHEL PROTEST OF PACKAGE STORE LIQUOR LICENSE #5533 FOR KUSKO LIQUOR STORE, LOCATED AT 801 FRONT STREET BETHEL, OWNED BY CEZARY MACZYNSKI

WHEREAS, Cezary Maczynski made an application with the Alaska Alcohol and Marijuana Control Office (AMCO) Package Store License #5533, to be used for Kusko Liquor Store, located at 801 Front Street, Bethel, Alaska 99559;

WHEREAS, the City Clerk received a copy of this application on January 12, 2017 and has determined that the last day for the Council to file a protest is March 13, 2017;

WHEREAS, City of Bethel Administration submitted a report to the Bethel City Council on January 30, 2017 (Attachment) with the following finding;

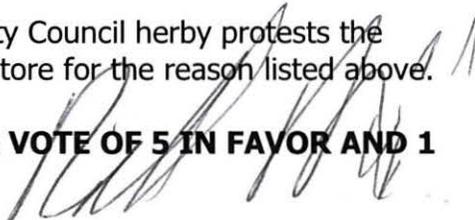
WHEREAS, Alaska Statutes 04.11.420 Zoning Limitations, states, in part: "a person may not be issued a license or permit in a municipality if a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages unless a variance of the regulations or ordinance has been approved;"

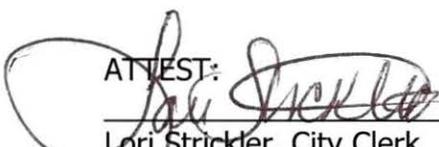
WHEREAS, as of February 28, 2017, Kusko Liquor Store has not been granted a conditional use permit from the City of Bethel, as required under Bethel Municipal Code 5.08.060, Conditional Use Permit Required;

WHEREAS, the map of the proposed area for parking provides in the application is located partially on land that is not owned by the applicant. There has been no survey conducted to determine the owner of the lands adjacent to the establishment;

NOW, THEREFORE, BE IT RESOLVED the Bethel City Council hereby protests the issuance of a Package Store License for Kusko Liquor Store for the reason listed above.

ENACTED THIS 28 DAY OF FEBRUARY 2017 BY A VOTE OF 5 IN FAVOR AND 1 OPPOSED.


Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk

City of Bethel, Alaska

Resolution #17-03
1 of 1

RESOLUTION

Bethel Planning Commission

Resolution No. 2017 – 07

A RESOLUTION OF THE PLANNING COMMISSION APPROVING THE CONDITIONAL USE PERMIT APPLICATION BY CEZARY J. MACZYNSKI, KUSKO LIQUOR STORE, FOR A PACKAGE LIQUOR LICENSE LOCATED AT 801 FRONT STREET, IN BETHEL, ALASKA. A PORTION OF UNITED STATES SURVEY 1002.

WHEREAS, Bethel Municipal Code (BMC) Section 5.08.060 states that any use which includes the retail sale or dispensing of alcoholic beverages is permitted only by a Conditional Use Permit; and

WHEREAS, Kusko Liquor has submitted a Conditional Use Permit Application for obtaining a Package Liquor License; and

WHEREAS, the Planner for the City of Bethel has reviewed and wrote findings of fact and recommendation for the Conditional Use Permit application and determined that it conforms to the requirements pursuant to BMC 18.60 (Conditional Use Permit Standards and Procedures) and 16.04 (Planning, Land Use, Platting, and Site Development), and recommends the Conditional Use Permit be approved; and

NOW THEREFORE BE IT RESOLVED that the PLANNING COMMISSION has reviewed the Conditional Use application and staff's findings and has determined that it conforms to the requirements pursuant to BMC 18.60 and BMC 16.04, and hereby approves the permit. The permit will be issued and the sale of alcohol can begin only when the following conditions are met:

1. As proposed by the applicant, demolish the existing auto shop and replace it with a 25-foot wide driveway, 10 parking spaces, a four-foot wide walkway, and a 25-foot wide parking lot aisle for two-way entry and exit vehicles
2. Install a permanently-fixed barrier along the property line on Front Street up to the driveway so that customers use the designated 2-way driveway which would eliminate backing out on to the street.
3. Install a permanently-fixed barrier on the western property line to eliminate customer parking on adjacent private property.
4. Install entry and exit signs for the driveway.
5. Physically designate the 10 parking spaces on the property.
6. Install exterior lighting and sensors.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 13th day of July 2017 by the City of Bethel Planning Commission Action:

Vote: In Favor: 5 Opposed: 0 Abstained: 0

ATTEST: Kathy Hanson
Kathy Hanson, Chairman
City of Bethel Planning Commission

Betsy Junger
Recorder

Bethel Recording District:
After recording please return to:
City of Bethel Planning Department
P.O. Box 1388
Bethel, Alaska 99559

Mayor's Report

City Manager's Report

CITY MANAGERS REPORT

July 19 to August 1 ,2017

Intuitional Corridor- pre bid conference was held July26 along with on site visit bids are due August 7th; there are 25 companies on the plan holders list. City Council approval of the construction contract will be scheduled for August 22, 2017

Sewer Lagoon/Jetty Project- 7/26 reviewed the contract between COB and Merrill Bros. and sent to the City Clerk for Council's approval on Aug 2nd

Finance Dept.- 7/26 discussed with the FD our insurance brokers has concerns about risk management. We are behind with the plan for the Capital Improvement Plan.

YKHC- 7/27- discussed maintenance concerns with the PW Director, Prop. Maint. foreman, Architects of Alaska and Bethel Contracting LLC. Bethel Contracting will have someone look at the roof and insulation. We are also looking into the computer program that controls the moisture inside the pool. It appears that some of the sensors should have been replaced after 6 mos. and that the levels of humidity have never been at the correct level as planned when the pool was built. One problem stems from complaints about the water being too cold or the temp in the building being too hot. As the controls were adjusted to meet the public wishes the controls quit operating correctly. We will work to remedy this problem first to determine if it is the moisture accumulating on various surfaces and then dripping vs. a leaky windows or a problem with the roof. We are working with Long Tech., Architects are Alaska and Bethel Contractors LLC. The building warranty is expired.

Port Ops. Ctr.- Progress is steady, roof and SIP panels were installed; will meet with project manager this week; continue to stay involved regarding billing and ops.

Bethel Bank Stabilization Project – There was one bidder present Bids are due August 10th and a contractor picked August 14th. Will meet with the USACE on August 3 to discuss what in kind matches we can utilize.

Courthouse Lease - on 7/31 the Alaska Court System was notified stating the terms of the rent, parking, utilities, etc. for space they are using in the courthouse.

Public Works – Received two RFP's too reviewed for cleaning tanks in the water treatment plant and for municipal engineering services. 7/27 AXIOM Service Agreement for- warded too legal for review- 7/27 received a revised service agreement with Accupoint for tracking the water and sewer trucks. 8/2 plan to set up a meeting with Accupoint to review the agreement and discuss the Axiom tracking program

Planning Dept. –7/27 & tele-conference with DOWL and Planning Dept. concerning the sub-division agreement. - Reviewed the Hazards Mitigation Plan with the Planning Dept.

DOT- on 7/21 DOT's Division of Weights and Measures audited the weight of the City's water and sewer trucks and found that they were over the weight limit when filled to the maximum that is allowable on state roads. They informed the truck drivers and determine a allowable load is about 2/3 of their normal load. 7/18-Two officers from the DOT Div. of Weights Measures stop by City Hall and informed appraised me of the situation. 7/24- Contacted the Division of Weights and Measure who responded saying they were not going to allow us a exemption. 7/26 Contacted Sen Murkowski and on 7/28 was referred too Benjamin Robinson, Director of Correspondence and Constituent Services, Office of Gov. Bill Walker. 8/1 Public Works director reports that the hauled services are on schedule.

Management Team Reports

MEMORANDUM



DATE: August 1, 2017

TO: Peter Williams, City Manager

FROM: John Sargent, Grant Manager

SUBJECT: Grant Manager's Report – August 8, 2017 Bethel City Council Meeting

Grant Projects

Sewer Lagoon Rehabilitation

City of Bethel engineer firm, CH2M, prepared and issued a Request for Proposals document to hire a contractor to perform dredging and baffle replacement. The City received two proposals by July 20 deadline, evaluated them, and selected one for award. The resulting contract was presented to Council for approval on August 2, 2017.

Grant Request

I prepared and submitted a request for an additional \$228,545 to the Village Safe Water Program to cover the full cost of dredging 3,000 dry tons from the lagoon. The request asks for a total of \$686,716 to cover any contingencies associated with the project. The City has not gotten a response from VSW to date.

Grant Reports

I completed all six State of Alaska Designated Legislative grant reports and closed three of them by the deadline: LED Streetlights, construction of new Aquatic Center, and construction of new Police Station. New grants now being administered by the City include: two new construction grants to cover sewer lagoon dredging and new homeland security grant for more police and fire radios.

Request for Bids/Proposals

Engineer

The RFP for municipal engineer services is nearly ready for legal review. After legal review, it will be issued at the direction of the City Manager.

Dumpsters

I will prepare a Request for Bids document to assist the City in its purchase of steel dumpsters. The steel ones have proven hardier and last longer under Bethel's rugged conditions.

**City of Bethel
Grant Summary
Calendar Year 2017**

Preparing

Sponsor	Name	Products/Services	City Depts. (Partners)	Date	\$ Grant \$ City Match
AK Dept. of Environmental Conservation	Capital Improvement Project List	Dredging sewer lagoon/replacing baffles	PW	Summer 2017	\$4,464,167 0
USDA-RD	Water and Sewer grants and loan	Sewer Lagoon Rehabilitation Project – Jetty Repair	Public Works	Ongoing	USDA: \$3,332,358

Submitted in Calendar Year 2017

Most recent first

Sponsor	Name	Products/Services	City Depts.	Date	\$ Grant \$ Match
Village Safe Water	Planning Grant as part of: Capital Improvement Project List	Preliminary engineering report and environmental report for Avenues piped W&S project.	Public Works	6/2/17	\$75,000
Federal Government	President Trump's Infrastructure Improvement Program	Water Loop A Water Loop B Water Loop C	Public Works	6/20/17	\$23,167,254 \$5,791,814
EPA, IHS, USDA, ANTHC	Sanitation Deficiency Database	Sewer pipe to connect 18 homes on 6 th & 7 th Aves.	Public Works	3/14/17	\$1,800,000 0
EPA, IHS, USDA, ANTHC	Sanitation Deficiency Database	Sewer pipe to connect 33 homes on 6 th & 7 th Aves.	Public Works	3/14/17	\$2,150,000 0
AK Division of Homeland Security & Emergency Mgmt.	State Homeland Security Program	Video camera system, repeaters for radio signals, police active shooter training.	Police, Fire, Port, Public Works	2/17/17	\$1,822,905 0
State of Alaska	State Capital Requests	Inst. Corridor, Road Around H-Marker Lake, Ladder Truck, Small Boat Harbor.	PW, Fire, Port	12/16	\$9,670,752 0

Approved in Calendar Year 2017				Most recent first	
AK Dept. of Environmental Cons., Village Safe Water Program	Water and Sewer Projects	Dredging Sewer Lagoon & Baffle Replacement	Public Works	7/14/17	\$1,995,851 0 Added to City's current VSW design grant
AK Dept. of Environmental Cons., Village Safe Water Program	Water and Sewer Projects	Dredging Sewer Lagoon & Baffle Replacement	Public Works	7/14/17	\$300,037 0
AK Dept. of Environmental Cons., Village Safe Water Program	Water and Sewer Projects	Dredging Sewer Lagoon & Baffle Replacement	Public Works	7/14/17	\$2,233,316 0
AK Dept. of Health & Social Services	Community Service Patrol	Fund 3 CSPs, gasoline, minor equip.	Police	4/26/17	\$323,081
AK Div. of Homeland Security and Emerg. Mgmt.	State Homeland Security Pgm.	Radios, programming, installation of mobiles.	Police, Fire	12/2016	\$89,373 & \$14,614 No match
AK Dept. of Environmental Cons., Village Safe Water Program	Sanitation Deficiency Database	Lift station replacement; five new lift station electric panels	Public Works	4/2016	\$900,000 0
AK Dept. of Transportation & Public Facilities	FY 2018 Community Transit Grant	Bethel Transit System operations.	Public Works	12/16	\$250,597 \$80,580
Alaska Public Entity Insurance	Surface Material Grant	Playground surface material (woodchips)	Parks & Rec.	1/16	\$10,000 \$10,000
				Total	\$6,116,869

To: Pete Williams, City Manager
From: Ted Meyer, Planner
Subject: **July 2017 Manager's Report**
Date: July 31, 2017

Conditional Use Permits

Conditional Use Permit hearings for both AC and Swanson's Liquor License applications are awaiting State Fire Marshall Permits and DOT&PF Driveway Permits. CUP hearings will be scheduled once the approved two permits for each entity are received by the planning department.

Subdivision Agreement

Currently working with management, staff, and DOWL in the review and edits of a Subdivision Agreement for Blue Sky Subdivision public improvements. The Preliminary Plat was approved in May. Upon agreement between both parties, the subdivision agreement will be presented at the following Planning Commission meeting, and then on to the City Council.

Hazard Mitigation Plan Update

The State Department of Homeland Security hired LeMay Engineering to facilitate the 2017 update of the 2008 plan. Staff has been supplying requested information to the contractor and is currently reviewing the draft. The edited draft will be presented at the August 10 Planning Commission meeting. Upon approval, the PC would recommend adoption by the City Council.

Land Reliction Plat for Dull Lake Properties

A plat has been received for four Dull Lake properties that include claims of land uncovered by the receding Dull Lake. Legal is currently looking at the Plat and associated documents.

AVEC Wind Turbine Project

A pre-application meeting and teleconference that included COB management and staff, AVEC and consultants, was held on Friday, July 28. After the meeting, staff and consultant visited the site located near the end of BIA Road. As required by the recent Tall Tower Ordinance, the consultant will be facilitating a public meeting regarding the project on August 21. A Special Permit application process will follow the meeting.

Rezoning Courthouse Property

Staff is currently processing a request to rezone the courthouse property.

Site Plan Permit Applications

Eight Site Plan Permits were approved in July.

July 13 Planning Commission Meeting

1. Tsikoyak Subdivision- The Planning Commission approved the Preliminary Plat for a 10-parcel plat that include conditions, one of which being development of a subdivision agreement. The new subdivision is located across the street from the Larson Subdivision.
2. Kusko Liquor- The Conditional Use Permit for the Kusko Liquor license was approved with conditions.

Upcoming U.S. Army Corps Visit to Bethel

The Corps will be visiting Bethel on Monday, August 7.

City Clerk's Report

Executive Session

Additional Information
