CITY OF BETHEL
FINANCE COMMITTEE
MONDAY, FEBRUARY 27, 2023, 6:30 PM
LOCATION: 300 CHIEF EDDIE HOFFMAN HIGHWAY, BETHEL, ALASKA

ZOOM MEETING LINK: HTTPS://ZOOM.US/J/99674371849?PWD=NWTUNURHC1EVOE15DUVONFJ3:NXP UT09
ZOOM J\IIEETING ID: 996 74371849 ZOOM PASSCODE: 507255

MEMBERS	STAFF
Rose Henderson, Mayor. Carol Ann Willard, Chair Robert Rey, Vice Chair John Hamilton Farah Sears	Xavier Mason, Ex Officio Member Alexandra Batchelor, Ex Officio Member finance@cityofbethel.net 907-543-1381

I. CALL TO ORDER

II. ROLL CALL

III. PEOPLE TO BE HEARD – FIVE MINUTES PER PERSON

A. Please submit written public comments to finance@cityofbethel.net by 4:00 p.m. the day of the meeting.

IV. APPROVAL OF AGENDA

A. 02/27/2023

V. APPROVAL OF MEETING MINUTES

A. 01/23/2023

B. 12/26/2022

C. 11/28/2022

D. 10/24/2022

VI. SPECIAL ORDER OF BUSINESS

A. Election of Chair and Vice Chair

VII. NEW BUSINESS

A. Proposed Changes to B.M.C. 04.16.430 (H) (Farah Sears)

B. Approval of the Committee Regular Meeting Calendar

C. Discuss adding a Late Filing Fee to B.M.C. 04-14 (Xavier Mason)

D. Discuss adding interest, penalties, and late filing fees to Quarterly Gaming Taxes B.M.C. 05.04.050 (Xavier Mason)

E. Review of Committee Duties and Responsibilities

VIII. EX OFFICIO REPORT

Posted 02/20/2023 at City Hall, AC Co., Swanson's, and the Post Office. ________________________
Name, Alexandra Batchelor

IX. MEMBER COMMENTS

X. ADJOURNMENT

Posted 02/20/2023 at City Hall, AC Co., Swanson's, and the Post Office. ________________________

Name, Alexandra Batchelor

City of Bethel, Alaska
Finance Committee Minutes

January 23rd 2023 | Regular Meeting | Bethel, Alaska

I. CALL TO ORDER

A Regular Meeting of the Finance Committee was held on January 23rd, 2023, at 6:30 PM in person.

II. ROLL CALL

The following Finance Committee members were present: Robert Rey, Vice Chair, and Farah Sears via Zoom.

Also in attendance are Xavier Mason (Ex Officio) and Alexandra Batchelor, Recorder (Ex Officio).
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Unexcused Absences:
Excused Absences: CarolAnn Willard (Chair), John Hamilton, Farah Sears, Robert Rey (Vice Chair),

A MEETING WAS NOT HELD DUE TO A LACK OF QUORUM

____
Carol Ann Willard, Chair

ATTEST:

____
Alexandra Batchelor, Recorder

City of Bethel, Alaska
Finance Committee Minutes

December 26th 2022 | Regular Meeting | Bethel, Alaska

I. CALL TO ORDER

A Regular Meeting of the Finance Committee was held on December 26th, 2022, at 6:30 PM in person.

II. ROLL CALL

The following Finance Committee members were present: Rose Henderson City Council (City Mayor) and Farah Sears via Zoom.

Also in attendance are Xavier Mason (Ex Officio) and Alexandra Batchelor, Recorder (Ex Officio).
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Unexcused Absences:
Excused Absences: CarolAnn Willard (Chair), John Hamilton, Farah Sears, Robert Rey (Vice Chair),

A MEETING WAS NOT HELD DUE TO A LACK OF QUORUM

____
Carol Ann Willard, Chair

ATTEST:

____
Alexandra Batchelor, Recorder

City of Bethel, Alaska
Finance Committee Minutes

November 28th, 2022 | Regular Meeting | Bethel, Alaska

I. CALL TO ORDER

A Regular Meeting of the Finance Committee was held on November 28th, 2022, at 6:30 PM in person by Carolann Willard, Chair.

II. ROLL CALL

The following Finance Committee members were present: Carolan Willard, Chair, Rose Henderson City Council (City Mayor).

Also in attendance is Xavier Mason (Ex Officio).

Unexcused Absences:
Excused Absences: John Hamilton, Farah Sears, Robert Rey (Vice Chair), and Alexandra Batchelor, Recorder (Ex Officio).

A MEETING WAS NOT HELD DUE TO A LACK OF QUORUM

____
Carol Ann Willard, Chair

ATTEST:

____
Alexandra Batchelor, Recorder

Finance Committee Minutes

October 24th, 2022 Regular Meeting Bethel, Alaska

I. CALL TO ORDER

A Regular Meeting of the Finance Committee was held on October 24th, 2022, at 6:39 PM in-person and via zoom.

II. ROLL CALL

Comprising a quorum of the Committee, the following were present: Rose Henderson (City Council – Mayor), Carolann Willard, Robert Rey, John Hamilton, and Farah Sears via Zoom.

Also in attendance: Duane Wright (Ex Officio), Xavier Mason (Ex-Officio), and Alexandra Batchelor (Recorder)

Unexcused Absences:
Excused Absences:

III. PEOPLE TO BE HEARD: NONE

IV. APPROVAL OF AGENDA

10/24/2022

MOVED BY	Robert Rey	Motion to approve
SECOND BY	John Hamilton	
VOTE ON MOTION	All in favor	4-0

V. APPROVAL OF MINUTES:

08/22/2022

MOVED BY	Robert Rey	Motion to approve
SECOND BY	John Hamilton	
VOTE ON MOTION	All in favor	4-0

09/26/2022

MOVED BY	Robert Rey	Motion to approve
SECOND BY	John Hamilton	
VOTE ON MOTION	All in favor	4-0

VI. NEW BUSINESS –

B. Discussion of B.M.C. 04.16.420 – No Motion to Approve

C. Discussion of B.M.C. 04.16.430 – No Motion to Approve

VII. EX Officio Member Reports

VIII. COMMITTEE MEMBER COMMENTS:

Robert Rey: I've been on the committee for three years now; tonight seemed like a pretty healthy conversation. Like we haven't had anything this healthy **in a long**

time since I've been on board. I appreciate everyone's opinions and that we could say what we wanted without being attacked. I am looking forward to having healthier conversations. Good conversations. I know we went overtime pretty late, but I appreciate everyone's time and efforts tonight.

John Hamilton – Likewise, very informal**.** For once, it felt like we were really discussing thing earlier and understanding it—progress, not perfection. I think we are headed in the right direction.

Farah Sears – Really great conversation. I am in king with everybody else. I think there needs to be checks and balances with everyone else involved. I think penalties are supposed to be punitive; that's why they are penalties. When will the letters about the Amnesty program letter go out? Other than a great meeting.

Rose Henderson – Thank you for inviting me. I was happy to be here. My goal is to be on every committee or commission the city has. Hopefully, I will be elected that many times since they are two-year elected seats. And you only have to sit on a committee/commission for one year. I chose Finance this time, Duane, was this just a bubbly excitement shouting, "Come to my committee, come to my committee." This was wonderful, thank you.

Carolann Willard – I appreciate everyone showing up today. Five of five showed up today and had a quorum last meeting. We didn't have one, so that's nice. Can we add the vacancy we have? I appreciate all the questions and good discussions we had today.

IX. MOTION TO END MEETING:

MOVED BY	Rose Henderson	Motion to approve
SECOND BY	Robert Rey	
VOTE ON MOTION	All in Favor	4-0

The chair called the meeting to an end at 8:25 pm.

____
Carol Ann Willard, Chair

ATTEST:

____
Alexandra Batchelor, Recorder

Introduced by:
Date:
Public Hearing:
Action:
Vote:

CITY OF BETHEL, ALASKA

ORDINANCE #22-

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING…

WHEREAS,
WHEREAS,
WHEREAS,

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA, that

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

Section 2. Amendment. The Bethel Municipal Code 4.16.350, Audits is amended, the old language is stricken, and the new language is underlined.

4.16.350 Audits.

A. Any seller who has established a sales tax account with the city, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the seller in order to determine whether appropriate amounts of sales tax revenue have been collected by the seller and remitted to the city.

B. The city is not bound to accept a sales tax return as correct. The finance director may make an independent investigation of all retail sales or transactions conducted within the city.

C. The records that a seller is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the city for the purpose of auditing any return filed under this chapter, or to determine the seller's liability for sales tax where no return has been filed.

D. In addition to the information required on returns, the city may request, and the seller must furnish, any reasonable information deemed necessary for a correct computation of the tax.

E. The city may adjust a return for a seller if, after investigation or audit, the city determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the city adjusts the return within three (3) years of the original due date for the return.

F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the finance director may conduct investigations, hearings and audits and to that end may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any seller at any reasonable hour on the premises of the seller and may require the attendance of any officer or employee of the seller. ~~Upon written demand~~ Within 30 days of receipt of the notice of audit by the finance director, the seller shall present for examination, ~~in the office of~~ to the finance director, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the finance director and the person upon whom the demand is made agree to presentation of such materials at a different place. Following a written request from a seller, the finance director may extend the deadline for items requested in the notice of audit.

Unless extended by the finance director, if within thirty (30) days of receiving a written request for information, the seller fails or refuses to furnish the requested information, the finance director shall impose the penalties for violation in accordance with BMC 4.16.430 H, in addition to J of this section. If the seller can prove the failure to respond was due to reasonable causes and not due to willful neglect, the finance director may wave the penalties prescribed in BMC 4.16.430 H.

G. The city manager may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any person refuses to obey any such subpoena, the city manager may refer the matter to the city attorney for an application to the superior court for an order requiring the person to comply therewith.

H. Any seller or person engaged in business who is unable or unwilling to submit their records within the city shall be required to pay the city for all necessary expenses incurred for the examination and inspection of their records maintained outside the city.

I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.

J. In the event the finance director, upon completion of an audit, discovers more than five hundred dollars ($500) in additional sales taxes due from a seller resulting from a seller's failure to accurately report sales and taxes due thereupon, the seller shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the finance director at the time of the conclusion of the audit.

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

ENACTED THIS __ DAY OF ______ 2022, BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

ATTEST:

____
Rose Henderson, Mayor

____
Lori Strickler, City Clerk

Title: Approving the Regular Finance Committee meeting dates for 2023.

The Finance Committee meets on the 4th Monday of every month at 6:30 p.m.

Month	Regular Meeting Date	Rescheduled Meeting Date
January	01/23/2023	
February	02/27/2023	
March	03/27/2023	
April	04/24/2023	
May	05/22/2023	
June	06/26/2023	
July	07/24/2023	
August	08/28/2023	
September	09/25/2023	
October	10/23/2023	
November	11/27/2023	11/20/2023
December	12/25/2023	12/18/2023

The meeting for November will be rescheduled to 11/27/2023 due to Holiday Weekend.

The meeting for December will be rescheduled to 12/18/2023 due to Holiday.

4.14.150 Penalties.

A. An operator who fails to file a tax return when due shall incur a civil penalty for each tax return not filed when due equal to six (6) percent of the tax actually due the city. An operator who fails to remit the full amount of tax due by its due date incurs and shall pay a civil penalty of six (6) percent of the actual amount of taxes due but remaining unpaid after such date. If an operator fails to pay the full amount of the tax due or file a tax return or report required under this chapter within sixteen (16) calendar days after its due date, the six (6) percent penalties incurred above are increased automatically to fifteen (15) percent.

1. The penalty shall be computed on the unpaid balance of the tax liability as determined by the department.

2. Notice of the penalties incurred and to be incurred shall be given to the operator when such tax payment or tax return or report is delinquent for seven (7) calendar days after its due date. Interest and penalties apply and shall accrue whether or not notice in accordance with this subsection (A)(2) is given.

3. The penalties provided for in this subsection shall be in addition to all other penalties and interest provided for under this chapter.

B. Any person who violates any provision of this chapter shall be liable for a civil penalty of fifty dollars ($50) for each separate violation. Where a violation continues for more than one (1) day, each day upon which the violation continues is a separate violation. The director shall levy the penalty and notify the operator of the penalty.

C. Except an operator who fails to file a tax return and remit taxes when due, but does so within seven (7) calendar days thereafter, a person who knowingly violates any provision of this chapter or who fails to comply with the provisions of this chapter for seven (7) or more calendar days after delivery of written notice to the operator setting out the operator's failure to comply is guilty of a misdemeanor. Each day upon which a violation or failure to comply continues is a separate misdemeanor violation of this chapter.

D. Civil and criminal penalties shall be cumulative and independent remedies. The imposition of a penalty under this chapter shall not relieve an operator of the duties imposed under this chapter or liability for any other penalty or the tax or interest imposed under this chapter. [Ord. 97-22 § 2.]

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 four (4) 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.

B. Operators of games of skill and chance licensed by the state pursuant to AS 5.15.010, et seq., shall pay the fee on a monthly basis on or before the last day of the following month. The fee shall be accompanied by a copy of the report submitted to the authorized permittee pursuant to AS 5.15.087 or any successor statute or regulation.

C. Qualified organizations authorized to conduct games of skill and chance by the state pursuant to AS 5.15.010, et seq., who do not make use of a licensed operator shall pay the fee on a quarterly basis not later than the last day of the month following the quarter a tax return is required to be submitted. A copy of the quarterly report filed with the state pursuant to AS 5.15.080 or any successor statute or regulation shall accompany payment of the fee.

D. The finance director shall have the same right to examine and audit the records of operators and qualified organizations as are given to the finance director under Chapter 4.16 BMC to examine and audit the records of persons required to collect the city sales tax. The penalties, interest and charges applicable under Chapter 4.16 BMC to late or incomplete filing of reports or returns or payment of sales tax and the failure to keep or produce records, as well as the right to protest or appeal a decision of the finance director, shall apply to the late or incomplete filing of reports or returns, the late or incomplete payment of the additional fee under this chapter and the failure to keep or produce adequate records. [Ord. 17-41 § 2; Ord. 09-17 § 2; Ord. 01-28 § 12; Ord. 98-29 § 2.]

The Bethel Municipal Code is current through Ordinance 22-37, passed November 8, 2022.

CITY OF BETHEL COMMITTEES & COMMISSIONS INFORMATIONAL PAMPHLET

City of Bethel Municipal Clerk’s Office
300 State Highway, Bethel AK 99559
907-543-1384
cityclerk@cityofbethel.net

I. INTRODUCTION

This booklet is prepared by the City of Bethel Municipal Clerk's Office to help members of committees, and commissions to understand what committee/commission membership entails. The City of Bethel appreciates volunteers who give their time to facilitate interaction between the municipal government and the citizens it serves. This pamphlet is a general learning tool for appointed and elected officials and should be used for guidance purposes. Anyone with questions is encouraged to contact the City Clerk's Office or ex-officio members.

II. CITIZEN PARTICIPATION IN LOCAL GOVERNMENT

Thank you for your willingness to join a City Committee/Commission. These bodies provide a way for the public to participate in the City's decision-making process by advising the council on numerous issues. In a democratic form of government, it is not only a right but a responsibility for citizens to help shape the community in which we live. This is realized when individuals come together across neighborhood, economic, social, and cultural lines to serve as committee/commission members, assisting our local government in making decisions that affect all the citizens within our community.

III. TYPES OF BOARDS, TERMS, & ACRONYMS

Here are some terms and acronyms used in this pamphlet.

1. **COB:** stands for the City of Bethel, a second-class municipality with a manager form of government.
2. **Council Standing Committees and Commissions:** The City Council has eight standing committees/commissions: Finance Committee, Parks, Recreation, Aquatic Health and Safety Committee, Energy Committee, Public Works Committee, Marijuana Advisory Committee, Planning Commission, Port Commission and Public Safety and Transportation Commission.
3. **Committee:** in an advisory capacity a committee considers and advises the City Council on legislation related to specific policy matters. Each committee is also responsible for reviewing and providing advisement specific to the department related to the Committee.
4. **Commission:** In addition to the duties provided to committees, commissions have designated responsibilities and authorities delegated to them through the Bethel Municipal Code. The Commissions will at time act as a quasi judicial authority
5. **Quorum:** is a majority of the membership of a full body, not a majority of those present at a particular meeting. For purposes of determining quorum, membership constitutes the total number of seats on the body

whether filled or vacant. For a body with seven full member seats, four members shall constitute a quorum. The City of Bethel does have alternate seats on their committees and commissions; however, the alternate seats are only recognized if a quorum of the full member seats has not been established. All of the City's committees and commissions have a quorum requirement of four. A meeting must have a quorum in order to hold a meeting. If the meeting lacks a quorum, no business may take place and the only action allowed is to try to obtain a quorum or schedule a new meeting date/time/location and adjourn.

6. **OMA:** stand for Open Meetings Act- Alaska Statutes 44.62.310. OMA provides restrictions to governmental bodies to ensure the public's right to know is protected. (Appendix A)
7. **Executive Session:** The Alaska Open Meetings Act statutes, AS 44.62.310, require meetings of governmental bodies to be open to the public and set out the rules for when, how, and what a body can do in executive session, when a meeting is closed to the general public. No private or closed meetings may be held except as provided in the OMA. (Appendix A)
8. **Attendance:** For purposes of determining a member's attendance, a person present at a meeting and/or participating in the meeting telephonically shall be counted as present. Any member not participating in person or telephonically shall be deemed as absent. A member may be removed from a committee/commission for lack of attendance as outlined in BMC section 2.60.030 (Appendix B). A copy of the attendance list for the preceding twelve months shall be submitted to the City Clerk's Office in December of each year by the committee/commission ex-officio staff.

IV. APPLICATION, APPOINTMENT OF MEMBERS, TERMS AND VACANCIES

Applications are available at the City Clerk's Office and on the internet at www.cityofbethel.org. The Clerk's Office advertises vacancies on community boards and on the City's webpage. Seats are open until filled and applications are accepted at any time.

The appointment process for the committees/commission can take a few weeks and includes a review of the application by the City Clerk's Office. Following the qualification requirement, the Clerk prepares an Action Memorandum for the mayor's review and sponsorship at a city council meeting. The council then confirms the Mayor's appointment of the applicant. After the City Council has confirmed the appointment, the City Clerk's Office contacts the applicant and presents an oath of office for the applicant's official appointment.

The term limits are three years unless otherwise provided by the City Clerk's Office. At times, if a member resigns prior to term expiration, the remaining term can be filled by a newly appointed member.

Vacancies in most cases must be approved by the committee/commission. There are a number of reasons the body must declare a vacancy such as a member not attending the minimum number of meetings within the year. BMC 2.60.030 provide the reasons why a vacancy must be declared.

V. ROLE OF OFFICERS AND STAFF

CHAIR: The Chair's responsibilities include presiding at the meeting and conducting the meeting in a fair manner. The chair makes determinations on excused and unexcused absences as well as conflict of interest rulings during the meetings. The Chair also is the official representative of the committee/commission to the Council and any other groups/agencies. The Chair, as the body's representative, conveys only those recommendations the board has approved by majority vote.

VICE-CHAIR: The Vice-Chair carries out the duties of the Chair when the Chair is absent.

COUNCIL REPRESENTATIVE: Acts as the link between the staff, Council and the committee/commission, presenting agenda items to the Council from the committee/commission's recommendations, and presenting agenda items to the committee/commission at the request of the Council.

RECORDER: Each of the City's committees and commission has a recorder who is appointed by the city manager as a nonvoting, ex-officio member. The Recorder takes notes and prepares the minutes and distributes DRAFT copies of the minutes to the committee/commission members, staff liaison, and Clerk's Office prior to the next meeting. It is the Recorder's responsibility to maintain the City of Bethel's website page related to the committee/commission, ensure the attendance record of the body is maintained. Additionally, the Recorder provides support to the committee/commission by preparing the agenda, draft meeting minutes, packets and public notices.

EX-OFFICIO MEMBER: Some committees and commissions have a city manager appointed ex-officio member, often times a department head, to provide technical support to the committee. In general, the ex-officio members, who are non-voting members, are individuals who have significant staff responsibilities that relate to the same work area as the committee/commission. The ex-officio members do not work for or at the direction of the committee/commission; they are assigned by the city manager and follow the

direction of the city manager. They are professionals who work with the committees/commission to develop information and recommendations for the Council's consideration.
While City staff ex-officio members have differing duties depending on past committee/commission practice, time availability and departmental resources, in general, some of the work that staff members have been responsible for include the following:

- Ensuring that meeting notifications and record keeping occurs consistent with applicable State laws and City of Bethel practice;
- Serving as a communication link between the committee/commission, City Administration, Departments, and the Council as appropriate;
- Providing professional guidance, issue analysis, and recommendations;
- Making sure the intent of the committee/commission is not lost after a decision, and that it is conveyed to the Council in a timely manner;
- Assisting the committee/commission in staying on track and focused;
- Presenting committee/commission recommendations to the Council;
- Maintaining a positive working relationship with the committee/commission members.

VI. CONFLICTS OF INTEREST

The City of Bethel has a Conflict of Interest Code, which applies to members of all committees and commission as well as the council and City employees. Code section 2.05 (Appendix D) provides that any committee/commission member who has a conflict of interest with regard to a matter under consideration by the body on which he or she serves must make a disclosure on the public record prior to the body taking up the debate/discussion on the matter and ask to be excused from the discussion and official action on the matter. The presiding officer will rule on the conflict of interest. A board member with a conflict of interest shall not deliberate or vote on any matter in which he or she has a conflict and is asked to step away from the table during the discussion of the issue. There are criminal penalties for violations of this ordinance. The recorder of the meeting shall identify in the meeting minutes, the disclosure of the conflict of interest, the reasons for the disclosure, the presiding officer's ruling on the conflict and when the individual with the conflict returned to the meeting's discussion and debate.

The full Conflict of Interest Code is quite extensive, to review the full text of the Conflict of Interest Code please go online to the City of Bethel's website, Bethel Municipal Code, section 2.05. If a committee/commission member has a question on whether or not a conflict exists, they are encouraged to contact the City Clerk's Office prior to the meeting where the issue will be discussed.

VII. LOBBYING BY COMMITTEE/COMMISSION MEMBERS

The role of committees and commissions is to provide advice to the Council. Committee/commission members, staff ex-officio members, and others associated with City bodies are not to lobby or send correspondence to elected officials or agencies outside the City without specific direction by the Council to do so. It is up to the Council to determine the direction and what action they will take in contacting agencies and elected officials outside of the City. Any communications/interactions taken by committees/commission with outside groups and elected officials is to be done only after that body receives direction by the Council to do so and must be done in coordination with the city manager.

VIII. PUBLIC NOTICES

The Recorder assigned to the committee/commissions is responsible for all public notice advertisements. It is the policy of the City that all committee and commission meetings will be held at City Hall, unless otherwise approved by the City Clerk's Office. In the event City Hall is not available, it is the responsibility of the ex-officio members to secure a meeting location and notify the Clerk's Office of the date, time, and location of the meeting.

Reasonable public notice is required by the OMA as well as the City of Bethel Municipal Code. For all regular meetings, the agenda must be posted for six days before the meeting date. Special meeting agendas shall be posted for a minimum of three days prior to the meeting date for all committees/commissions except for the Planning Commission which requires four full days. There are additional requirements for Public Hearing notices which require five full days of public notice prior to the meeting. The Council and the commissions are the only bodies that will have to follow this provision.

The only way a committee/commission can cancel a meeting is if it is done by a majority vote of the body at a previous meeting.

IX. REGULAR MEETING CALENDAR TIMEFRAME

The recorder has specific deadlines they must meet, please be respectful of their requirements.

No matter what day your meetings are held, the packet material and agenda title must be submitted to the recorder at least seven days prior to the meeting. The

recorder then must post the agenda five full days prior to the meeting and provide the packet material to the members and post on the City's website four full days prior to the meeting.
Many of the recorders will provide a draft agenda to the members a few days prior to the agenda deadline to remind the members of the upcoming deadline. To avoid any OMA violation, please respond to the recorder directly and do not include any other members of the committee/ commission in your response; this goes for all email communication. The discussion of all potential action should take place at a publicly noticed meeting.
When requesting an item be placed on the agenda, do so with focus. Provide the recorder with a specific item clearly identified in the agenda title. It is also a good idea to provide the recorder any and all supporting documentation you may have on the topic by the due date (seven days prior to the meeting). The meeting process will be much faster if the members are able to walk into the meeting fully informed of the items being discussed.

X. CONDUCTING OF MEETINGS

A meeting must have a quorum of members present in order to meet. If the meeting lacks a quorum, no other business may take place and the only action allowed is to seek a quorum or schedule a new meeting date/time/location and adjournment. Minutes should be taken with a record of who was present and the fact that the meeting lacked a quorum and noting the date/time/location that was agreed upon for the next meeting.
The chair of each body is the presiding officer and is responsible for the conduct of the meeting. Council and the committees and commissions shall be governed by Robert's Rules of Order. The Chair must ensure the body closely follows the publicly provided agenda during the meeting. At a minimum the agenda is to include the following:

1. Date, time and location of the meeting;
2. Name of the committee/commission holding the meeting;
3. Any minutes to be reviewed and approved;
4. Public participation: This is an opportunity for any member of the public to present their concerns and views. The City of Bethel & Alaska Statutes require members of the public be provided "a reasonable opportunity to be heard" at regular and special meetings, the Council has adopted a five minute per person limit on the People to be Heard section of the meeting;

5. Issues to be considered include, but are not limited to:
    a) Reports from staff;
    b) Resolutions or ordinances to be reviewed and forwarded to the Council for consideration;
    c) Policy matters under consideration that must be referred to the Council with recommendations;
    d) Matters to be considered and resolved by the committee/commission, as appropriate or assigned;
    e) Opportunity for committee/commission members and any staff liaison to present concerns, views, or bring forth issues for **future** consideration by the body; and
    f) Adjournment.

Meeting Do's

- Ensure proper notice of the meeting has occurred as provided under the previous section entitled "Public Notices."
- Allow for public participation under "People to be Heard."
- Conduct meetings fairly with opportunities for all views, including opposing, to be heard and discussed.
- The Chair will recognize committee/commission members wishing to be heard and give each member who chooses to participate an opportunity to comment.
- A member should ask the Chair for clarification if a motion or procedure is unclear.
- The committee/commission should exercise restraint in issuing requests to staff members assigned as ex-officio members. These staff members do their best to accommodate the wishes of the body but are primarily responsible to the city manager. A good committee/commission-staff relationship is based on cooperation.
- Members should attend each meeting and be prepared to respond to issues brought before the committee/commission.
- Committee/commission members may attend via teleconference with sufficient advance notice and request to the ex-officio staff.
- If a committee/commission member is unable to attend a meeting, please be sure to notify the chair and recorder, as soon as possible to ensure the absence is not counted as unexcused.
- Attendance is important and members should strive to attend all meetings as a lack of attendance may lead to their seat being declared vacant

- Committee/commission members need to be able to work together and consider other conflicting views. Remember, members are appointed to committees/commissions because they have differing views and all views are entitled to be heard.

Meeting Don'ts

- If the meeting lacks a quorum, DO NOT conduct any business or discussion other than setting the date/time/location for the next meeting and then adjourn.
- Do not use the "reply all" feature in email if you are receiving an email that has been sent to the entire body. Emails in which all board members are copied should only be for the purposes of communicating the date/time/location of the next meeting and communicating back to the recorder or ex-officio member for the transmission of the agenda, minutes, and packet items in preparation of the scheduled meeting.

XI. GUIDELINES FOR GOOD DISCUSSIONS

Two or three people gathered around a table can hold a conversation about their issues and make decisions easily. As soon as the group enlarges to four, five or more people, however, **conversation creates problems**. The outspoken, extroverted people will speak more and the introverts less. It will be harder for people with minority views or confidence issues to be heard. The group may agree too easily on a course of action, failing to identify trouble spots and pitfalls. Inclusiveness and diversity may suffer.

If an item is not listed on the agenda, the body many not discuss the item. During reports and member comment portions of the meeting, there should be no debate on the issues. It must be placed on the NEXT meeting agenda.

Six Principles of a meeting

- The majority must be allowed to rule.
- The Minority have rights that must be respected. Diversity of thoughts is essential for good decision-making.
- Members have a right to information.
- Courtesy and respect for others.
- All members have equal rights, privileges, and obligations.
- Members have a right to an efficient meeting.

Decorum in debate

- Confine remarks to the merits of the pending question (motion or amendment)
- Refrain from attacking a member's motives.
- Address all remarks through the chair.
- Avoid the use of members' names.
- Refrain from speaking adversely on a prior action not pending.
- Refrain from speaking against one's own motion.
- Discussion of another member's motives is out of order.
- Refrain from disturbing the body by whispering, etc..

Debate and discussion are not the same. Discussion is general and doesn't necessarily lead to closure of an issue- it is more characteristic of committee meetings and work sessions. Debate applies to discussion on the merits of a motion. Until a matter has been brought before the body in the form of a motion proposing a specific action, seconded, and stated by the chair, the issue cannot be debated. Immediately after stating the question, the chair should turn toward the maker of the motion to see if he/she wishes to be assigned the floor first in debate. The maker of the motion has the right to be recognized first. Every member of the body has the right to speak on every debatable motion up to two times with a time limit of 10 minutes each time. Additionally, Robert's Rules suggests the group agrees that no one may speak a second time until everyone who wishes to do so has spoken once. Following this rule has the potential to transform your meetings, allows everyone to contribute, and ensures much wiser decision-making. It gives everyone a voice and broadens the diversity and inclusiveness of the group's deliberations. If a member is making a motion that is more than ten words, the member should write it down.

XII. MEETING MINUTES

The Recorder of each committee/commission is responsible for the preparation and distribution of the committee/commission regular and special meeting minutes. The city manager is responsible for appointing alternate recorders if there is an absence of the appointed recorder. Draft minutes should be completed within five business days of the meeting and emailed to the Municipal Clerk's office for inclusion in the Council's next meeting packet.

IMPORTANT: The minutes of all committees/commission are permanent records of the City and constitute the record of the committee/commission actions and

final minutes need to also be filed with the Clerk's Office once they have been approved.
When the Recorder is preparing minutes, they will be written as though the reader knows nothing about the committee/commission. The minutes should reflect facts: who/what/when/where/why and how the decisions at that meeting were reached but should not reflect the discussion of the item. Action minutes are sufficient and should include the following:

1. Date, time, and location of the meeting;
2. Time the meeting was called to order;
3. Attendance, indicating members both present and absent (first and last names);
4. If appropriate, staff and others present along with any group affiliation;
5. All motions, even if withdrawn, along with the name of the board member who made the motion, and the vote on the motion. The record of the vote should identify by name those who voted in favor and who voted against the motion.
6. Names of individuals who spoke under public participation, and a summary of their comments.

The minutes of all committees and commission are considered a permanent record of the municipality. The approved, signed copies of the meeting minutes, recommendations and where appropriate, resolutions and ordinances are to be filed with the Clerk’s Office and posted on the City’s website so they can be made available to the public.

XIII. DOCUMENTS FOR CONSIDERATION

ORDINANCES: An ordinance is a law that governs behavior and may be enforced through fines or penalties or establishes a procedure. All adopted ordinances are permanent records of the City.

1. An ordinance may be introduced at a council meeting by a council member, by a committee of the council, or by the city manager.
2. The council, typically at a regular meeting, sets a date for a public hearing on an ordinance. Usually, the public hearing is set for the council’s next regular meeting.
3. At least five days before the public hearing, a summary of the ordinance is published or posted for public review with a notice of the time and place for the hearing.

4. The council must take public testimony from everyone wishing to be heard.
5. When the public hearing is closed, the council takes action either to reject, adopt, or amend and adopt the ordinance.
6. Once adopted, printed copies of the ordinance must be made available to the public in a reasonable period of time.
7. Ordinances take effect upon adoption by the council unless a later effective date is specified in the ordinance.

If a committee or commission wishes to modify the Bethel Municipal Code, any member may draft modifications by using "strike outs," ~~example,~~ which identifies language being removed from the code, or "underline" example, which identifies new language being inserted into the code.

If a committee/commission considers an ordinance, they will be doing so in an advisory capacity and provide a recommendation to the Council for their adoption. Committees and commissions cannot adopt ordinances.

EMERGENCY ORDINANCES - Occasionally, the council may need to adopt an ordinance to address an emergency situation quickly under unusual or extreme circumstances. An emergency ordinance may be adopted without public hearing at the same meeting it is introduced by the affirmative vote of all members present or ¾'s of the total membership, whichever is less. Emergency ordinance have a limited duration (60 days).

CODE OF ORDINANCES: The Bethel Municipal Code is the city's book of ordinances. It contains all of the ordinances that are of a general and permanent nature that are in effect over time.

NON-CODIFIED ORDINANCES: A non-codified ordinance is one that is not going to be placed in the BMC. They are not general and permanent in nature. Examples would include an ordinance adopting the fiscal year budget or authorizing a special election or authorizing the sale or disposal of city land.

RESOLUTIONS: Resolutions are considered statements of the council's opinion or intent. A resolution may be presented to the council by a council member, by a committee of the council, or by the city manager. All adopted resolutions are permanent records of the City.

A resolution is considered an expression of council policy which are placed into writing but do not require the force of an ordinance. They may be adopted at the meeting at which introduced and usually appear on the council's consent agenda due to their non-controversial nature.
The Planning Commission is asked to adopt resolutions specific to formal approvals, this is the only body other than the council that considers and adopts resolutions.

ACTION MEMORANDUMS/AM: Action memorandums are helpful in their intent to provide a summary statement to the council. They are retained as a City record for five years. An Action Memorandum provides an easy way to track actions by the Council not found in Ordinances or Resolutions. An Action Memorandum, otherwise known as an "AM," after approved provides the final outcome of the action as well as a summary of important information related to the action.
An action memorandum is a glorified motion in that it contains the motion to which the council should make. Many contain a fiscal responsibility for the Council as well recommendations from City staff on its approval.

INFORMATIVE MEMORANDUMS/IM: Informative Memorandums, otherwise known as "IM" are used to provide an update to the Council on projects within the City. IM's require and indicate no action by the Council will take place.

RECOMMENDATIONS: are submitted by the committee/commission to the council typically under reports of standing committees. These recommendations focus on a particular issue and provide support or opposition from a committee/commission to the council for council's consideration. A recommendation should include a summary of the issue along with a solution to the issue to help narrow down the council's deliberative process.

All of the committee/commission and council documents have very particular templates which the ex-officio members have access to. The ex-officio members have been advised, not to pass along a document that has not had final approval by the committee/commission. The body should not request the ex-officio member to draft a recommendation to the council that includes a list of items to be included in the next council packet. The recommendation should be drafted specifically at the meeting with all language clearly provided in writing to the recorder OR request the recorder to draft the recommendation generally to be brought back to the committee/commission for final approval. This suggestion applies to all documents forwarded to the Council by the committee/commission. Examples of these documents are included as Appendix C.

XIV. OPEN MEETINGS AND EXECUTIVE SESSIONS

NOTICE OF MEETINGS: All Council, committee/commission meetings are open to the public and must be advertised. In order to fulfill the OMA requirements, the notice must state the date, time, location, and agenda items.

EXECUTIVE SESSIONS: There are rare times when a committee/commission may need to go into executive session. The allowable reasons for an executive session are: matters that would clearly have an immediate adverse impact on the finances of the City; subjects that tend to prejudice the reputation and character of any person, provided the person to be discussed must be notified and may request a public discussion; and matters that are required to be confidential by law, Charter, or ordinance. The appeal boards when serving in a quasi-judicial capacity may go into executive session to discuss evidence or a decision in an adjudicatory proceeding. No body may go into executive session without prior approval by the City Attorney or City Clerk's Office.

XV. QUASI-JUDICIAL DUTIES

Quasi-judicial proceedings for the commissions and the Council involve decisions that have a direct effect on the rights and liabilities of a single person or, occasionally, a small group of identified persons. Quasi-judicial proceedings deal with matters in which a determination will be made on whether a person has shown that they have met all the established requirements that give them a right to a permit or other entitlement. The commission must determine whether, from all the evidence presented, the required standards have been met.

SUMMARIZING QUASI-JUDICIAL ROLE: Quasi-judicial procedures should be governed by principles of administrative law and its findings must be based on fact. It is inappropriate to listen to constituents when they are speaking to you about a quasi-judicial matter that is before you. All the information received relating to a quasi-judicial matter must be written material that is submitted to all parties or is provided at a hearing at which all parties are present.

THE PROCESS FOR A QUASI-JUDICIAL MATTERS:

1. A matter that is within the body's authority is requested to be put on the agenda.

2. The body hears the information presented to it.

3. The body renders a decision, called a finding which is binding upon the parties involved in the matter. The decision must be in writing.

EX PARTE CONTACTS: Direct communication between a citizen and a committee/commission member is common because of their visibility in the community and the nature of their work. Discussions with committee/commission members outside the public forum can be a beneficial way to exchange information and help keep committee/commission members informed of residents' attitudes. However, a distinction must be drawn between contact on general or legislative matters and contact on quasi-judicial matters that are currently before the commission or scheduled to come before the commission. While such contact may be permissible in a proceeding on a legislative matter (where the contact is known as lobbying), it is impermissible in quasi-judicial proceedings.
If a quasi-judicial proceeding should come before the commission, the ex-officio members should contact the City Clerk's or the City Attorney's Office to insure the proper steps are being followed.

See Appendix E for more information on Quasi-Judicial proceedings and Ex Parte Contacts.

APPENDIX

A

ALASKA STATUTES

TITLE 44. STATE GOVERNMENT
CHAPTER 62. ADMINISTRATIVE PROCEDURE ACT
ARTICLE 6. OPEN MEETINGS OF GOVERNMENTAL BODIES

§ 44.62.310. Government meetings public

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
(3) matters which by law, municipal charter, or ordinance are required to be confidential;
(4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

(1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;
(2) juries;
(3) parole or pardon boards;
(4) meetings of a hospital medical staff;
(5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline;
(6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents; or
(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings; or
(8) meetings of municipal service area boards established under AS 29.35.450--29.35.490 when meeting solely to act on matters that are administrative or managerial in nature.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and, if the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to the publication required by AS 44.62.175(a) in the Alaska Administrative Journal, the notice may be given by using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

(1) the expense that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided;
(2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;
(3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;
(4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;
(5) the amount of time that has passed since the action was taken;
(6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;
(7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;
(8) the degree to which violations of this section were willful, flagrant, or obvious;
(9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312(a).

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,
(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;
(2) "meeting" means a gathering of members of a governmental body when
(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or
(B) the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;
(3) "public entity" means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government.

§ 44.62.312. State policy regarding meetings

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;
(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;
(3) the people of this state do not yield their sovereignty to the agencies that serve them;
(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;
(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;
(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions.

APPENDIX

B

Chapter 2.60
COMMITTEES, COMMISSIONS, AND AD HOC COMMITTEES

Sections:

Article I. General Provisions

2.60.010 Definitions.

A. "Ad hoc committee" means a temporary advisory committee appointed by the city council for a specific term to accomplish a specific task or project.

B. "Alternate member" means a member appointed by the city council to an advisory committee, commission, or ad hoc committee. An alternate member has the same rights as a voting member, but may vote only when one (1) of the seven (7) voting members is absent or has a conflict of interest on the matter under consideration.

C. "Body" refers to the collective members of each individual advisory committee, commission, or ad hoc committee.

D. "Commission" means a standing advisory committee that is required by state law or to which the council has delegated final decision-making and quasi-judicial authority.

E. "Committee" means an advisory committee appointed by the council to advise and make recommendations to the council regarding topics as specified in the committee's duties.

F. "Ex officio member" means a member that is appointed by the city manager to support the function of an advisory committee, commission, or ad hoc committee. Ex officio members are nonvoting members.

G. "Voting member" means a member that is appointed by the council to a committee, commission, or ad hoc committee.

H. "Quorum" means the minimum number of members of a committee, commission, or ad hoc committee that must be present at any meeting to conduct business.

I. "Youth member" means a member under the age of eighteen (18) but at least fourteen (14) who is appointed to a committee, commission, or ad hoc committee by the council. Youth members are nonvoting members. [Ord. 21-20 § 4, 2021.]

2.60.020 Creation of committees, commissions, and ad hoc committees.

The council may create citizen committees, commissions, or ad hoc committees to aid the council in the conduct of public affairs. All committees, commissions, and ad hoc committees shall be governed by this chapter, except that if a provision of this chapter conflicts with an applicable state statute, the statute shall prevail.

A. Committees and commissions shall be created by ordinance as amendments to this chapter. In addition to the powers and duties established for each committee or commission, the council may from time to time assign such other duties or projects as the council deems appropriate.

B. Ad hoc committees shall be created by resolution of the council. The resolution shall set forth the number of members, the term of the committee, the task or project to be accomplished, the timeline for completion of the task or the project, and other such direction as the council deems appropriate. [Ord. 21-20 § 4, 2021.]

2.60.030 Appointment, term, vacancy, and removal of members.

A. *Applications.* Volunteers interested in filling a vacancy on a committee, commission, or ad hoc committee shall submit an application for appointment to the city clerk's office, on a form provided by the city clerk's office.

B. *Eligibility.* The city clerk's office shall screen applicants and confirm their eligibility. A member must be a resident of Bethel for six (6) months prior to appointment. The city clerk's office shall review and identify any potential conflicts of interest that may affect the appointment of the individual.

A city employee shall not be appointed as a voting member or alternate member to a committee, commission, or ad hoc committee which conducts any business that concerns or relates to the department where the employee works.

C. *Appointment.* The city council, following sponsorship by the mayor, is the appointing authority for committees, commissions, and ad hoc committee voting members, alternate members, and youth members. Members shall be appointed without discrimination based on race, national origin, color, age, religious creed, sex, political affiliation, marital status, physical disability, or other statuses protected by law. Members shall not receive compensation for their services.

D. *Official Oaths.* All applicants under this chapter shall take an oath of office within forty-five (45) days following council's appointment and prior to participating in any meeting of the appointed body. If an applicant does not take their oath of office within forty-five (45) days following appointment, the city clerk's office shall provide notice to the applicant, city council, and the relevant committee that the appointment is invalid and the vacancy stands.

E. *Term.* The term of office for positions on committees and commissions shall be three (3) years and expire on December thirty-first (31st); provided, a member whose term has expired but seeks reappointment may continue to hold office for a period not longer than thirty (30) days following term expiration. The term of an ad hoc committee shall be established in the resolution creating the committee.

If a position on a committee, commission or ad hoc committee becomes vacant before the expiration of the term, the city clerk shall review the vacancy and recommend that the council's appointment to fill the vacancy be given a term that is staggered from the other members of the body. When a new committee or commission is created, the terms shall be staggered.

The term of the council representative is one (1) year.

The term of the youth member is one (1) year.

F. *Vacancy.* Except as otherwise provided in this chapter, council-appointed members of committees, commissions, and ad hoc committees shall serve at the pleasure of the council. Vacancies on committees, commissions, and ad hoc committees:

1. Shall be declared by the committee, commission, or ad hoc committee when a member:

    a. Is absent from the city for more than ninety (90) days without first being excused by the body;

    b. Fails to attend three (3) regularly scheduled meetings within any calendar year without being excused by the body;

    c. Fails to attend three (3) special meetings within any calendar year without being excused by the body;

    d. Submits a written resignation that is accepted by the body;

    e. Dies;

    f. Ceases to be a resident of the city;

    g. Is convicted of a felony or an offense involving a violation of the oath of office for the body; or

    h. Becomes disqualified from holding the seat under other provisions of this code.

2. May be declared by the committee, commission, or ad hoc committee when a member:

    a. Fails to attend at least sixty-five (65) percent of regular meetings held within any calendar year, whether excused or unexcused;

    b. Fails to attend at least sixty-five (65) percent of special meetings held within any calendar year, whether excused or unexcused.

3. May be declared by the city council for any reason.

4. The member whose seat is being considered for declaration of vacancy shall be provided an opportunity to address the body or the council at the public meeting at which the vacancy is being considered.

5. Public notices of vacancies will be provided by the city clerk. [Ord. 21-20 § 4, 2021.]

2.60.040 Composition of committees, commissions, and ad hoc committees.

A. All committees and commissions shall consist of seven (7) council-appointed adult voting members. One (1) member shall be a member of the city council and act as the council representative to provide a direct line of communication between the advisory board and the city council. Each council member shall be appointed to only one (1) committee, commission, and/or ad hoc committee.

B. In addition to the seven (7) adult voting members, the council may appoint up to two (2) alternative members and one (1) youth member to any advisory committee or commission.

C. An ad hoc committee may have fewer but not more members than the number provided under subsections A and B of this section, and in no event less than five (5) members.

D. Each committee or commission shall annually elect a chair and a vice chair from its membership. An ad hoc committee shall elect a chair and vice chair at the first (1st) meeting of the body. The vice chair shall act in the absence of the chair or in the event the chair is unable to act.

E. The city manager is responsible for the effective management of committee, commission, and ad hoc committee operations and shall provide the staff required to assist the body in discharging its duties. The city manager shall appoint at least one (1) ex officio member to provide staff support to each committee, commission, and ad hoc committee. Ex officio members report to and take direction from the city manager and not from the body to which they are appointed.

The duties of the ex officio member include but are not limited to: preparation and posting of agendas, packet materials, meeting minutes, and other relevant documents in accordance with Alaska Statutes (44.62.310 through 44.62.319), Bethel Municipal Code, and city policy. The ex officio member appointed to the body shall also provide subject matter expertise to the body.

An ex officio member is a nonvoting member of the body, but may add items to the agenda and participate in discussion. [Ord. 21-55 § 2, 2022; Ord. 21-20 § 4, 2021.]

2.60.050 Quorum and voting.

A. Four (4) members shall constitute a quorum for the transaction of business for committees and commissions and four (4) affirmative votes shall be necessary to carry any question, unless the body is acting in a quasi-judicial capacity.

B. A majority of the total voting membership of any ad hoc committee shall constitute a quorum for the transaction of business and shall be necessary to carry any question.

C. Members are required to vote on all questions presented to the body unless there is a conflict of interest ruled on by the chair or majority of the body, when applicable.

D. An alternate member will be activated as a voting member whenever there is an absence or conflict of interest of another member. When two (2) alternate members are present and only one (1) alternate member is needed to fill the seat of a voting member, the alternate with seniority on the body shall act as the voting member. [Ord. 21-20 § 4, 2021.]

2.60.060 Notice of public meetings.

A. Regular meetings shall be scheduled once a month unless otherwise authorized by council. A regular meeting may be postponed or rescheduled to another date upon a vote of the majority of the members at a previous regular or special meeting.

B. Special meetings are called to transact business held outside the regular meeting schedule. Special meetings may be called at any date and time by the chair, or by three (3) voting members.

C. Meetings shall be held at City Hall, 300 Chief Eddie Hoffman Highway, whenever reasonably possible, and shall comply with BMC 2.04.070, in providing teleconference and written participation to all public meetings.

Agendas constitute the meeting notice and shall contain, at a minimum, the date, place and time of the meeting, the name of the body, the names of the members of the body, people to be heard, and any item to be discussed by the body.

D. Public notice of meetings shall be prepared and posted in at least four (4) conspicuous public places within the city, including at the location of the meeting. Notice of a regular meeting shall be posted no later than five (5) days before the meeting. Notice of a special meeting shall be posted no later than three (3) days before the meeting, except the planning commission special meeting agenda shall be posted no later than five (5) days before the meeting.

E. The meetings of all bodies shall be open to the public in accordance with the Alaska Open Meetings Act, and shall permit teleconference and written participation in accordance with BMC 2.04.080.

F. Each committee, commission, and ad hoc committee shall follow Robert's Rules of Order Newly Revised; however, the rules of debate may be relaxed by the body to promote discussion.

G. Committee, commission, and ad hoc committee reports and recommendations shall be decided by a quorum of the body at a public meeting.

H. Any committee, commission and ad hoc committee may appoint seated members of its body to a subcommittee. The number of members appointed to a subcommittee shall be three (3) or fewer, to avoid creating a quorum of the body. The subcommittee can make such investigation or exercise such authority as may be delegated to it by the advisory board. A subcommittee reports to the body from which it was appointed, and not to the council. No action of the subcommittee is official until approved by a majority vote of the advisory body. [Ord. 22-04 § 2, 2022; Ord. 21-20 § 4, 2021.]

2.60.070 Meeting agendas, packets, and minutes.

A. The ex officio member assigned to the body and appointed members may add items to the agenda not later than 5:00 p.m. one (1) day in advance of the meeting's public notice deadline.

B. The ex officio member shall prepare and post the agenda and distribute the packet material containing all relevant reports, communications and documents for the meeting in accordance with the public meeting notice requirements and deadlines in BMC 2.60.060.

C. Official meeting minutes shall contain, at a minimum: the date, place and time of the meeting, the names of those members present and absent, the name of the presiding officer, and the names and items presented under people to be heard. Minutes shall also contain any official action or vote taken by the body. The ex officio member shall file the minutes with the city clerk's office for permanent retention following approval by the body. [Ord. 21-20 § 4, 2021.]

Article II. Planning Commission

2.60.080 Establishment of the planning commission.

Pursuant to AS 29.35.260(c), the city has assumed the powers of planning, platting and land use regulation. Pursuant to AS 29.35.260(c) and 29.40.020, there is established the city planning commission. [Ord. 21-20 § 4, 2021.]

2.60.090 Planning commission powers and duties.

A. The planning commission shall:

1. Conduct public hearings to consider the approval, conditional approval, or denial of:

   a. Variance applications;

   b. Conditional use permit applications; and

   c. Special use permits for tall structures in accordance with Chapter 16.10 BMC.

2. In accordance with AS 29.40.030 and Chapter 16.08 BMC, and after holding public hearings, recommend to the council amendments and updates to the comprehensive plan for the physical development of the city. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the commission's recommendations and may include, among other things, the general location and extent of streets and other methods of circulation and transportation; the general location and extent of public utilities; the general location and extent of parks, playgrounds, and drainage facilities; and the use of land. The comprehensive plan shall include:

a. Statements of policies, goals and standards;

b. A land use plan;

c. A community facilities plan;

d. A transportation plan; and

e. Recommendations for implementation of the comprehensive plan.

3. Approve subdivision plans and plats and provide recommendations to council on the adoption of a subdivision agreement in accordance with Chapter 17.04 BMC.

4. Hear appeals from the decision of the planning director.*

5. Act as the platting authority for the city.

6. Review and make recommendations to the council on the adoption of and changes to subdivision, land use, site plan, land acquisition and disposal, flood control, housing, building and similar codes.

7. Provide a forum for public comment and input regarding planning, zoning, and land use.

8. Perform such other duties and functions as are provided for in BMC Titles 15, 16, 17 and 18 and other provisions of this code or as may be referred by the city council.

B. All formal actions of the commission shall be by resolution bearing:

1. The heading "Resolution of the Bethel Planning Commission";

2. The space for the resolution number to be assigned, "Resolution No. (number)";

3. A short and concise title descriptive of its subject and purpose;

4. A short list of "whereas" clauses descriptive of the reasons for the resolution, if necessary;

5. The resolving clause "THEREFORE, BE IT RESOLVED THAT…" followed by a statement of the action approved by the commission and such factual findings, conclusions and other matters as may be appropriate; and

6. A declaration of the date the resolution was adopted: "Adopted (date)" and designated lines for the signatures of the chairperson and the commission ex officio member responsible for recording the actions in the meeting.

C. The planning commission may make recommendations to the council on:

1. Necessary, proposed, or existing federal, state and/or city land selection, acquisition, disposal or management practices that affect the city.

2. Proposed or existing public improvements and the prioritization of the projects in the city's annual and long-term capital improvement programs.

3. The city's annual planning budget and work program. [Ord. 21-20 § 4, 2021.]

* **Code reviser's note:** This subsection was amended at the request of the city to remove a reference to the board of adjustment to correspond with the amendments from Ordinance 22-17.

Article III. Port Commission

2.60.100 Establishment of the port commission.

There is established a port commission for the purpose of advising the city council on the operation, maintenance, and improvement of the port of Bethel's facilities, and for such additional purposes as the city council may from time to time designate. [Ord. 21-20 § 4, 2021.]

2.60.110 Port commission powers and duties.

A. The port commission shall:

1. Regulate the operation of the port facilities by promulgating and providing recommendations to the council on the terminal tariff containing rates, charges, rules, and regulations applicable at the port, subject to approval by the council.

2. Hear appeals of the decision of the port director.

3. Periodically review the budget, capital improvement programs, funding of port facilities and systems, and report its findings to the city council.

4. Provide a forum for public comment and input regarding port operations.

5. Review and provide recommendation to the council regarding goals set forth in the city's comprehensive plan as they relate to port operations.

6. Perform other such duties as the city council may refer to from time to time or as may be set out in BMC Title 14.

B. The port commission may make recommendations to council on:

1. Existing or proposed federal, state, and city issues relevant to port operations.

2. The operation, management, regulation, and control of the city's public and private ground transportation facilities in accordance with BMC Title 14.

3. Necessary or proposed public improvements and the prioritization of the projects in the city's annual and long-term capital improvement programs related to the port. [Ord. 21-20 § 4, 2021.]

Article IV. Public Safety and Transportation Commission

2.60.120 Establishment of the public safety and transportation commission.

There is established a public safety and transportation commission (PSTC). The PSTC shall act as the regulating body for taxicabs, river taxis, buses, limousines or airport limousines, chauffeurs and dispatch services in accordance with this chapter, Chapters 5.20 through 5.50 BMC and other applicable law. [Ord. 21-20 § 4, 2021.]

2.60.130 Public safety and transportation commission powers and duties.

A. The public safety and transportation commission shall:

1. Review and make recommendations to the council on the adoption of and changes to taxicabs, river taxis, buses, limousines or airport limousines, chauffeurs and dispatch services operations in accordance with Chapters 5.20 through 5.50 BMC and other applicable laws.

2. Monitor and provide recommendation to the council on the operations, management, regulations, and control of the city's public and private ground transportation facilities in accordance with Chapters 5.20 through 5.50 BMC, and other applicable laws.

3. Recommend to council the adoption of maximum rates and may recommend the establishment of minimum rates to be charged for services provided by regulated vehicles as defined under BMC 5.20.010.

4. Hear appeals from a decision of the transportation inspector.

5. Review citizen complaints against chauffeurs of regulated vehicles or against the condition of a regulated vehicle.

6. Hold at least one (1) public hearing annually to investigate the quality of services rendered by regulated vehicles, permittees, chauffeurs, and dispatch services.

7. Collect, process, and adjudicate complaints against chauffeurs of regulated vehicles.

8. Review and make recommendations to the council on progress toward achieving goals set forth in the city's comprehensive plan as they relate to public safety and transportation.

9. Review and make recommendations to the council on the development of transportation systems, transportation codes, traffic movement, road repair, and walking paths.

10. Provide a forum for public comment and input regarding public transportation and public safety.

11. Perform such other duties and functions as are provided for in Chapter 5.20 through 5.50 BMC and other provisions of this code or as may be referred by the city council.

B. The public safety and transportation commission may make recommendations to council on:

1. Existing or proposed federal, state, and city issues relevant to public safety and transportation.

2. Necessary or proposed public improvements and the prioritization of the projects in the city's annual and long-term capital improvement programs related to public safety and transportation.

3. The annual police department and fire department budget and work program. [Ord. 21-20 § 4, 2021.]

Article V. Community Action Grant Committee

2.60.140 Establishment of community action grant committee.

There is established a community action grant committee for the purpose of advising the city council regarding the funding of community action grants. [Ord. 21-20 § 4, 2021.]

2.60.150 Community action grant committee duties.

A. The community action grant committee shall:

1. Make recommendations to the city council on funding opportunities to individuals and organizations that request financial support through the community action grant program.

2. Hold two (2) meetings each fiscal quarter.

3. Review grant applications submitted to the city and evaluate the qualifications of the applicant and the request for funding.

4. Score the qualifying applications and make recommendations to the city council on funding. The review and scoring of the applications shall focus on advancing the community's opportunities, sustainability, and well-being with components that foster community wellness, positive impact to the community's vulnerable populations, and/or civic engagement of Bethel residents and project beneficiaries.

5. Review and make recommendations to the council on the progress toward achieving the goals set out in the city's comprehensive plan as they relate to programs and needs of the community that may be supported by the grant program.

6. Monitor the community action grant fund balance and associated transfers from the alcohol tax revenue.

7. Provide a forum for public comment and input regarding the community action grant program.

8. Perform other such duties as the city council may from time to time refer. [Ord. 21-20 § 4, 2021.]

Article VI. Finance Committee

2.60.160 Establishment of finance committee.

There is established a finance committee for the purpose of advising the city council on finance-related matters. [Ord. 21-20 § 4, 2021.]

2.60.170 Finance committee duties.

A. The finance committee may review and make recommendations to the council on:

1. Finance-related policies and procedures.

2. Monthly financial reports of revenues, and expenditures.

3. The city's investment funds.

4. Capital planning and implementation of projects.

5. Progress toward achieving the organization's vision, accomplishing goals, and implementing benchmarks for the budget process.

6. The annual budget and budget process.

7. The progress toward achieving the goals set out in the city's comprehensive plan as they relate to finance.

B. The finance committee shall:

1. Provide a forum for public comment and input regarding the city's budget, audit, sales tax collection, business licenses operations, purchasing procedures, and other such topics related to the city's finances.

2. Perform other such duties as the city council may from time to time refer. [Ord. 21-20 § 4, 2021.]

Article VII. Community Parks and Recreation Committee

2.60.180 Establishment of community parks and recreation committee.

There is established a community parks and recreation committee for the purpose of advising the city council on parks, recreational, and recreation facility-related matters. [Ord. 21-20 § 4, 2021.]

2.60.190 Community parks and recreation committee duties.

A. The community parks and recreation committee may review and make recommendations to the council on:

1. Capital planning and implementation of projects related to parks, recreation, and recreation facilities.

2. The budget, capital improvement programs, and the funding of recreation facilities and programs.

3. The progress toward achieving the goals set out in the city's comprehensive plan as they relate to parks, recreation, and recreation facilities.

B. The community parks and recreation committee may perform other such duties as the city council may from time to time refer. [Ord. 21-20 § 4, 2021.]

Article VIII. Public Works Committee

2.60.200 Establishment of public works committee.

There is established a public works committee for the purpose of advising the city council on city roads, facilities, utility operations, vehicle and equipment operations, and other public works-related matters. [Ord. 21-20 § 4, 2021.]

2.60.210 Public works committee duties.

A. The public works committee may review and make recommendations to the council on:

1. The operations of the city's water and wastewater collection, distribution, treatment and compliance; and solid waste planning, collection, disposal and compliance.

2. The development, operations, and maintenance of city properties, roads, traffic, drainage, snow removal, parks, cemeteries, grounds, and trails.

3. The operations of the transit system.

4. The operations and maintenance of the city's vehicle fleet and heavy equipment.

5. The budget as it relates to public works operations and capital projects.

6. City capital planning and implementation of projects related to public works.

7. Energy and environmental improvements for city operations.

8. The progress toward achieving the goals set out in the city's comprehensive plan as they relate to public works.

B. The public works committee may perform other such duties as the city council may from time to time refer. [Ord. 21-20 § 4, 2021.]

The Bethel Municipal Code is current through Ordinance 22-37, passed November 8, 2022.

Disclaimer: The city clerk's office has the official version of the Bethel Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: www.cityofbethel.org
Code Publishing Company

APPENDIX

C

Examples of Documents

- Ordinance
- Resolution
- Action Memorandum (AM)
- Informative Memorandum (IM)
- Recommendation

Introduced by:	Finance Committee
Introduction Date	September 27, 2011
Public Hearing:	October 11, 2011
Action:	Passed
Vote:	6-0

CITY OF BETHEL, ALASKA

Ordinance #11-21

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING BETHEL MUNICIPAL CODE SECTION 4.16.180 INCREASING PENALTIES UNDER THE SALES AND USE TAX CHAPTER

Whereas, businesses operating within the City of Bethel have a legal obligation to submit sales taxes collected from the consumer in an accurate and timely manner;

Whereas, the Bethel Municipal Code requires businesses to provide a written receipt or invoice to the customer which shows on the receipt or invoice the amount of tax due;

Whereas, it is the responsibility of the Finance Director to inspect sales tax returns submitted by businesses within the City of Bethel for accuracy;

Whereas, the Bethel Municipal Code authorizes the Finance Director to obtain necessary documentation from businesses to conduct an audit of sales tax returns as the director;

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

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

Section 2. Amendment. The Bethel Municipal Code, Section 4.16.180 Penalties is amended as follow, new language is underlined and old language is stricken.

4.16.180 Penalties.

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

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

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

D. A person required to collect a tax under this chapter, who fails or refuses to produce records demanded or allow inspection at such reasonable time as requested or demanded by the finance director, shall pay to the city a penalty equal to three (3) times any deficiency found or estimated by the finance director to have occurred; provided, the minimum penalty is ~~three hundred dollars ($300)~~ two thousand five hundred dollars ($2,500) in addition to penalties violators may be assessed administrative and/or legal cost associated with the city's obtaining the necessary records to complete audit or investigation.

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

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

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

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

ENACTED THIS 11 DAY OF October 2011, BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED.

Introduced by: Finance Committee
Introduction Date September 27, 2011
Public Hearing: October 11, 2011
Action: Passed
Vote: 6-0

ATTEST:

Lori Strickler, City Clerk

Richard Robb, Mayor Pro Tem

Introduced by: Council Member Springer
Date: April 28, 2015
Action: Passed
Vote: 7-0

CITY OF BETHEL, ALASKA

Resolution # 15-10

A RESOLUTION BY THE BETHEL CITY COUNCIL AFFIRMING ELIGIBILITY FOR POWER COST EQUALIZATION "COMMUNITY FACILITY" STATUS FOR ITS YUKON-KUSKOKWIM REGIONAL AQUATIC HEALTH AND SAFETY CENTER

Whereas, the City of Bethel is a municipal organization serving its citizens who reside in the community of Bethel;

Whereas, the City of Bethel owns and operates a Regional Aquatic Health and Safety Center that provides benefits to the general public residing in and near its community;

Whereas, the facility is operated using general funds and private donations/fees from users;

Whereas, the facility is not funded by dedicated support from any state or federal agency or any private commercial organization;

Whereas, the facility is eligible to receive "Community Facility" PCE from the State of Alaska's Power Cost Equalization Program;

Whereas, the Alaska Legislature has mandated, by statute, that the Alaska Energy Authority shall provide PCE to all eligible utility customers, including community facilities;

NOW, THEREFORE, BE IT RESOLVED that the City of Bethel hereby certifies that its Regional Aquatic Health and Safety Center meets all requirements for classification as an eligible "Community Facility" and requests that the Alaska Energy Authority provide PCE for all its electricity consumption, subject to the limit of 70 kWh per resident per month, effective with its first date of operations on October 1, 2014.

ENACTED THIS 28th DAY OF APRIL 2015, BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED.

Richard Robb, Mayor
4/28/15

ATTEST:

Lori Strickler, City Clerk

City of Bethel Action Memorandum

Action memorandum No.	14-70		
Date action introduced:	November 25, 2014	Introduced by:	Acting City Manager, Peter Williams
Postponed to:	December 9, 2014 January 27, 2015 March 2, 2015		
Date action taken:	March 2, 2015 (Amended)	X Approved	▒ Denied
Confirmed by:	LS		

SUBJECT/ACTION: Accept and approve the Section 5309 Bus and Bus Facilities "Ladders of Opportunity" grant award from the Federal Transportation Association in the amount of $82,318 to purchase bus shelters and provide the required cash match of $~~20,579.40 $~~5,624.

Route to Department/Individual	Initials	Remarks
Administration/John Sargent		The City applied for this grant to purchase one bus and 15 bus shelters and was awarded $82,318 to purchase the bus shelters only. The cash match required for this grant is $~~20,579.40 $~~5,624. ONC's previous commitment of $13,669 for this grant was rescinded. The shelters will be high-quality three-sided shelters permanently installed on City property to provide bus passengers protection from the weather.

Attachment(s):

1. Letter from City of Bethel dated July 29, 2014 committing $15,791.53 in cash match for the grant application to FTA in which the City requested funding for one bus and bus shelters.

Fiscal Impact Amount	Description	Account information
$~~20,579.40 $~~5,624	The City submitted a letter in the grant application committing cash match of $6,910 for this project, but with the ONC match withdrawal, the City must now contribute $~~20,579.40 $~~5,624.	A new Caselle account number would be set up for this grant.

Summary statement

The City of Bethel applied for and was awarded a "Ladders of Opportunity" grant in the amount of $82,318 from the Federal Transit Administration to fund the purchase and shipping of 15 three-sided see-through bus shelters. Since ONC withdrew their commitment to fund the cash match for this grant, if the City accepts this grant, the City must provide $~~20,579.40 $~~5,624 in cash match.

These bus shelters would be permanently installed on City property with the help of some in-kind sand deliveries and in-kind labor and expertise to facilitate installation.

IM No.10-13

Introduced by:	City Manager		
Date introduced:	07-27-10	Date action taken	
Amended actions:			
Verified by:			

CITY OF BETHEL CITY COUNCIL INFORMATIVE MEMORANDUM

TITLE: Update on Billing and Payment Processing Outsourcing for Water and Sewer Services.

Agenda Introduction Date: July 27, 2010
Originator: Finance Director Laurie Walters

Routed to:	Department	Signature/Date
X	Finance	

FISCAL IMPACT: ▒ yes $_____ X no *(not yet)* FUNDS AVAILABLE X yes ▒ no

Account name/number: ______________________________

Attachments: Email from Caselle regarding Xpress Bill Pay and Advance Info Systems webpage indicating partnership with Caselle.

SUMMARY STATEMENT:
The Finance Department has been working toward outsourcing the billing and payment processing for water and sewer bills. On several occasions, the most recent being last fall, pricing information was solicited for these services, but now needs to be updated.

Given the challenges experienced with the payroll outsourcing, it is clearly advantageous to outsource services to companies that already have established integration with our existing accounting software.

Currently, Caselle has partnered with two companies, Xpress Bill Pay, which handles the online payment processing and Advanced Information Systems that provides billing services. While we typically solicit the best price for these services, the City needs to consider the value, ease of transition and other benefits of dealing directly with two companies that already have an established relationship with Caselle. Specifically, Xpress Bill Pay has been announced as

City of Bethel

Committees and Commissions

Recommendation to City Council

Prepare MOU to partner with BCSF on Housing Grant for Public Safety Personnel.

Committee/Commission:	**Public Safety and Transportation Commission**	**Chairman: Brian Lefferts**
Date Submitted:	**9/2/14**	**Council Rep: Sharon Sigmon**

Issue/Background:

Bethel Community Services Foundation is pursuing a particular grant that will fund renovation of their Norma Jean Center into apartments for use by public safety personnel. The City of Bethel's Police and Fire Departments have an opportunity to support this grant effort and participate by filling one, two, and three-bedroom housing units with public safety personnel at a potentially discounted rate to the market.

Recommendation:

The City of Bethel should prepare a Memorandum of Understanding between the City and Bethel Community Services Foundation in which the City agrees to terms that support the acquisition of grant funding to develop, construct, and manage a renovation project that results in housing exclusively for public safety personnel. The Commission feels confident that City public safety personnel will voluntarily lease at least two one-bedroom units, two two-bedroom units, and two three-bedroom units over the course of the next 15 years.

Received by: LS

Date: 9-3-2014

Introduced by:	City Manager		
Date introduced:	07-27-10	Date action taken	
Amended actions:			
Verified by:			

Caselle's "authorized and preferred provider for Internet and Electronic payment systems" (*www.caselle.com*).

More information and a request for action will be provided at the last meeting in August.

City of Bethel Action Memorandum

Action memorandum No.	14-70		
Date action introduced:	November 25, 2014	Introduced by:	Acting City Manager, Peter Williams
Postponed to:	December 9, 2014 January 27, 2015 March 2, 2015		
Date action taken:	March 2, 2015 (Amended)	X Approved	▒ Denied
Confirmed by:			

An idea recently expressed was the additional use of these bus shelters for school children while they wait for the school bus. Strategic placement in town could satisfy both needs.

APPENDIX

D

Chapter 2.05
CITY OFFICERS GENERALLY

Sections:

2.05.010 Definitions.

As used in this chapter, the following definitions shall apply:

A. "Appointed body" means any municipal commission, board, or committee created by ordinance or resolution with members of the public appointed subject to the confirmation by the city council.

B. "Appointed official" means a board or commission member appointed by the mayor subject to confirmation by the city council.

C. “City official” means a person who holds elective office under the ordinances of the city, or who is a member of a board or commission whose appointment is subject to confirmation by the city council.

D. “Elected official” means a person holding an elective office subject to municipal elections under this code.

E. “Financial interest” includes the receipt of a pecuniary benefit or the expectation of a pecuniary benefit.

1. A financial interest of a person includes a financial interest of any member of the person’s household.

2. A person has a financial interest in an organization if the person:

a. Has an ownership interest in the organization; or

b. Is a director, officer or employee of the organization.

3. Whether a financial interest is substantial is determined on a case-by-case basis.

F. “Hired consultant and contractors” means a person or organization hired by the city as an independent contractor and not as an employee.

G. “Immediate family member” means:

1. The spouse of the person;

2. Another person cohabiting with the person in a conjugal relationship that is not a legal marriage;

3. A child, including a stepchild and an adoptive child, of the person;

4. A parent, sibling, grandparent, aunt or uncle of the person; and

5. A parent or sibling of the person’s spouse.

H. “Municipal employee” means any person employed by the city, whether full time or part time, temporary or permanent, but excluding elected officials and appointed officials.

I. “Municipal officer” includes the city manager, city attorney and city clerk.

J. “Source of income” means an employer or other person or entity paying compensation, dividends, or interest, directly or indirectly, for services, products, or investments. If the income being reported is derived from employment by a sole proprietorship, partnership, or corporation in which the reporting person, the spouse or children, or a combination of them, hold a controlling interest, that proprietorship, partnership, or corporation may be designated as the source of income without specifying clients or customers if the business is one that is normally conducted on a cash basis and typically does not keep records of individual customers. In all other cases, the clients or customers of the proprietorship, partnership, or corporation shall be listed as sources of income of the person whose income is being reported, whose spouse, children, or a combination of them holds a controlling interest. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.020 Oath.

All municipal officers and city officials shall, before entering upon the duties of their office, individually take an oath, in writing, to honestly, faithfully, and impartially perform and discharge the duties of their office and trust. This oath shall be filed in their personnel file. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.030 Resignation.

Repealed by Ord. 19-19.

2.05.040 Conflicts of interest and code of ethics – Generally.

A. A person subject to the requirements of this chapter may not:

1. Use their official position or office for the primary purpose of obtaining personal financial gain or financial gain for an immediate family member or business with which the person is associated or in which the person owns stock. This provision does not apply to financial gain from salary under the terms of employment.

2. No city official shall use the implied authority of office or position for the purposes of unduly influencing the decision of others, or promoting a personal interest within the community. City officials will refrain from using their title except when duly representing the city in an authorized capacity. Unless duly appointed by the council to represent the interest of the full council, councilmembers shall refrain from implying their representation of the whole by the use of their title.

3. Solicit or receive money for advice or assistance given in the course of the officer's or employee's employment or relating to that employment.

4. Serve as a paid consultant on a private interest or as a paid representative of any person or entity before a municipal department, utility, or elected or appointed public body of the city.

5. Solicit or accept a gift if it can be reasonably inferred that the gift is intended to influence the elected official's independence of judgment in the exercise of official duties.

a. An item is a "gift" under this subsection if it is:

i. Money, an item of value, service, loan, travel or hospitality accommodation, entertainment, or employment; and

ii. Provided to an elected official, or to another person or entity designated by the elected official, for less than full value.

b. Unless rebutted by other factors, food or beverage for immediate consumption is presumed not to be given under circumstances in which it could be reasonably inferred that they are intended to influence the elected official's independence of judgment in the exercise of official duties.

c. The following unsolicited gifts are allowed; provided, that if disclosure is required, the gift disclosure form is timely filed with the municipal clerk within thirty (30) days of the receipt of the gift:

i. Payment for a business meal offered as a courtesy in the context of municipal duties; provided, that such meals shall not be accepted on a basis so frequent from any one (1) source or a combination of sources as to raise an appearance of the use of the person's public position for private gain. No disclosure is required.

ii. A discount or price available to public sector officials generally, or to a large business category of public officials to which the elected officials belong. No disclosure is required.

iii. A monetary gift or award presented in recognition of meritorious, civic, or voluntary service, so long as presented by a recognized civic or nonprofit charitable organization presenting such a gift or award as part of an established tradition, and not given as financial inducement for official action. An elected official shall disclose a recognition gift or award in excess of one hundred fifty dollars ($150).

iv. A perishable gift for immediate consumption or display, from member(s) of the public expressing general gratitude or holiday cheer. No disclosure is required.

v. In-state travel and hospitality discounts or accommodations offered or provided to an elected official shall be applied to any municipal expense for the travel. No disclosure is required. Out of state gifts of travel and hospitality related to providing or obtaining information primarily of matters related to the duties of the elected official are allowed. Gifts in this category in excess of two hundred fifty dollars ($250) shall be disclosed to the council prior to acceptance.

d. Gifts that are not connected with the recipient's status as an elected official are outside the scope of this chapter and no disclosure is required.

6. No city official may vote on any question in which the member has a direct or indirect substantial financial interest. Direct or indirect financial interest shall be disclosed to the presiding officer prior to the discussion on the question, for a ruling on a request from the member with the financial interest to be excused from discussion vote. The decision of the presiding officer on a request by a member of the governing body or an appointed body to be excused from a vote may be overridden by the majority vote of the body. If there are not at least four (4) members in attendance who are qualified to vote, the matter shall be tabled until the next regular or special meeting at which four (4) members qualified to vote on the matter are in attendance.

7. No city official, municipal officer, appointed official or municipal employee shall participate in any official action in which they have a substantial financial interest. Prohibited participation includes voting as a member of the city council, taking part in debate, soliciting the vote of a member of the city council, or encouraging any municipal official or officer to act in a certain way.

8. No city official, municipal officer or municipal employee may disclose information they know to be confidential concerning employees of the city, city property, city government, or other city affairs, including but not limited to confidential information disclosed during an executive session, unless authorized or required by law to do so.

B. Nothing in this section is intended to limit the scope of additional restrictions, prohibitions and disclosure requirements applicable to municipal employees, appointees and elected officials under this chapter. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.050 Improper influence in grants, contracts, or leases.

A. A municipal officer or municipal employee, or immediate family member, may not attempt to acquire, receive, apply for, be a party to, or have a substantial personal or substantial financial interest in a city grant, contract, or lease if the municipal officer or public employee may take or withhold official action that affects the award, execution, or administration of the city grant, contract, or lease.

B. The prohibition in subsection A of this section does not apply to a city grant, contract, or lease competitively solicited unless the employee:

1. Is employed by the department or division awarding the grant, contract, or lease, or is employed by the department or division for which the grant, contract, or lease is let;

2. Takes official action with respect to the award, execution, or administration of the grant, contract, or lease.

C. A municipal employee shall report in writing to their supervisor any personal or financial interest held by the employee, or an immediate family member, in a city grant, contract, or lease that is awarded, executed, or administered by the department or division served by the employee.

D. The city council may provide a waiver from this section as provided in BMC 4.20.150. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.060 Representative of the city of Bethel.

City officials, municipal officers, and municipal employees of the city of Bethel shall support the direction of the city council when representing the city of Bethel or acting on behalf of the city. All such individuals shall clearly make known any personal communication or action which contradicts city council direction as representing their own personal views and/or ideas. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.070 Outside employment restricted.

Municipal employees shall not engage in any employment or self-employment which is incompatible with or in conflict with their public employment. A public employee who wishes to engage in other employment or self-employment shall request prior approval from the city manager. If the manager determines that the employment is not incompatible and is not in conflict with the proper discharge of official duties, the manager may give written approval. Any change in an employee’s approved outside service or employment activities must be reported to the city manager. If the employee is the city manager, city attorney, or city clerk, the employee shall request approval from the city council, which will have the responsibility for determining compatibility, and, upon a determination that the services or employment are not incompatible or in conflict with official duties, may approve the services or employment in writing. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.080 Report of financial and business interests.

A. A candidate for elective municipal office shall file a statement under oath with the city clerk, at the time of filing a nominating petition and declaration of candidacy, specifying the candidate's business interests and income sources, and shall file a similar statement of income sources and business interests with the city clerk not later than April fifteenth (15th) of each year that they hold office.

B. The city manager and any appointed councilmember and planning commissioner shall file a statement under oath with the city clerk, within thirty (30) days after appointment to office, specifying sources of business interests and income. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.090 Contents of statement.

A. The statement filed by the city manager, elected official, planning commissioner or candidate under this chapter shall be an accurate representation of the financial affairs of the business interests and sources of income for the officer or the officer's immediate family, to the extent those sources of income or business interests are ascertainable by the officer or candidate.

B. The statement filed shall include the following information relating to the filer's immediate family living in the household excluding filer's dependent children:

1. The source of all income of five thousand dollars ($5,000) during the preceding calendar year, including taxable capital gains, except that a source of income that is a gift must be included if the value of the gift exceeds two hundred fifty dollars ($250);

2. The name and address of each business entity owned or in which an interest was held during the preceding calendar year, including a statement of the nature of the interest owned or held, except that an interest held in a retirement account or an interest of less than five thousand dollars ($5,000) in the stock of a publicly traded corporation need not be included;

3. The name and address of each business in which the filer is an officer, director, manager, or employee during the preceding calendar year;

4. The identity and nature of each interest in real property located within the city limits, including an option to buy, owned at any time during the preceding calendar year;

5. A list of all contracts, bids, or offers to contract with the city during the preceding year, including those made through a proprietorship, partnership, or corporation in which the filer or an immediate family member, or a combination of them, holds a controlling interest. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.100 Modified requirements for professionals.

Notwithstanding other provisions of this chapter, medical and psychiatric doctors, attorneys, psychologists or other professionals are not required to disclose as sources of income the names of individual patients or clients who receive professional services normally considered to be confidential. This exemption shall not apply to the identity of any corporation or other business entity having a contract with the professional producing income of five thousand dollars ($5,000) or more for services to its members or a defined group, nor to the identity of clients receiving services that do not fall within the candidate's or official's field of professional expertise. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.110 Administration and inspection.

The city clerk shall administer the provisions of this chapter. The clerk shall prepare and keep available for distribution standardized forms on which the reports required by this chapter shall be filed. The city clerk may make such alterations to the forms as may be necessary. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.120 Records, public information.

All statements required to be filed by this chapter are public records. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.130 Refusal or failure to disclose.

A. If a candidate fails or refuses to file the statement required by this chapter, their filing shall be refused or, if previously accepted, shall be returned and their name shall be withheld or removed from the filing records of candidates.

B. A person who refuses or knowingly fails to make a required disclosure of information as provided in this chapter or who files a statement containing false or misleading information knowing it to be false or misleading shall be guilty of a violation and upon conviction is punishable by a fine as provided for violations in Chapter 1.06 BMC and may be removed from the office in which they are seated. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.140 Application of state statutes.

A. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct involving bribery or other offenses against public administration.

B. All municipal officers as defined by AS 39.50 are exempt from the provisions of AS 39.50 relating to conflicts of interest or financial disclosures. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.150 Conflict of interest – City officials.

A. Except as provided herein a city official may not participate in any official action in which the official or a member of the official's immediate family has a substantial financial interest. For purposes of this section participation shall not include discussing the matter with city officials or addressing the city council as a private citizen, but shall include voting and participating in the debate as a councilmember.

B. A city official shall disclose any substantial financial interest in any matter before the body, prior to debating or voting upon the matter. Any official of the body may raise a question concerning another member's financial interests, in which case the member in question shall disclose relevant facts concerning the official's financial interests in the subject of the action.

C. Whether the direct or indirect financial interest is substantial shall be determined by the presiding officer on a case-by-case basis, with evaluation of these factors:

1. Whether the financial interest is a substantial part of the consideration;

2. Whether the financial interest directly and substantially varies with the outcome of the official action;

3. Whether the financial interest is immediate and known or conjectural and dependent on the factors beyond the official action;

4. Whether the financial or private interest is monetarily significant;

5. Other factors deemed appropriate by the presiding officer under the specifics of the disclosure and the nature of the action taken before the council body, or commission.

D. After a city official has made known any substantial financial interest in any question to be voted upon by the body:

1. The officer shall ask to be excused from the debate and vote on the matter;

2. The presiding officer shall rule on the request;

3. The decision of the presiding officer shall be final unless overridden by a majority vote of the body.

E. In the event that the official with a substantial financial interest is the presiding officer, the request shall be ruled upon by a vote of the body. An official may not participate in the matter if the presiding officer or a majority vote of the body determines the financial interest is substantial. Neither the city official making the request nor any other city official, who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling. [Ord. 22-35 § 2, 2022; Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.160 Conflict of interest – Municipal employee.

A municipal employee shall not participate in an official action in which the employee or a member of the employee's immediate family has a substantial financial or private interest. A municipal employee shall disclose, in written narrative form, to their supervisor the employee's financial or private interest in the official action and the financial or private interest of any member of the employee's immediate family as defined in BMC 2.05.010(E), if the employee's duties could influence the official action.

A. Whether the municipal employee is prohibited from participation in the official action due to substantial financial or private interest shall be determined by the city manager with evaluation of these factors:

1. Whether the financial or private interest held by the employee or a family member is a substantial part of the official action under consideration;

2. Whether the financial or private interest varies directly and substantially with the outcome of the official action;

3. Whether the financial or private interest is monetarily significant;

4. Whether the public disclosure requirements applicable to municipal employees under this chapter have been fully met;

5. Whether public disclosure of the municipal employee's financial or private interest and management of the potential for conflict of interest are sufficient to maintain the integrity of the decision making process.

B. The determination of the city manager shall be filed with the municipal clerk as a public record.

C. A complaint to the city manager or mayor for conflict of interest based on substantial financial or private interest in official action by a municipal employee shall be filed as a notice of potential violation under BMC 2.05.210. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.170 Procedure for declaring potential conflicts of interest – City manager.

The city manager who has or may have a substantial financial interest in an official action shall disclose the facts concerning the manager's financial interests to the city council prior to taking any official action. If the city council determines the manager has a substantial financial interest in the action, the city council shall excuse the manager and assign another city employee to the matter. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.180 Conflict with collective bargaining agreement.

In the event any section or provision in this chapter conflicts with an applicable collective bargaining agreement for a public employee, the collective bargaining agreement shall control with respect to that employee. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2.]

2.05.190 Employment prohibited.

No member of the council may be employed by the city in any capacity within a twelve- (12-) month period immediately following the term of that individual unless the member is employed as a hired consultant or contractor and a waiver has been provided by the city council. [Ord. 19-19 § 2, 2019; Ord. 18-16 § 2; Ord. 13-04 § 2.]

2.05.200 Political activity.

The following limitations shall apply to political activity:

A. Departments, boards, and commissions of municipal government shall not:

1. Expend municipal funds for the support, opposition or endorsement of candidates for any elected government office.

2. Expend municipal funds for paid advertisement which advocates or promotes a particular position, or solicits members of the public to advocate or promote a particular position, on legislation or other action pending before the council.

3. Permit an administrative division of municipal government to endorse or oppose candidates for elected federal, state, municipal or other local office even if such endorsement does not include expenditure of funds. This prohibition applies to municipal employees while on duty and to the use of municipal property or facilities in a manner not made available to members of the public.

4. Authorize that money held by the municipality be used to influence the outcome of an election, except as permitted by state law under AS 15.13.145.

5. Actively campaign or prepare, publish, broadcast, or distribute by any means material of a partisan nature on any ballot measure, including referendums, initiatives, bond issues or other special elections.

B. Subject to restrictions in AS 15.13.145 on the use and expenditure of municipal funds to influence the outcome of a ballot proposition or question, the city manager may designate in advance, in writing, one (1) or more executive employees to appear before the council, appointed public bodies of the municipality, community councils, civic organizations, and media representatives in support of or in opposition to any ballot measure coming before the voters in a municipal election. The designated executive employees shall be selected from among the employees with principal responsibility for carrying out policies and programs relevant to the ballot measure.

C. The limitation against dissemination of partisan materials on bond measures does not apply to municipal employees asked to assist an elected official in the preparation of ballot measures or to respond to inquiries from an elected official concerning any ballot measure.

D. A municipal employee shall not serve as a member of the Bethel city council or in elective office of the state, federal, or another local government. A municipal employee who is elected to one (1) of these offices shall resign immediately from municipal employment. This section is not intended to modify AS 29.20.630 or prohibit an employee from being a member of the Lower Kuskokwim School Board or Advisory School Board.

E. For purposes of this section, public safety volunteers, hired consultants or contractors are not considered municipal employees (BMC 3.64.060). [Ord. 19-19 § 2, 2019; Ord. 18-16 § 2; Ord. 13-04 § 2.]

2.05.210 Advisory opinions.

A. Upon the request of an elected official or municipal officer, the city attorney shall issue an advisory opinion interpreting this chapter. The requester shall supply any additional information requested by the city attorney in order to issue the opinion.

B. The city attorney may offer oral advice if delay would cause substantial inconvenience or detriment to the requester. Within two (2) working days after providing the oral advice, the city attorney shall provide a brief written statement summarizing its contents.

C. The city attorney may reconsider, revoke, or modify an advisory opinion at any time.

D. A request for advice made under subsection A of this section is confidential to the extent permitted by law unless the subject of the opinion waives confidentiality and authorizes in writing the release of the request or the full text of the advisory opinion.

E. The city attorney shall make the advisory opinion issued under this section available for public inspection with sufficient deletions to prevent disclosure of the persons whose identities are confidential under subsection D of this section. [Ord. 19-19 § 2, 2019.]

2.05.220 Immunity.

A city official or municipal officer is not liable under this chapter for an action carried out in accordance with the advice of the city attorney issued under BMC 2.05.210, Advisory opinions, if the official or officer fully disclosed all relevant facts reasonably necessary to the issuance of the advice. [Ord. 19-19 § 2, 2019.]

2.05.230 Conformity to law.

If any section or provision of this chapter is held to be contrary to law by a court of competent jurisdiction or by action of the Alaska State Legislature, that section or provision shall be deemed invalid. All other sections and provisions of this chapter shall continue in full force and effect. [Ord. 19-19 § 2, 2019; Ord. 13-04 § 2. Formerly 2.05.220.]

The Bethel Municipal Code is current through Ordinance 22-37, passed November 8, 2022.

APPENDIX

E

STEPS IN THE QUASI-JUDICIAL PROCESS

Most matters that will be addressed by a commission are set out in the Bethel Municipal Code. The steps are usually there, but not necessarily in order as they should occur. It sometimes takes detective work to determine what steps are required to settle a particular issue.

The commission issues resolutions, discusses issues within its authority, investigates matters and can make rulings which affect rights or obligations of individuals or entities. Those rulings or findings are legally binding and are required to conform to guidelines because of their effects on the rights of others.

Those guidelines are the Quasi-Judicial Process. It works like this:

1. A matter that is within the commission's authority is requested to be put on the commission's agenda.
2. The commission hears information presented to it.
3. The commission renders a decision, called a finding which is binding upon the parties involved in the matter.

This occurs very much like a trial in the court system. Because it is like a trial, the body making the ultimate decision on the matter should not let outside communications, side issues, or things outside the hearing influence their decision.

If a person involved with the matter does not agree with the finding by the commission, there may be another agency to rehear the matter. Appeals from the Planning Commission go before the Board of Adjustment. Appeals from the Public Safety and Transportation Commission should be filed in the Superior Court, Fourth Judicial District, Bethel, Alaska. Appeals from the Port Commission would go before the Bethel City Council.

The appeal would look at the matter as a brand new issue, with no influence from the prior hearing.

Ex parte Communications

Guidelines for Communicating with Commissioners

To ensure that the decision-making process is fair and impartial, Commission employees, utilities, and other parties in proceedings before the Commission are held to certain standards regarding "ex parte" communication on cases under review. Ex parte communication is defined as "oral or written, off-the record communication made to or by commissioners or commission decision-making personnel, without notice to parties, that is directed to the merits or outcome of an on-the-record proceeding."

Generally, the ex parte rules prohibit Commissioners from engaging in informal communications with parties that could influence how a case is decided. Under the rules of ex parte communications, parties may not, for example, present information to commissioners about the facts or merits of a case, extend offers of employment, or offer gifts or favors.

If prohibited ex parte communication is attempted, the rules require that the Commissioner involved first attempt to stop the party from engaging in prohibited behavior, then document the attempt and notify the Executive Secretary. The Executive Secretary will then enter a statement into the public file and make copies of the statement available to other parties in the case.

Communication between commission staff and parties is allowed without documentation for procedural, scheduling, and status inquiries, or other inquiries or requests for information--as long as they have no bearing on the outcome of the proceeding. Staff may also engage in ex parte communication about the merits of the case, but such communication must be documented.

APPENDIX

F

MOTIONS CHARTS

	Rank	Second?	Debatable?	Amendable?	Vote?
PRIVILEGED MOTIONS					
Fix time to which to adjourn	**13**	Yes	No	Yes	Majority
Adjourn	**12**	Yes	No	No	Majority
Recess	**11**	Yes	No	Yes	Majority
Raise a question of privilege	**10**	No	No	No	Chair decides
Call for orders of the day	**9**	No	No	No	At request of one member
SUBSIDIARY MOTIONS					
Table	**8**	Yes	No	No	Majority
Previous question or call the question*	**7**	Yes	No	No	Two-thirds
Limit or extend limits of debate	**6**	Yes	No	Yes	Two-thirds
Postpone to a certain time	**5**	Yes	Yes	Yes	Majority
Refer to committee	**4**	Yes	Yes	Yes	Majority
Secondary amendment		Yes	Yes	No	Majority
Primary amendment		Yes	Yes	Yes	Majority
Amendment*	**3**	Yes	Yes	Yes	Majority
Postpone indefinitely	**2**	Yes	Yes	No	Majority
MAIN MOTION					
Main motion	**1**	Yes	Yes	Yes	Majority

* Amendment and previous question may be applied to motions higher than themselves.

INCIDENTAL MOTIONS				
	Second?	**Debatable?**	**Amendable?**	**Vote?**
Request for information	No	No	No	Chair responds
Point of order	No	No	No	Chair rules

BRING-BACK MOTIONS				
	Second?	**Debatable?**	**Amendable?**	**Vote?**
Reconsider	Yes	It depends	No	Majority
Rescind	Yes	Yes	Yes	§
Amend something previously adopted	Yes	Yes	Yes	§
Take from table	Yes	No	No	Majority

§ Majority with previous notice, two-thirds without notice, or majority of entire membership

Chapter 2.15
DEPARTMENT OFFINANCE

Sections:

2.15.010 Established.

There is established the department of finance. [Ord. 159 § 1, 1985.]

2.15.020 Functions.

The functions of the department of finance shall include those set forth in BMC 2.15.030 through 2.15.070. [Ord. 159 § 1, 1985.]

2.15.030 Director.

A. The department of finance shall be headed by the director of finance who shall be ex officio treasurer, data processing manager, city accountant and internal auditor.

B. The director of finance shall hire and supervise the departments, employees and manage the department subject to the city manager's authorization and consent.

C. The director of finance shall be appointed by, report to and be supervised by the city manager and may be removed by the city manager, but is entitled to all rights and privileges as other employees under the city's personnel rules and procedures. The position of finance director is a professional and confidential position wholly exempt from the classified services. [Ord. 96-14 § 3; Ord. 159 § 1, 1985.]

2.15.040 Accounting.

The accounting and fiscal reporting functions of the city shall be under the supervision of the director of finance. The director of finance shall maintain custody of and responsibility for all fiscal records of the city not specifically entrusted to other offices by the director of finance. [Ord. 159 § 1, 1985.]

2.15.050 Data processing.

The director of finance shall be responsible for directing the operations of the data processing element of the city. The city data processing department shall provide centralized data processing to all city departments. [Ord. 159 § 1, 1985.]

2.15.060 Internal audit.

The director of finance, ex officio internal auditor, shall work closely with the external auditors in the best interest of the city. All departments will make available such documents and records as are necessary to accomplish this function. [Ord. 159 § 1, 1985.]

2.15.070 Treasury.

The treasury functions shall be headed by the director of finance, who will have custody of all public moneys and investment securities of the city. The director of finance will also administer the tax collections and fiscal operations function and act as paying agent for outstanding bonds and interest coupons. [Ord. 159 § 1, 1985.]

The Bethel Municipal Code is current through Ordinance 22-37, passed November 8, 2022.

Title 4
REVENUE AND FINANCE

Chapters:

Chapter 4.04
BUDGET AND AUDIT

Sections:

4.04.010 Fiscal year.

The fiscal year of the city government shall begin on the first (1st) day of July and end on the last day of June of each calendar year. The fiscal year shall also constitute the budget and accounting year. Changes to the city's fiscal year shall be by council resolution. [Ord. 17-43 § 2; Ord. 161 § 2, 1985.]

4.04.020 Operating budget estimate – Preparation.

The city manager shall prepare and submit to the council, not later than April first (1st) of each year, an annual operating budget estimate for the following fiscal year, and a budget message. The operating budget submitted by the city manager must be balanced, as defined in this section as current year expenditures covered by current year revenues. The operating budget estimate shall cover and appropriate for all expenditures of money, including contract and other commitments, except appropriations for expenditures from bond construction funds and special assessment construction funds. The council may amend the budget estimate at any time prior to adoption. [Ord. 17-43 § 2; Ord. 10-03 § 2; Ord. 07-06 § 2; Ord. 04-29 § 2; Ord. 161 § 2, 1985.]

4.04.025 Fees and charges revenue estimate – Preparation.

The city manager shall prepare and submit to the council, not later than April fifteenth (15th) of each year, an estimate of revenue that the city will receive during the next fiscal year. The city manager shall propose any changes to such fees and charges for the next fiscal year that the manager deems necessary. A schedule of fees and charges shall be included as an appendix to the annual budget estimate prepared in accordance with BMC 4.04.020. [Ord. 17-43 § 2; Ord. 10-03 § 2; Ord. 07-06 § 2; Ord. 04-29 § 2; Ord. 01-09 § 4.]

4.04.030 Budget a public record.

The budget estimate and, upon adoption, the budget and budget message, shall be a public record open to inspection in the office of the city clerk. Copies of the budget estimate and budget message shall be prepared for purchase by any interested person. [Ord. 17-43 § 2; Ord. 161 § 2, 1985.]

4.04.040 Budget estimate – Public hearing.

The council shall fix the time and place for a public hearing on the budget estimate. Notice of the hearing, together with a summary of the budget estimate, shall be posted on the bulletin board at City Hall not more than ten (10) nor less than five (5) days prior to the time fixed for hearing. At the time and place advertised, or at any time and place to which such public hearing shall be adjourned, all interested persons shall be given an opportunity to be heard. [Ord. 17-43 § 2; Ord. 161 § 2, 1985.]

4.04.050 Budget – Adoption.

The council shall adopt the budget and make the appropriation by ordinance no later than the fifteenth (15th) day of June. Failing adoption, the budget estimate as submitted or amended shall go into effect and be deemed to have been adopted by the council; and the proposed expenditures therein shall become the appropriations for the next fiscal year. [Ord. 17-43 § 2; Ord. 161 § 2, 1985.]

4.04.055 Balanced budget.

A. The budget which is adopted shall be balanced, considering all sources of funds. Although the accounting definition of "balanced budget" refers to current year expenditures covered by current year revenues, for the purpose of this section a balanced budget shall include any budgeted transfers from the general fund balance or enterprise fund unreserved net assets to balance the budget of a particular fund.

B. Any action to reconsider or rescind the budget which creates an imbalance shall be in violation of this section unless approved by the city council.

C. Any action to reconsider or rescind the budget which would affect a balanced budget must be accompanied by action which maintains a balanced budget. [Ord. 17-43 § 2; Ord. 09-34 § 2.]

4.04.060 Finance department report – Budget – Amendment.

The budget may be amended by the council at any time after adoption, provided no such amendment shall be made until after a public hearing upon the same notice as required for the budget estimate under BMC 4.04.040. The substance of the proposed amendment or amendments shall be posted with the notice of hearing. [Ord. 17-43 § 2; Ord. 161 § 2, 1985.]

4.04.070 Appropriations.

A. No budget appropriations may be encumbered without prior certification by the city manager that there is an unencumbered appropriation sufficient to cover such encumbrance and sufficient funds available to meet the expenditure.

B. The city manager shall not permit, without council approval, during any budget year, an expenditure or contract incurring any liability in excess of the amount appropriated for each department of the city.

C. Appropriations for capital improvement projects and grants carry over at year-end. All other appropriations covered by the budget lapse at the end of the budget year to the extent that they have not been expended or the goods or services for which they have been encumbered have not been delivered to or utilized by the city prior to the end of the city's fiscal year. [Ord. 17-43 § 2; Ord. 161 § 2, 1985.]

4.04.075 Use of ambulance fees collected.

A. On the first (1st) business day of July following the close of the preceding fiscal year, fees collected for ambulance services for the preceding fiscal year will be transferred to the fire department fleet replacement fund. Subsequent closing and audit adjustments to the fire department fleet replacement fund of the preceding fiscal year will be made to the fund as necessary.

B. Transfers to the fire department fleet replacement fund will be made as follows: during each fiscal year, an amount equivalent to fifty (50) percent of the prior year ambulance fees collected. [Ord. 17-26 § 2.]

4.04.080 Budget – Control.

Budgetary control is exercised at the departmental level. The city manager may approve intradepartmental transfers of appropriated funds not directed to personnel services and only to the extent such transfers do not exceed twelve thousand five hundred dollars ($12,500). Any supplemental appropriations that amend the total budgeted expenditures of any department and all interdepartmental transfers of appropriated funds shall be by ordinance. The request for any supplemental appropriation shall be submitted to the council as soon as the city manager becomes aware that the total expenditure for any line item has exceeded or is planned to exceed the budgeted expenditure for that line item by twelve thousand five hundred dollars ($12,500). The city manager must notify council of any line item transfer within a department in an amount equal to or greater than five thousand dollars ($5,000), but less than twelve thousand five hundred dollars ($12,500). [Ord. 20-35 § 2, 2020; Ord. 17-43 § 2; Ord. 04-05 § 2; Ord. 161 § 2, 1985.]

4.04.090 Audit.

An independent audit shall be made of all accounts of the city at least annually, and more frequently if deemed necessary by the council. The annual audit shall be made by certified public accountants employed by the council, and shall be completed within two hundred seventy (270) days following the close of the fiscal year. An analysis of the audit shall be made public by the council. [Ord. 19-20 § 2, 2019; Ord. 17-43 § 2; Ord. 06-24 § 2; Ord. 161 § 2, 1985.]

Chapter 4.08
ACQUISITION AND DISPOSAL OF LAND

Sections:

4.08.010 Rights and powers of city.

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of any interest in real property not prohibited by law.

A. Any sale, exchange or purchase of city land shall be approved by the city council by ordinance after consideration of the recommendations of the planning commission.

B. Any lease or lease renewal of city land shall be approved by the city council by ordinance. [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.020 Acquisition.

A. The city may acquire any interest in real property by purchase, lease, exchange, transfer, donation or any other method. All acquisitions not otherwise provided for by law shall be by ordinance enacted by a majority vote of the city council.

B. Real property shall be held in the name of the "city of Bethel." [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.030 Disposal.

A. *Property No Longer Necessary for Municipal Purposes.* The city council may, by ordinance, provide for the disposal of an interest in any real property which is no longer necessary for municipal purposes. All such disposals shall be by sealed bid to the highest bidder and shall be made at least at current assessed value or at current appraised value unless otherwise determined by ordinance.

B. *Disposal to Entity Providing Necessary Public Service.* The city council may, by ordinance, provide for the disposal of an interest in real property to a municipal, borough, state, or federal or other appropriate entity providing a necessary public service without seeking bids and for less than the current assessed value or current appraised value of that interest in real property. All disposals made pursuant to this subsection for less than the current assessed value or current appraised value shall include a condition requiring that the interest of the city being disposed of shall revert to the city in the event the real property disposed of is not being used to provide the necessary public service justifying the original disposal.

C. *Disposal in Furtherance of Development of Local Trade or Industry.* The city council may, by ordinance, provide for the disposal of an interest in real property to any person or entity in furtherance of the development of local trade or industry without seeking competitive bids but not for less than the current assessed value or current appraised value, whichever is higher, of that interest in real property. All disposals made pursuant to this subsection shall include a condition requiring that the interest of the city being disposed of revert to the city in the event that the real property disposed of is not being used in furtherance of the development of local trade or industry justifying the original disposal.

D. *Disposal to Compromise Claim.* The city council may, by ordinance, compromise disputed claims of litigation by authorizing disposal of an interest in real property.

E. *Disposal to Individual with Equitable Claim.* The city council may, by ordinance, provide for the disposal of an interest in real property to an individual with an equitable claim of an interest in the property by reason of their occupancy of the property as their principal place of residence prior to January 1, 1963, and their continued occupancy of the property as their principal place of residence after its transfer to the city by the federal townsite trustee without seeking bids and for less than the current assessed value or current appraised value of that property.

F. *Disposal to Native Tribal Council.* All disposals made by the city to a native tribal council shall include a requirement that the native tribal council waive any immunity from suit for the purpose of enforcing any conditions attached to the disposal of the city's interest in the real property to the native tribal council. [Ord. 15-29 § 2; Ord. 94-09 § 3; Ord. 182, 1988.]

4.08.040 Notice of disposal.

A notice of the proposed disposal of any interest in real property shall be posted in three (3) conspicuous public places within the city for not less than thirty (30) days and published in a newspaper with general circulation for three (3) weeks before the date of the bid opening or not less than thirty (30) days before the date of the passage of the ordinance authorizing the disposal. The notice shall include:

A. A legal description of the property including the square footage contained therein;

B. A description of the city's interest being disposed of;

C. The method of disposal;

D. The value of the city's interest being disposed of, according to current assessment or current appraisal;

E. The date of the proposed disposal; and

F. The time, place and manner in which the proposed disposal shall occur. [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.050 Lease procedures.

A. *General Regulations.* In addition to the regulations governing disposal of property, the following regulations shall apply specifically to leases. The city may renew a lease without public bid and during the renewal process, the city may change any term or condition contained in the original lease.

B. *Expiration.* Unless the lease is terminated beforehand, or renewed as stated above, the lessee shall peaceably and quietly leave, surrender and yield up to the lessor all the leased land on the last day of the term of that lease.

C. *Renewal.* If the lessee wishes to renew the lease, the lessee shall make written application to the city clerk for renewal of the lease at least one hundred eighty (180) days prior to the expiration of the lease. The written renewal application shall contain terms of the proposed renewal. The city manager shall, upon majority vote of the city council after a public hearing, and after the recommendation of the planning commission, if deemed appropriate by city manager, issue a renewal of the lease to the lessee.

D. *Subdivision Regulations.* All leased property shall be subject to the land use and subdivision regulations of the city. [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.055 Use permit procedures.

In addition to the regulations governing disposal of property, the following regulations shall apply specifically to the issuance of use permits:

A. *Use Permits.* The city may issue revocable use permits allowing for short-term or seasonal uses of city property not to exceed six (6) months. The use permit shall include a provision that it is revocable by the city at any time during the term of the permit without liability to the city save for a pro rata refund of any prepaid permit fees.

B. *Land Use Regulations.* All property disposed of by use permit shall be subject to the land use regulations of the city. All property disposed of by use permit shall not be subject to the subdivision regulations of the city. [Ord. 15-29 § 2; Ord. 95-15 § 2.]

4.08.060 Definitions.

In this chapter, unless otherwise provided or the context otherwise requires:

A. *Appropriate Entity.* A determination shall be made by the city council as to whether or not the entity in question will further the public interest.

B. "Interest in real property" includes, but is not limited to, fee simple ownership, a lease, an easement, and the possibility of reverter.

C. "Necessary public service" includes, but is not limited to, police protection; fire protection; public health and safety; public education; electric, water and sewer utilities; and marine, land or air transportation.

D. "Shall" is considered mandatory. [Ord. 15-29 § 2; Ord. 182, 1988.]

Chapter 4.10
DISPOSAL OF PERSONAL PROPERTY OF THE CITY

Sections:

4.10.010 Disposal of city-owned personal property valued at five thousand dollars ($5,000) or less.

Personal property, other than surplus stock, that is valued at five thousand dollars ($5,000) or less may be disposed of upon such notice and terms considered reasonable by the city manager, including Internet sales, taking into consideration the value of the article, the reason for the disposal and the general preference of disposal by competitive bid. The city manager shall report all disposals of personal property valued at five thousand dollars ($5,000) or less to the city council. [Ord. 11-03 § 2; Ord. 95-28 § 3; Ord. 95-20 § 3.]

4.10.020 Disposal of city-owned personal property valued at more than five thousand dollars ($5,000).

A. Personal property no longer needed for municipal purposes and valued at more than five thousand dollars ($5,000) shall be disposed of in one (1) or more of the following manners:

1. By public outcry auction to the highest bidder;

2. By public sealed bid auction to the highest bidder;

3. To the best qualified proposer who responds to a request for proposals to acquire the property;

4. To an educational, religious, charitable or nonprofit association or corporation providing service to residents of Bethel;

5. To the United States, the state of Alaska, or an Alaska municipal corporation or any agency or department thereof; or

6. By Internet sales sites, including auction sites or non-auction sites.

B. The city council shall, by resolution, determine which method or methods specified in this section shall be used to dispose of personal property valued at more than five thousand dollars ($5,000). [Ord. 11-03 § 2; Ord. 95-28 § 3; Ord. 95-20 § 3.]

4.10.030 Surplus stock.

A. All city departments shall submit to the city manager, at all times and in such form as they shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

B. The city manager may transfer surplus stock between departments.

C. The city manager may sell, trade or exchange surplus or obsolete supplies, materials and equipment following adoption of a city council resolution declaring the supplies, materials or equipment obsolete and/or surplus. Sales of more than five thousand dollars ($5,000) in any one (1) transaction shall be made pursuant to BMC 4.10.020. [Ord. 95-28 § 3; Ord. 95-20 § 3.]

4.10.040 Certificate of sale.

Upon full receipt of payment, the city manager shall issue a certificate of sale for the purchases made under this chapter. [Ord. 95-28 § 3; Ord. 95-20 § 3.]

Chapter 4.11
DISPOSAL OF PROPERTY IN THE POLICE DEPARTMENT'S POSSESSION

Sections:

4.11.010 Definitions.

For the purposes of this chapter, unless otherwise provided, the following words when used in this chapter shall have the meanings ascribed to them in this section:

A. “Collectible item” means any disposable property, including money, ingots or a precious metal commodity, which may be considered collectible or perceived to have an above-average monetary market value.

B. “Community-based nonprofit organization” means a fraternal, charitable, religious, benevolent or other nonprofit organization, actively operating in Bethel, that is exempt from taxation under the Internal Revenue laws of the United States as a fraternal, charitable, religious, benevolent or other nonprofit organization.

C. “Contraband” means any property exported or imported in violation of law, or any property the possession of which constitutes a violation of law or is otherwise prohibited, including controlled substances, drug paraphernalia and altered or counterfeit money.

D. “Controlled substance” means a drug, substance or immediate precursor included in the schedules set out in AS 11.71.140 through 11.71.190.

E. “Dangerous property” means any disposable property in the possession of the police department that is an immediate danger or health hazard to anyone, including city employees or the general public.

F. “Destroy” means destruction, rendering incapable for use and permanently disposing of property by any lawful means, excluding auction, sale or converting to city use.

G. “Destructible property” means any disposable property in the possession of the police department that is dangerous, perishable, forensic evidence released after the final judicial disposition date or any other disposable property that may be destroyed as set out in BMC 4.11.060.

H. “Disposable property” means any property in the possession of the police department, including money or collectible items that can be lawfully released or disposed of after retention periods set out in this chapter. Disposable property does not include motorized vehicles towed or impounded which are regulated by Chapter 10.15 BMC, or city surplus property, regulated by Chapter 4.10 BMC.

I. “Disposition deadline date” is thirty (30) days after the posted date of the notice of disposable property.

J. “Drug paraphernalia” means any item whose objective characteristics or objective manufacturer’s design indicate that it is intended for use in the consumption, ingestion, inhalation, injection or other method of introduction of a controlled substance into the human body or to facilitate a violation of AS 11.71.

K. “Drugs” means prescription drugs, over-the-counter medication or controlled substances.

L. “Evidence” means any property that is collected, found, recovered, seized or otherwise comes into the custody of the police department, and retained for any criminal or internal investigation, judicial, quasi-judicial or adjudicatory proceedings.

M. “Fair market value” means the commercial value that could reasonably be expected for any unclaimed disposable property disposed of under this chapter.

N. “Final judicial disposition date” means the date when all adjudicatory, quasi-judicial and court appeals have been exhausted or the appeal period has expired, for each referenced case and for all persons associated with the evidence in possession of the police department.

O. “Finder” means the person identified on an official police report who has given found property to the police department.

P. “Firearm” means any weapon that is capable of delivering a projectile using an explosive as a propellant, including a pistol, rifle, shotgun, revolver or similar device.

Q. “Found property” means nonevidentiary property held by the police department as lost or abandoned property.

R. “Insubstantial fair market value” means unclaimed disposable property which the police department determines to have a fair market value of fifty dollars ($50) or less.

S. “Money” means any domestic or foreign currency or comparable medium of exchange that is currently in circulation, has value and is generally accepted by a financial institution.

T. “Notice of disposable property” means a printed or electronically accessible document containing information and an itemized list of disposable property in the possession of the police department.

U. “Over-the-counter medication” means any substance that may be lawfully sold over the counter without a prescription, under 21 USC Sections 301 – 392 (Food, Drug, and Cosmetic Act) and 21 CFR Section 1308.22, and any amendments to these federal laws.

V. “Owner” means a person, legal representative or a business with a legal or equitable interest in disposable property, that can produce sufficient proof of ownership acceptable to the police department.

W. “Personal property” means property in the form of personal identification, credit, debit or bank cards, personal credentials, financial or legal documents, mail, photographs, keys, grooming materials, clothing or similar items.

X. “Property” means any item in the possession of the police department classified as evidence, found, safekeeping or for destruction.

Y. “Safekeeping property” means any nonevidentiary property in the possession of the police department placed into temporary custody on behalf of a known owner.

Z. “Unclaimed disposable property” means any disposable property in the possession of the police department that is not claimed by or not timely retrieved after the disposition deadline date.

AA. “Vehicle” means any motor vehicle, motorcycle, motor-driven cycle, snow machine, all terrain vehicle or any classification of trailer. Motor-assisted bicycles, battery-operated toys or machines designed as children’s toys are not considered vehicles.

BB. “Weapon” means any item traditionally used as a weapon, except firearms, and includes a chemical dispensing device, bow, club, baton, crossbow, knife, metal knuckles, martial arts weapon or a gun which uses compressed air to deliver a pellet, BB, paintball or similar projectile, or any explosive component or device. [Ord. 02-34 § 3.]

4.11.020 Disposable property.

A. Except as otherwise required by law, the following property in possession of the police department is disposable property and shall be disposed of as provided for in this chapter:

1. Evidence that is releasable and has been retained for thirty (30) days after the final judicial disposition date;

2. Safekeeping property that has not been claimed by the owner within thirty (30) days after being acquired by the police department; and

3. Found property that has not been claimed by the owner within thirty (30) days after being acquired by the police department.

B. The following property in possession of the police department is not subject to the retention periods in subsection A of this section:

1. Property voluntarily submitted to the police department by the owner for the purposes of disposal or destruction;

2. Nonevidence contraband; or

3. Dangerous or perishable property. [Ord. 02-34 § 3.]

4.11.030 Notice of disposable property.

A. The police department shall prepare a notice of disposable property after an accumulation of disposable property or as deemed necessary.

B. The police department shall make a reasonable attempt to identify and notify the last known owner and any finder of found property by sending a notice of disposable property to the last known address according to police department records.

C. The police department shall publish in a newspaper with circulation in Bethel the locations, including any website addresses, where the public can find the most current notice of disposable property.

D. Each notice of disposable property shall contain the following information:

1. Posted date of the notice of disposable property;

2. Disposition deadline date;

3. Notice of disposable property tracking number for each property item;

4. General description for each property item; and

5. Explanation of the procedures for the owner and any finder to claim the property item, as well as retrieve the property item within fifteen (15) days of the date of notice of disposable property.

E. The notice requirements in subsections A through C of this section do not apply to disposable property subject to destruction under BMC 4.11.060 or forfeited by a court or plea bargain agreement. [Ord. 02-34 § 3.]

4.11.040 Disposition of unclaimed disposable property.

A. The police department shall authorize the disposition of unclaimed disposable property in one (1) of the following manners:

1. All unclaimed disposable property, excluding money, collectible items and property items subject to destruction under BMC 4.11.060, shall be subject to a claim by the police chief for retention, use or trade in accordance with the provisions of this chapter; and

2. All unclaimed disposable property, not claimed by the police chief, may be disposed of by any form of sale or trade in accordance with this chapter, including donation to community-based nonprofit organizations through an agreement or contract, except:

a. As otherwise provided for in BMC 4.11.060,

b. Money, which shall be deposited in the general fund,

c. Money determined to be a collectible item may be deposited directly into the general fund or disposed of by sale in accordance with the provisions of this section, or

d. Firearms, which shall be sold only to a federal licensed firearms dealer.

B. Any unclaimed disposable property claimed by the police chief under the provisions in subsection (A)(1) of this section may be used for:

1. Police department use, issue, training or parts; or

2. Barter or trade when the unclaimed disposable property is a weapon or firearm with a federal licensed firearms dealer, gun manufacturer or police supply company, for the purchase or acquisition for the police department of weapons, firearms, police equipment or firearm-related parts or accessories. [Ord. 02-34 § 3.]

4.11.050 Reimbursement of fees.

A. At the time disposable property is being retrieved by any owner or finder, and before shipping of any disposable property, the police chief shall require a reimbursement fee from the person receiving the disposable property.

B. A reimbursement fee may include costs related to any notice, publication, storage, postage, shipping or related handling expenses.

C. The police chief may waive a reimbursement fee for good cause.

D. Any collected reimbursement fee shall be put in the general fund.

E. The reimbursement fee shall be set and periodically adjusted by noncode ordinance. [Ord. 02-34 § 3.]

4.11.060 Disposition of destructible property.

A. The following types of disposable property may be destroyed in accordance with the provisions of this chapter:

1. Unclaimed safekeeping property acquired under BMC 4.11.020(A)(2);

2. Property ordered to be destroyed by a court or pursuant to a plea bargain agreement;

3. Property, including money, determined by the police department to be contaminated, a biohazard or health hazard;

4. Ammunition, contraband or personal property;

5. Property determined by the police department to be unserviceable, junk or waste, have insubstantial fair market value, or does not sell at an auction; and

6. Prescription or over-the-counter medication; except, that the police chief may authorize the return of a prescription when there is no evidence of contamination or product tampering and the owner can provide evidence of a valid medical need.

B. Notwithstanding other provisions of this chapter, firearms or weapons may be destroyed or rendered incapable of use, and then permanently disposed of by any lawful means, when the police chief or a United States Department of Treasury official inspects, examines or otherwise determines:

1. There is a violation of municipal, state or federal law, such as the Federal Firearms Act, which makes the weapon or firearm not legal for private ownership or possession; or

2. The weapon or firearm is unsafe, a biohazard or presents an immediate or inherent danger to the public, or is determined by the police chief to be in the best interest of the community.

C. Any property that comes into the possession of the police department that it determines to be perishable or dangerous may be immediately disposed of by any lawful means. [Ord. 02-34 § 3.]

Chapter 4.12
CITY-OWNED SUBDIVISION LOTS

Sections:

4.12.010 Agreement on selection and sale.

The selection and sale of all lots in the city shall be done in accordance with the 1970 agreement between the city and the Association of Village Council Presidents, which agreement is ratified in its entirety. [Prior code § 16.04.010.]

4.12.020 Use restrictions.

The general requirements for such land disposal shall be:

A. That buildings on each lot be limited to residential use; and

B. That each lot contain not more than one (1) residential building with up to two (2) single-family units in the one (1) building, and that this be written into each individual deed; and

C. That a two- (2-) year building stipulation be written into each deed and that the two- (2-) year building period begin effective October 1, 1973, and for lots dispersed prior to that date; and

D. That if the selected family on each lot has not completed construction and is not living in the unit within the time period specified in subsection C of this section, they may be required, subject to council action, to forfeit the land with their initial investment being returned plus the fair market value of any improvements actually made by the selected family; and

E. That if the city finds it necessary to repossess any of these lots, the land on an individual basis will be put up for disposal under the conditions of the Alaska Statutes Municipal Code then in effect; and

F. That a restriction be written into each deed allowing the city to exercise first (1st) option to buy any lots and improvements should the originally selected family vacate the family unit within five (5) years of the date of title transfer. Should the city exercise this first (1st) option to buy, the city will repurchase the land at the original selling price plus fair market value for any improvements. [Prior code § 16.04.020.]

4.12.030 Selection of families.

The general criteria used for selecting families for purchasing lots shall be as follows:

A. Those families that presently own property in or live in the floodplain;

B. Length of residency in the Association of Village Council Presidents region;

C. Tenure; i.e., anticipated length of stay in the Association of Village Council Presidents region; and

D. Those families that cannot afford the prevailing market rate for land and seriously need permanent housing. [Prior code § 16.04.030.]

4.12.040 Conformance to Chapter 4.08 BMC.

The procedure for disposition of land under this chapter shall be in accordance with Chapter 4.08 BMC. [Prior code § 16.04.040.]

Chapter 4.14
TRANSIENT LODGING BUSINESS TAX

Sections:

4.14.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. “Department” means the city finance department.

B. “Director” means the director of the city finance department or the director’s designee.

C. “Knowingly” means and includes the state of mind of a person when the person knows of or is aware of the existence of this chapter or of the tax imposed by this chapter.

D. “Operator” means a person who owns, operates or controls any facility in which any transient lodging is offered for occupancy for compensation.

E. “Person” means all persons, both natural and artificial.

F. “Quarter” means one (1) of the four (4) consecutive three- (3-) month periods in a calendar year, the first (1st) beginning on January first (1st) each year.

G. “Room” means any room, suite of rooms, facility or structure, or any part thereof, whether temporary or permanent, which is rented or offered for rent for use as a residence, dwelling, sleeping place, place of lodging or other use auxiliary to such residential, dwelling, sleeping or other lodging use and includes bed-and-breakfast operations; provided however, pursuant to BMC 4.14.030(A)(2) and (3), “room” does not include any such room used exclusively as part of a substantially different business, such as a hospital room, patient treatment room or a university dormitory room, where the primary purpose of the business is other than providing meals, lodging, adventures, entertainment or recreation.

H. “Tax” means the lodging business tax levied under this chapter.

I. “Tax return” means the quarterly report to be submitted to the department as required by BMC 4.14.050.

J. “Transient lodging” means rooms offered or made available to persons for occupancy on a daily basis or for a shorter or longer period of time, but does not include rooms that are available only for occupancy of forty-two (42) or more continuous days under a written rental agreement.

K. “Violates” and “violation” mean and include any failure of a person for any reason to comply with a requirement or duty imposed by this chapter. [Ord. 97-22 § 2.]

4.14.020 Levy, payment, collection and distribution of tax revenues.

Subject to the provisions of this chapter, there is levied a transient lodging business tax on all operators in an amount equal to twelve (12) percent of the gross receipts of the operator from the rental of rooms. [Ord. 10-14 § 2; Ord. 97-22 § 2.]

4.14.030 Excluded receipts.

A. The receipts from the following occupancies and rentals are excluded in the computation of gross receipts for purposes of the tax:

1. Rental of rooms in facilities of a nonprofit, charitable organization when the occupancy is provided as part of a charitable event or function. An entity is not a charitable organization if the charitable benefits are provided primarily to members or on a basis more beneficial to members than to nonmembers. A charitable, nonprofit organization must be registered as a 501(c)(3) organization under the Internal Revenue Code and none of its income from any use of its transient lodging rooms may be unrelated taxable business income;

2. Patient occupancies of hospital or other rooms when the occupancy is required by the health care provider and the room is held, controlled and operated by the health care provider for patient treatment and recovery;

3. Student occupancies of dormitory or other student housing owned and operated by an educational institution accredited or licensed by the state when the student is registered in a regular course of classes that leads to a degree, a license or qualification to obtain a license or to take a test for a license and the classes are being taken and attended on substantially a full-time basis;

4. Occupancies exclusively by one (1) or more individuals specifically named in a written agreement for an occupancy for a period of forty-two (42) or more continuous days where the rent for the initial period is paid in advance and is paid not less frequently than monthly in advance thereafter. This exemption does not include rooms rented by an employer or other persons for use by different individuals over the period of the agreement, nor does it include an occupancy that met the requirement of the first (1st) sentence but that is terminated before the end of the initial forty-two- (42-) day period and the occupant or the person who paid for the room is refunded any part of the prepaid rent for the part of the occupancy period that follows the termination.

B. An operator whose status entitled them to exempt status under subsections (A)(1), (2) or (3) of this section shall immediately notify the city of any change in that status. An operator whose operations become taxable because of a loss of exempt status shall pay the tax based on receipts from or allocable to occupancies that occurred after the loss of the status or condition upon which the tax exemption was based. [Ord. 97-22 § 2.]

4.14.040 Operators exempt from the tax.

A. The following operators are exempt from the tax.

1. State and federal agencies that are exempt from the tax as a matter of state or federal law;

2. Political subdivisions of the state or the United States that are exempt from the tax by statute or constitution;

3. Persons that are chartered, incorporated or organized pursuant to state or federal statutes that are exempt from the payment of the tax by statute or constitution.

B. A person who rents or leases a transient lodging facility from an owner or operator who is exempt under subsections (A)(1), (2) or (3) of this section or enters into a management agreement for the transient lodging facility of such an exempt owner or operator under which the lessee or the manager receives compensation dependent in any way upon the occupancy or income from the facility is not an exempt operator.

C. A person whose status entitled them to exempt status under this section shall immediately notify the city of any change in that status. An operator whose operations become taxable because of a loss of exempt status shall pay the tax based on the receipts from or allocable to occupancies that occurred after the loss of the status or condition upon which the tax exemption was based. [Ord. 97-22 § 2.]

4.14.050 Tax returns and remittance.

A. Not later than the last day of the month following the quarter a tax return is required to be submitted, every operator under this chapter shall deliver to the city finance department a tax return, signed by the operator(s), on a form provided by the city finance department for each registered place of business regardless of whether taxes are due for the quarter. Each operator shall remit therewith the entire amount of the tax due from such operator pursuant to this chapter for the immediately preceding calendar quarter. Tax returns and the tax due under this chapter must be actually received by the department within the time required by this section. A tax or report actually received by the department at any time following the tenth (10th) business day of the month following the calendar quarter for which the tax is due is delinquent and subject to penalty and interest under this chapter.

B. The tax return shall set forth or include:

1. The number of transient lodging rooms in each separate facility operated by the operator and the address or location of each facility;

2. The gross receipts from each facility, including all receipts that are excluded under BMC 4.14.030(A)(1), (2), (3) or (4);

3. Receipts from each facility that are exempt under BMC 4.14.030(A)(1), (2), (3) or (4);

4. Penalties and interest due;

5. Such other relevant information and supporting documents as the department may require. [Ord. 01-28 § 2; Ord. 97-22 § 2.]

4.14.060 Estimated tax assessed against delinquent operator.

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

B. The estimated assessment of tax and other amounts due and owing, as provided in subsection A of this section, shall be deemed to be admitted to be the amount due and owing to the city unless the finance director receives, within twenty (20) days of the date of the certified mailing of notice of the estimated assessment, an accurate and complete tax return for the delinquent periods together with full payment of all taxes, interest, penalty, costs and other charges due, or the operator pays the amount due under protest under the provisions of BMC 4.16.220. [Ord. 01-28 § 3.]

4.14.070 Cessation of doing business.

Notwithstanding any other provision of this chapter to the contrary, within ten (10) calendar days after ceasing to be an operator, the operator shall:

A. Notify the director in writing of the date on which, and the name, telephone and address of any person to whom, the transient lodging business has been leased, conveyed or otherwise relinquished or transferred together with the date on which the person ceased doing business as an operator; and

B. File a final tax return for the period subsequent to the operator's last tax return covering the period through the operator's last day of operation together with the tax due and other sums due under this chapter in the manner required for filing tax returns. If the operator who is ceasing business transfers accounts receivables from transient lodging to another person, the transferring operator shall include the principal amount of such accounts as their receipts for the purpose of computing the tax under this chapter. [Ord. 97-22 § 2.]

4.14.080 Application of payments.

Any payment submitted to the department for taxes, interest, penalties or costs due under any tax return, provision of this chapter, or any finding or determination by the department under this chapter shall be credited first (1st) to the payment of all interest due beginning with the oldest quarter for which interest is due, and then similarly to the payment of all penalties, administrative costs, and taxes due, in that order beginning for each category with the oldest quarter for which such expenses are due. [Ord. 97-22 § 2.]

4.14.090 Confidentiality of records.

A. All tax returns filed under this chapter, all data obtained from such tax returns, and all financial information obtained from an inspection of records in accordance with this chapter are confidential and may not be released except upon court order, when necessary to enforce the provisions of or to collect the taxes due under this chapter and except for inspection by the manager, the director, the municipal attorney, the city's auditor in the performance of their official duties, or by a state or federal agency in the enforcement of a state or federal law.

B. Except when necessary to the performance of their official duties to enforce the provisions of or to collect taxes due under this chapter, no person may divulge to another any information, data or financial information of an operator, an operator's records or a tax return filed under this chapter unless the person receiving such information, data or financial information is a person authorized by this chapter or in writing by the operator to inspect the tax return, information, data or financial information.

C. It is the duty of the director to keep tax returns, all data taken therefrom, and all financial information obtained from an inspection of the operator's records secure from public and private inspection except as provided by this chapter.

D. This section does not prohibit the city from compiling and publishing statistical information concerning the data submitted, provided no identification of particular tax returns or operator information, data or financial information is made. [Ord. 97-22 § 2.]

4.14.100 Maintenance and inspection of records.

A. It shall be the responsibility of the operator to obtain and preserve evidence sufficient to support all taxes owed, returns filed or required to be filed and exclusions or exemptions claimed under this chapter. Specification in this chapter of the records to be kept by an operator does not relieve the operator of its responsibility to keep sufficient records. As a minimum an operator shall keep and preserve in Bethel, Alaska, for two (2) calendar years after the end of the calendar year in which created all occupancy registers and accounting records reflecting the rental and occupancy of each transient lodging room available during each quarter and the rents received therefor including, but not limited to, the following:

1. The room rate charged and room occupied for each guest, as recorded on the guest folio, register or registration card or otherwise;

2. Agreements or other documents or material relied upon by an operator to support the operator's determination that the receipts from an occupancy were not required to be included for purposes of the tax;

3. All reservations and accounting records reflecting the rents collected;

4. Such other records, documents and information as the department may require by regulation or notice to the operator reasonably necessary and convenient to its administration and enforcement of this chapter.

B. During normal business hours, the director or their designee may, upon presentation of proper identification, inspect the records an operator is required to maintain under subsection A of this section, or inspect the records of a person whom the director has probable cause to believe is an operator to determine whether that person is an operator.

C. Upon notice of the department's intent to inspect records, an operator, and a person the director has probable cause to believe is an operator, shall retain such records and preserve their availability to the department until released by the department in writing, regardless of whether such retention and preservation continues beyond the two- (2-) year period specified in this section.

D. The operator shall make available for inspection within the city all records required to be kept and preserved by this chapter. The director may apply to the appropriate court for subpoena duces tecum and the court shall issue the subpoena upon a showing that demand has been made by the city upon an operator to make such records available for inspection and that the operator has failed or refused to do so.

E. If the Constitution of the United States or of the state so requires, the director shall obtain an administrative search warrant authorizing an inspection and exhibit the warrant to the person in charge of the premises before conducting the inspection. The director shall apply to the trial courts of the state to obtain an inspection warrant, stating in the application the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned within ten (10) days.

F. During normal business hours, the city of Bethel finance director or the director's designee may, upon presentation of proper identification, conduct a bed count in any or all rooms being offered for rent at the premises. In addition, the total number of rooms being offered for rent must be listed on each operator's city tax return, using the remittance forms provided by the city. [Ord. 10-14 § 2; Ord. 97-22 § 2.]

4.14.105 Administrative costs.

If, upon an audit or other examination of the books and records of an operator, the director determines that additional taxes are due, the cost of the audit or examination shall be paid to the city by the operator. If the audit or examination is part of a random audit, the operator shall pay a pro rata share of the audit cost based on the number of operators audited, but not to exceed an amount equal to the amount of tax, interest and penalty found to be owing. If the audit or examination is in connection with a disputed return or a return not filed, or if the auditor determines that the condition or availability of the records of an operator are such that substantially more time to audit the records will be required than should be, the operator shall bear the entire cost of the audit or examination, but not to exceed an amount that is ten (10) times the tax, interest and penalty found owing. [Ord. 97-22 § 2.]

4.14.110 Tax avoidance.

If the department has reasonable cause to believe that an operator has structured room rentals or occupancy to avoid the inclusion of receipts of an occupancy in the computation of the tax levied under this chapter, the department may so declare. Such a declaration creates a rebuttable presumption that the substance of a specific room rental or occupancy is includable in the computation of the tax under this chapter. The director shall proceed to determine and collect the tax together with costs, penalties and interest by filing an involuntary return as provided in BMC 4.14.060. [Ord. 97-22 § 2.]

4.14.120 Tax lien.

A. Taxes due and not paid on the date required by this chapter together with all interest, penalties and administrative costs accruing thereafter, immediately after the date such taxes become due and unpaid shall become a lien in favor of the city upon all of the operator’s real and personal property including rights to property. Such lien shall continue until all taxes, penalties, interest and administration costs due the city have been paid or the lien released in whole or in part.

B. A separate notice of such lien shall be given each taxpayer liable for the taxes by certified mail and shall be recorded in the Bethel Recording District, state of Alaska and any other recording district in which the city finds the operator’s property. Upon the filing of the notice, the lien shall be prior and paramount to all subsequently filed liens and liens arising out of subsequently incurred obligations except as otherwise specifically provided in statute. Notice of the lien shall specify the operator(s) liable for payment of the tax, the amount of taxes and the date they were due, a statement of the interest, penalties and administration costs accrued and which may thereafter accrue, the tax period for which the taxes were due and such other information as the department may determine or as may be required by law.

C. No failure of a notice of lien to meet all the requirements of this section, except as to amount if different from the recording thereof, adversely affects the existence or priority of the lien created under this section to the extent of the correct amount which is the same or less than that stated in the recorded lien. [Ord. 97-22 § 2.]

4.14.130 Collection of taxes.

Taxes, interest, penalties, and administration costs due and unpaid may be collected by a civil action for the collection of a debt or by foreclosure of the tax lien in accordance with AS 09.45.170 through 09.45.220 or similar statutes in substitution thereof or by both. [Ord. 97-22 § 2.]

4.14.140 Interest.

In addition to any penalties imposed by this chapter, interest at the rate of fifteen (15) percent per annum shall accrue and be due from the operator on the unremitted balance of taxes after the date on which their remittance was due and upon administrative costs assessed against the operator. [Ord. 97-22 § 2.]

4.14.150 Penalties.

A. An operator who fails to file a tax return when due shall incur a civil penalty for each tax return not filed when due equal to six (6) percent of the tax actually due the city. An operator who fails to remit the full amount of tax due by its due date incurs and shall pay a civil penalty of six (6) percent of the actual amount of taxes due but remaining unpaid after such date. If an operator fails to pay the full amount of the tax due or file a tax return or report required under this chapter within sixteen (16) calendar days after its due date, the six (6) percent penalties incurred above are increased automatically to fifteen (15) percent.

1. The penalty shall be computed on the unpaid balance of the tax liability as determined by the department.

2. Notice of the penalties incurred and to be incurred shall be given to the operator when such tax payment or tax return or report is delinquent for seven (7) calendar days after its due date. Interest and penalties apply and shall accrue whether or not notice in accordance with this subsection (A)(2) is given.

3. The penalties provided for in this subsection shall be in addition to all other penalties and interest provided for under this chapter.

B. Any person who violates any provision of this chapter shall be liable for a civil penalty of fifty dollars ($50) for each separate violation. Where a violation continues for more than one (1) day, each day upon which the violation continues is a separate violation. The director shall levy the penalty and notify the operator of the penalty.

C. Except an operator who fails to file a tax return and remit taxes when due, but does so within seven (7) calendar days thereafter, a person who knowingly violates any provision of this chapter or who fails to comply with the provisions of this chapter for seven (7) or more calendar days after delivery of written notice to the operator setting out the operator’s failure to comply is guilty of a misdemeanor. Each day upon which a violation or failure to comply continues is a separate misdemeanor violation of this chapter.

D. Civil and criminal penalties shall be cumulative and independent remedies. The imposition of a penalty under this chapter shall not relieve an operator of the duties imposed under this chapter or liability for any other penalty or the tax or interest imposed under this chapter. [Ord. 97-22 § 2.]

4.14.160 Remedies for a person aggrieved.

A. Any person aggrieved by any action or determination of the department or the director under this chapter may apply to the department and request a hearing before the director on the department’s action or determination if filed within thirty (30) days of the date the department mails notice of the department's action or determination.

1. An application for a hearing must notify the department of the specific action or determination complained of and the amount of tax, interest, cost or penalty contested and the reason for such contest.

2. The uncontested portion of any tax and interest thereon due under this chapter shall be paid when due regardless of any application for a hearing. Payment of the amount contested must be made with the application for a hearing and shall be received by the city as being paid under protest. The director, for good cause shown, may waive, in part, or in whole, the requirement that the contested amount be paid with the application, but the full amount of the tax and interest contested must be paid by the first (1st) scheduled date for the hearing. Failure to pay the contested tax and interest by the date or dates required constitutes a withdrawal of the appeal by the applicant.

3. The uncontested portion of any administrative cost, interest thereon, or penalty due under this chapter shall be paid when due regardless of any application for a hearing. Payment of the amount contested must be made in accordance with the decision of the hearing officer.

B. Upon timely application for a hearing under subsection A of this section, the director, acting as the hearing officer, shall hold a hearing and render a decision or determination in accordance with procedures adopted by the director to determine whether a correction or reversal of the department's action or determination is warranted.

1. The person aggrieved shall be given access to the unprivileged documents in the department's file in the matter for preparation for the hearing.

2. If a person requesting a hearing fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless within seven (7) days after the date scheduled for the hearing the person shows reasonable cause for failure to appear.

C. Hearings before the director under this chapter may, at the option of the director, be conducted by an administrative hearing officer designated by the director. If the director refers such matter to an administrative hearing officer, the administrative hearing officer shall conduct the hearing and prepare findings and conclusions. These findings and conclusions shall be forwarded to the director for adoption, rejection or modification and issuance of a final order or decision by the director.

D. The final order or decision of the director may assess all or any part of the cost of the hearing against an appellant who does not prevail on all issues raised.

E. Taxes, costs, penalties, and interest declared to be due in the decision of the hearing officer and not previously paid must be paid within thirty (30) days of the date of the decision or a supersedeas bond guaranteeing their payment must be filed with the court in accordance with Alaska Rules of Appellate Procedure if the decision has been appealed to the Superior Court. If not paid or bonded within thirty (30) days of the date of the decision, the total amount due under the decision shall accrue interest at a rate equal to the rate set out in BMC 4.14.140 plus five (5) percent.

F. Within thirty (30) days after receipt of the written director's decision, a person aggrieved by the decision may appeal the decision to the Superior Court. The appeal shall be heard on the record made at the hearing before the hearing officer. [Ord. 97-22 § 2.]

4.14.170 Administrative regulations.

The director may adopt regulations providing for the application and interpretation of this chapter. The director may provide methods, and shall provide forms, for reporting and collecting the tax imposed by this chapter. [Ord. 97-22 § 2.]

4.14.180 Refunds.

A. If the department determines after audit that a remittance exceeds the actual amount due, the department, upon written request by the operator, shall refund the excess amount to the operator without interest.

B. The operator shall apply for a refund in writing not later than two (2) years from the earlier of the date the payment was due or was transmitted to the department. Refund applications shall be made on a form provided by the department. Applications filed after such two- (2-) year period are forever barred and except for amounts ordered refunded by the Superior Court on an appeal, no refund may be made of any amount paid prior to the expiration of the two- (2-) year period. [Ord. 97-22 § 2.]

4.14.190 Interpretation.

The exemptions and exclusions under this chapter from consideration in the computation of the tax levied under this chapter shall be interpreted narrowly. [Ord. 97-22 § 2.]

4.14.200 Accelerated returns.

An operator who is required to file a return and pay taxes to the city, who fails for more than thirty (30) days to file a return or pay the taxes due or who has, within a twelve- (12-) month period, filed or paid taxes late on two (2) or more occasions may be required by the finance director to file and pay on a monthly or weekly basis; provided, the finance director shall provide to the operator a hearing after reasonable notice of the finance director's intention to require more frequent filing and payment. Unless otherwise required or authorized by the finance director, an operator required to file on a monthly or weekly basis shall file a complete return and full payment for the monthly or weekly period not later than the fifth (5th) business day following the last day of the monthly or weekly period. The operator required to file and pay on a monthly or weekly basis who fails to file and pay the full amount due within two (2) business days of the date required for such filing and payment or such an operator who files late two (2) or more times during a three- (3-) month period may be required by the finance director to file on a basis more frequent than monthly or weekly after written notice of intent and a hearing as provided in this section. The finance director shall establish the day by which more frequent filings are due. [Ord. 01-28 § 4.]

4.14.220 Rulings and regulations.

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

B. If any person who is or may be required to pay or collect the tax under this chapter questions the application of this chapter to a transaction or other situation in which that person is involved or may become involved, the person may apply to the finance director for a ruling on the question. The finance director may rule on the question and may seek the advice of the city attorney on the question. Before a ruling of the finance director is effective or binding on the city, it must be signed by the city manager. Rulings having general applicability shall be considered by the finance director for promulgation as a regulation. [Ord. 01-28 § 5.]

Chapter 4.15
MOTOR VEHICLE REGISTRATION TAX

Sections:

4.15.010 Election.

The city elects to come under the provisions of AS 28.10.431. [Ord. 97-32 § 2.]

4.15.020 Rate of levy.

The rate of levy for vehicles described under AS 28.10.431(b) shall be as follows:

Tax According to Age of Vehicle Since Model Year

Motor Vehicle		1st	2nd	3rd	4th	5th	6th	7th	8th or over
1.	Motorcycle	21	19	16	13	9	6	5	5
2.	Vehicles specified in AS 28.10.421(b)(1)	151	124	96	69	49	35	24	20
3.	Vehicles specified in AS 28.10.421(b)(3)	151	124	96	69	49	35	24	20
4.	Vehicles specified in AS 28.10.421(c)(1) – (4)								
	5,000 pounds or less	151	124	96	69	49	35	24	20
	5,001 – 12,000 pounds	248	193	151	124	96	69	41	28
	12,001 – 18,000 pounds	371	303	248	193	138	96	69	55
	18,001 pounds or over	495	399	316	248	193	138	83	55
5.	Vehicles specified in AS 28.10.421(b)(4)	248	193	151	124	96	69	41	28
6.	Vehicles specified in AS 28.10.421(b)(6)	21	19	16	13	9	6	5	5
7.	Vehicles specified in AS 28.10.421(d)(8)	151	124	96	69	49	35	24	20
8.	Vehicles specified in AS 28.10.421(b)(2)	151	124	96	69	49	35	24	20
9.	Vehicles eligible for dealer plates under AS 28.10.421(d)(9)	110							

[Ord. 97-32 § 2.]

4.15.030 Adjustment of rates.

A. If the tax amount set out in AS 28.10.431(b) for any vehicle covered under BMC 4.15.020 is increased by an amendment of the statute or is increased through any automatic or administrative action authorized by the legislature, the corresponding levy amount set out in BMC 4.15.020 is deemed amended to be increased by the same dollar amount as the increase in the statutory amount. The effective date for the increase in a rate pursuant to this subsection is the earliest date upon which such new rate may be implemented pursuant to the statute.

B. The city manager shall promptly notify the appropriate department of the state of the adoption of a new rate and/or any amendment or other changes in the rates set out in BMC 4.15.020 and of any other changes made by the city to the rates that are otherwise established under the statute. Unless otherwise set out in an ordinance approved by the city council, it is the intent of the city council that all changes in rates, whether established directly by the city council by ordinance or as a result of changes in the underlying statutory rates, are to be effective at the earliest possible time. [Ord. 97-32 § 2.]

Chapter 4.16
SALES TAXES

Sections:

4.16.010 Definitions.

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

A. *Repealed by Ord.20-15*.

B. "Buyer" means and includes persons who acquire interest in real or personal property, or the right to use or occupy property, or who receive a service for consideration.

C. "City" means the city of Bethel.

D. "Coin-operated machine" means a slot machine, jukebox, merchandise vending machine, laundry and any other service dispensing machine or amusement device of any kind which requires the insertion of currency to make it operative.

E. “Consumer” means the person who, in the ordinary meaning of the term, takes title to, takes possession of, or rents property, or receives services for consideration.

F. “Engaging in business” means carrying on or causing to be carried on any activity with the purpose of direct or indirect economic benefit.

G. “Federally recognized Indian tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior has acknowledged to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, Public Law 103-454, 25 USC 479a.

H. “Finance director” means the finance director of the city or the designee of the finance director, the city manager or the city council; the designee may be an employee of the city, an accountant or other person who is not an employee of the city, a certified public accounting firm or other type of firm.

I. “Goods,” “fixtures,” “investment securities,” “general intangibles,” “accounts,” “chattel paper,” “documents,” “instruments” and “money” and their singulars have the meanings given the terms by the Alaska Uniform Commercial Code, AS 45.01 et seq., as amended.

J. “Lease,” “leasing” or “rental,” regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, means a transfer of possession or control of tangible personal property or real estate of a fixed or indeterminate term for consideration; a lease or rental may include future option to purchase or extend. The provisions of 26 USC (Internal Revenue Code), AS 45.01 through AS 45.08, AS 45.12, AS 45.14 and AS 45.29 (Uniform Commercial Code) shall apply.

K. “Person” means an individual, partnership, cooperative, association, joint venture, corporation, estate trust, business, receiver, or any entity, group or combination acting as a unit.

L. “Political subdivision” means a local government created by the state of Alaska to help fulfill its obligations. Political subdivisions include counties, cities, towns, villages, and special districts such as school districts, water districts, park districts, and airport districts.

M. “Price” means the amount of money, or the fair market value of consideration other than money, that the buyer gives to the seller in exchange for the property, the right to use or occupy the property, or the rendering of services.

N. “Rental” means any transfer of the right to use or occupy property for consideration.

O. “Responsible individual” means any individual, including a group of individuals such as a board of directors, partnership, joint venture, corporation or other entity, who has the responsibility to, is required to, or has the authority to direct or cause another person to:

1. Collect the tax levied under this chapter;

2. Segregate funds in lieu of the direct collection of the tax under this chapter;

3. Remit over to the city taxes required to be collected under this chapter; or

4. Determine which creditors of the seller are to be paid; and may include, but is not limited to, such officers and employees of a seller as the chief executive officer, president, vice president for finance, controller, comptroller, treasurer, bookkeeper, majority shareholder, finance director, manager, partner, managing partner, chief fiscal or financial officer and accountant if they possess any of the authority, responsibility or duties described in this definition.

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

Q. "Sale" or "retail sale" or "sale at retail" means every sale or rental of real property or sale or rental of personal property (whether tangible or intangible), every sale or exchange of services, including barter, credit, lease, installment and conditional sales, for any purpose other than resale when such resale is made in the regular course of business.

1. A "sale," "retail sale," or "sale at retail" includes, but is not limited to, the following transactions:

a. Selling property; or

b. Renting, leasing, or letting of real or personal property, accommodations, facilities, or services of any nature whatsoever; or

c. Storing for use or consumption any item or article of personal property; or

d. Rendering occupational or professional services of any nature whatsoever; or

e. Furnishing materials and rendering services in connection therewith to accomplish the installation, construction, repair or completion of a specific end product or project; or

f. Selling real estate comprising parcels of land and buildings or improvements thereto, either separately or conjunctively; or

g. Transfer of the product of a manufacture or construction process to the user of the product; or

h. Importing, or causing to be imported, property from outside the city for sale or for rent, storage, distribution, use or consumption within the city; or

i. Selling or furnishing, preparing and serving food or beverages, alcoholic or nonalcoholic, for consumption on or off the premises of the seller; or

j. Every use or play of a coin-operated machine; or

k. Transacting or engaging in any type of business not enumerated herein.

R. "Sales price" or "selling price" means the consideration paid by the buyer, whether money, credit, rights or other property or interest in property expressed in terms of money equal to fair market value of the consideration including delivery costs, taxes, or any other expenses whatsoever and without deduction on account of the cost of property sold, the cost of materials used, labor costs, discount, delivery costs or other expenses paid or accrued, and without any deduction on account of losses.

S. “Seller” means every person who, as principal or agent, makes a sales transaction to a buyer or consumer, every person renting goods, real or personal property and every person performing or providing services, for consideration. In the event that retail sales transactions are being conducted in the name of a corporation, partnership, cooperative, association, joint venture or other entity, the “seller” for purposes of responsibility and liability for the collection and remittance of sales tax shall include every director, officer and partner without exception.

T. “Selling price” or “sales price” means the consideration paid by the buyer, whether money, credit, rights or other property or interest in property expressed in terms of money equal to the fair market value of the consideration including delivery costs, taxes, or any other expenses whatsoever and without deduction on account of the cost of property sold, the cost of materials used, labor costs, discount, delivery costs or other expenses paid or accrued, and without any deduction on account of losses.

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

1. Professional services;

2. Services in which a product or sale of property may be involved including personal property made to order;

3. The sale of transportation services;

4. Services rendered for compensation by any person who furnishes any services in the course of their business or occupation;

5. Services wherein labor and materials are used to accomplish a specified result;

6. Commissions earned during business conducted within the city; and

7. Any other services including advertising, maintenance, recreation, amusement and craftsmen’s services.

V. “Time of sale” for installment sales is the time at which the initial payment is made.

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

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

Y. “Wholesale sale” means a sale of goods by a merchant selling them in the regular course of business; or a sale of goods by a merchant selling them in the regular course of business at wholesale prices to dealers or other wholesalers for the purpose of taxable resale in the city. The term does not include a sale by a wholesaler to users or consumers when such sale is not for taxable resale in the city.

Z. “Z tape” means the report feature of a cash register which records the total transactions, such as sales by type, the number of customers and the number of items rung in for the period; the transactional total of the current day’s receipts. [Ord. 20-15 § 2, 2020; Ord. 18-15 § 2; Ord. 17-39 § 2.]

4.16.020 Declaration and policy.

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

1. The voters of the city of Bethel have granted to the city government the power to levy sales taxes and, by doing so, have entrusted the city to administer those taxes fairly, effectively, efficiently, and in full compliance with state and city laws.

2. State law imposes a fiduciary duty upon the city of Bethel to collect sales taxes levied within the city.

3. Proceeds from the sales taxes levied by the city of Bethel constitute, by far, the principal sources of municipal tax revenues.

4. A substantial portion of the proceeds of the sales taxes levied by the city are used to fund essential services and facilities provided by the city.

5. Any sales taxes levied by the city that are not properly collected and remitted diminish the fiscal resources available to fund core local governmental services.

6. Any sales taxes that are not properly collected and remitted shift the financial burden of funding local governmental facilities and services to other taxpayers, citizens and businesses.

7. To the extent, if any, that businesses do not collect and remit taxes on taxable sales, those businesses have a distinct and unfair competitive advantage over businesses that are properly collecting and remitting sales taxes.

8. Sales taxes are paid by purchasers of goods and services, not the businesses that collect those taxes. To the extent, if any, that sales taxes are collected but not remitted by businesses, the trust obligations of those businesses are not being fulfilled, and the interests of the greater community of Bethel suffer.

9. Bethel area businesses perform a valuable service to the residents and visitors of Bethel by collecting and remitting sales taxes. While not compensated directly for that service, those businesses and other property owners in Bethel enjoy the benefits provided by those taxes.

10. It is the duty, function, and responsibility of the city to collect city sales taxes, along with penalties and interest on those taxes when due, to issue citations for violations of the city code regarding collection of sales taxes, and otherwise administer the collection of sales taxes.

B. Within the constraints outlined in the city code, the city manager shall keep the city council regularly informed regarding the collection of city sales taxes. [Ord. 17-39 § 2.]

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. [Ord. 17-39 § 2.]

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 commence within the city, or which 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 BMC 4.16.160, on the sale of real property. The tax applies regardless of whether the seller, buyer, renter, lessee or tenant resides 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.

G. Remote sales, marketplace facilitators and remote sellers as defined in Chapter 4.16A BMC shall comply with the provisions of Chapter 4.16A BMC. [Ord. 20-06 § 2, 2020; Ord. 17-39 § 2.]

4.16.050 Rules applicable to particular businesses or occupations.

A. *Commissions/Fees.*

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

2. Commissions/fees received as a result of professional services performed within the city are subject to sales tax regardless of the location of the person to whom the commission is payable when the subject of the services occurred within the city.

B. *Sales from Coin-Operated Machines.* An amount equal to the gross receipts from each coin-operated machine that the seller operates in the city shall be subject to sales tax. [Ord. 17-39 § 2.]

4.16.060 Title to collected sales tax.

Upon collection by the seller, title to sales tax vests in the city. The seller holds collected sales tax in trust for the city, and is accountable to the city therefor. [Ord. 17-39 § 2.]

4.16.070 Imposition – Rate.

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

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

1. Twelve (12) percent for transient lodging (see Chapter 4.14 BMC).

2. Fifteen (15) percent for alcohol sales (see Chapter 5.08 BMC)[1].

3. Fifteen (15) percent for marijuana sales (see Chapter 5.10 BMC).

4. Six (6) percent for all other sales/services, including delivery charges.

C. The applicable tax rate shall be added to the sales price.

D. When a sale is made on an installment basis, the sales tax shall be collected at the time of the sale, calculated at the sales tax rate in effect at the time of the sale. [Ord. 17-39 § 2; Ord. 17-36 § 2.]

4.16.075 Alcohol use tax.

Repealed by Ord. 20-15.

4.16.080 Payment and collection.

Taxes imposed by this chapter shall be due and paid by the buyer to the seller at the time of sale or service, or with respect to credit transactions, at the time of collection. It shall be the duty of each seller making sales taxable under this chapter to collect the taxes imposed by this chapter from the buyer at the time of each sale, or with respect to a credit transaction, at the time of collection of sales, and to hold those taxes in trust for the city. Failure by the seller to collect the tax shall not affect the seller's responsibility for payment therefor to the city. [Ord. 17-39 § 2.]

4.16.090 Sales tax collection – Registration requirement.

A. No person may engage in any taxable transactions within the city without first procuring a sales tax collection certificate from the city finance department.

B. A new business shall apply for a sales tax collection certificate concurrently with the new business license application that must be obtained before commencing business.

C. Sales tax collection certificates shall expire at the same time as the establishment's business license and must be renewed concurrently.

D. A person, firm, partnership, corporation or other business entity shall file an application for a sales tax collection certificate with the finance department prior to conducting business within the city. The complete business license and sales tax certificate application shall be returned to the finance department along with a copy of the business entity's Alaska State business license and city of Bethel business license. The sales tax collection certificate will not be issued until all of these requirements have been met.

E. Each business entity shall have a sales tax certificate under the advertised name and each separate business shall be registered under its own account.

F. No sales tax collection certificate shall be issued to or renewed for:

1. A person who does not meet the licensing requirements set out in Chapter 5.04 BMC (Business License Code); or

2. A person who has failed to pay any necessary fees due to the city; or

3. A person owing a judgment, delinquent taxes or a utility bill to the city, unless the person is in a satisfactory repayment plan.

G. Where the application or city records indicate that applicant is currently in violation of filing and/or remittance requirements of the city's sales tax provisions, the finance director may deny the application for a sales tax certificate until the applicant enters into binding agreement setting out a method by which full compliance will be attained.

H. The sales tax collection certificate of any seller will be suspended when such seller fails to pay delinquent taxes, penalties and interest within thirty (30) days after notice of delinquency is given or mailed provided such seller shall be afforded due process before the certificate suspension. [Ord. 20-18 § 2, 2020; Ord. 17-39 § 2.]

4.16.100 Certificate to be displayed.

A. Upon receipt of a properly executed application, the finance director shall issue to the seller a sales tax certificate authorizing the seller to collect city sales tax. The certificate shall state the name of the business as well the address of the place of business to which it is applicable, and shall authorize the seller to collect the tax.

B. The certificate must be prominently displayed at the place of business named in the certificate. A seller who has no regular place of business shall attach such certificate to their stand, truck or other merchandising device.

C. Upon notification, the finance director shall issue a duplicate sales tax collection certificate to any seller whose certificate has been lost or destroyed. [Ord. 17-39 § 2.]

4.16.110 Certificate nontransferable/nonassignable.

The sales tax collection certificate is nonassignable and nontransferable and must be surrendered to the finance director by the seller to whom it was issued upon its ceasing to do business at the location named therein or upon its revocation or suspension. If there is a change in the form of organization such as from a single proprietorship to a partnership or a corporation, the seller making such change shall surrender the old certificate to the finance director for cancelation. The successor seller is required to file a new application for a sales tax certificate. Upon receipt of such application, properly executed, as provided in this chapter, a new certificate may issue to such successor seller. [Ord. 17-39 § 2.]

4.16.120 Injunction prohibiting operation of business for failure to register or failure to remit returns.

A. A proceeding requesting the issuance of an injunction prohibiting a business from continuing to conduct business within the city may be filed by the city in the Superior Court fifteen (15) days after providing notice either by hand delivery or by regular mail to any business which has failed to file a sales tax return or has failed to pay the sales taxes due even if a sales tax return has been filed.

B. A proceeding requesting the issuance of an injunction prohibiting a business from continuing to conduct business within the city may be filed by the city in the Superior Court fifteen (15) days after providing notice either by hand delivery or by regular mail to any business which has failed to file a sales tax return or filed a sales tax return without remitting the payment due. [Ord. 17-39 § 2.]

4.16.130 Revocation hearing.

A. A hearing shall be conducted before a hearing officer within fifteen (15) calendar days of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing.

B. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence.

C. The person demanding the hearing shall carry the burden of establishing that such person has the right to represent the business (is an owner, agent or attorney hired for the proceeding).

D. The finance director shall carry the burden by clear and convincing evidence.

E. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision and the reasons therefor shall be provided to the person demanding the hearing and the owner of the business if such owner is not the person requesting the hearing.

F. The hearing officer's decision in no way affects any civil proceeding in connection with the matter in question and any civil charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final.

G. Failure of the owner, operator, master, or managing agent to request or attend a scheduled hearing shall be deemed a waiver of the right to such hearing. [Ord. 17-39 § 2.]

4.16.140 Limit of liability.

A. Questions regarding the applicability of this code, its interpretation, forms or any other matter relating to sales taxes shall be submitted in writing to the finance director or an appointed designee. Oral statements are not binding on the city. Only written interpretations, properly requested, may be relied upon. The authority granted to the finance director shall not create an obligation or duty requiring the finance director to take any action to protect or notify any seller or buyer within the city regarding their tax rights. The city assumes no liability for loss or damage caused by individual interpretation and application of this code or forms related thereto. Sellers are encouraged to work with their accountants and/or attorneys.

B. *Electronic Transactions.* To the extent that the city of Bethel sends and accepts electronic records and electronic signatures, those electronic records and electronic signatures are governed by the Uniform Electronic Transactions Act, AS 09.080.010 et seq. [Ord. 17-39 § 2.]

4.16.150 Tax receipts.

A. The following types of businesses shall provide a cash register receipt for all sales transactions, including those that are wholly exempt from taxes:

1. *Retail Sellers.* To include, but not be limited to, supermarkets, sellers of fuel, boutiques, stores;

2. Restaurant/eating establishments;

3. Movie theaters;

4. Coffee stands.

B. The following types of businesses shall provide either a receipt or an invoice for all sales transactions, including those that are wholly exempt from taxes:

1. Construction;

2. *Trades.* For example, plumbing, electrical, carpet installation, etc.;

3. *Professional Services.* For example, accounting, tax preparation, veterinary care;

4. Transient lodging.

C. *Receipt Exceptions.* The following types of businesses are exempt from the receipt/invoice requirements as outlined below:

1. *Lessors.* When a valid rental agreement exists covering the period for which the rent amount was received;

2. Vending machine sales;

3. Insurance sales;

4. *Legal Services.* When such services are performed under a contract or other agreement for services;

5. *Vehicles for Hire.* Provided registration and licensing are up to date with the city.

D. Each receipt or invoice shall:

1. Be dated; and

2. Be sequentially prenumbered, but may be sequentially machine-numbered if the number printed on the receipt or invoice is machine-generated; and

3. Show the quantity, description and price of the goods sold, services rendered or sold or rentals made; and

4. Show the amount of the sales tax on the sale.

E. The seller shall, whenever feasible, separately state the tax to the buyer on each taxable transaction. When not feasible to state separately, the seller shall prominently display a sign indicating the imposition of the tax.

F. *Exempt Sales.* If any part of the sale is exempt, it must be shown on the sales receipt. Exempt sales can only be made upon showing of a valid exemption card or certificate. For each such sale, the seller shall:

1. Record the date of the sale; and

2. Record the exempt card/certificate number presented (when applicable); and

3. Record the expiration date for the exempt card/certificate presented (when applicable); and

4. Record the name of the person making the exempt sale; and

5. Record the name of the entity/business claiming the exemption; and

6. Record the receipt number for the sale. [Ord. 17-39 § 2.]

4.16.160 Exemptions and limitations on exemptions.

The following sales and services are exempt from the tax levied under this chapter only in accordance with the exemptions and limitations thereon, as provided for in this section:

A. *Admissions.* Sales of admission to school entertainments, school athletic events, and events conducted for the benefit of charitable or community organizations are exempt.

B. *ATVs/Boats.* That portion of the selling price of an all-terrain vehicle (ATV), snow machine, boat, or boat motor in excess of three thousand five hundred dollars ($3,500) is exempt, regardless of whether or not such items are purchased simultaneously, or are invoiced or otherwise billed on the same billing document.

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

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

2. *Loans.* The principal amount of the loan, the interest charged for loaning of money, escrow collection services, and any fees associated with the loaning of money;

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

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

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

D. *Casual and Isolated Sales, Services or Rentals.* Proceeds from casual, occasional or isolated sales which are easily identified as the sale of tangible personal property or goods at such functions as moving, garage, yard, food and bake sales, markets or fairs (such as flea markets and craft fairs), the sale of private vehicles when the seller is not a dealer in used vehicles, or services such as babysitting or house-sitting provided the seller does not regularly engage in the business of selling such goods or services or rentals are exempt, but only if:

1. The sales of goods and services do not occur for more than ten (10) days in a calendar year, and are not made through a dealer, broker, agent or consignee; or

2. The rental of personal tangible property does not exceed sixty (60) days in a calendar year, whether or not consecutive.

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

4. The rental of real estate is not exempt.

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

F. *Repealed by Ord. 21-14.*

G. *Compliance with State and Federal Laws.* Gross receipts or proceeds derived from sales or services which the city is prohibited from taxing under the laws of the state or under the laws and the Constitution of the United States, including, but not limited to, the following:

1. Sales by the U.S. Postal Service are exempt;

2. Purchases made under the authority of or made with any type of certificate issued pursuant to 42 USC Sections 1771 through 1789 (Child Nutrition Act of 1966) are exempt;

3. *Repealed by Ord.20-06.*

4. Air transportation precluded from taxation under AS 29.45.820 is exempt;

5. Gross receipts or proceeds derived from sales to the United States Government, the state, a city or any political department thereof are exempt. However, the exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering services for sale to such government units or agencies on a contract bid award, in which event the contractor shall be deemed the buyer, subject to the payment of the tax;

6. A sale or rental to an employee of the state, its political subdivisions, or the federal government is exempt, but only when the government employee provides proof that the sale is for government business by paying for the sale with a government voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for government business;

7. A sale or rental to a federally recognized tribe is exempt, but only when the tribal employee provides proof that the sale is for tribal government business by paying for the sale with a tribal voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for tribal government business.

H. *Credit Unions.* Sales to or by federally chartered credit unions or credit unions organized under AS 06.45 are exempt.

I. *Dues.* Dues or fees paid to clubs, labor unions and other organizations solely for the privilege of membership are exempt.

J. *Freight and Wharfage.* Freight and wharfage charges, whether arising out of foreign, interstate or intrastate commerce, are exempt unless such delivery services are included in a through bill of lading in conjunction with interstate commerce.

1. Warehouse and storage services are not exempt.

2. Transportation of goods, equipment, or other property from one (1) point to another within the city limits by commercial movers is not exempt.

K. *Maximum Tax.* That portion of the selling price for a single piece of equipment or tangible personal property in excess of ten thousand dollars ($10,000) is exempt, where the selling price is totaled on one (1) invoice or on any sales slip under one (1) calendar day.

L. *Medical Services.*

1. Services of a person licensed or certified by the state of Alaska as a doctor of medicine and surgery, a doctor of osteopath and surgery, a chiropractor, a dentist, an optometrist, an audiologist, a hospital, an occupational therapist, a physical therapist or a licensed or practical nurse; provided, that the service is within the scope of the state license or certificate are exempt;

2. Services of a person licensed or certified by the state of Alaska as a psychologist or psychological associate, a clinical social worker, an alcohol or drug counselor, a marital and family therapist or a licensed professional counselor; provided, that the service is within the scope of the state license or certificate are exempt;

3. Fees for supplies, equipment and services provided by a hospital, medical clinic or dental clinic for patient treatment, including laboratory and x-ray services are exempt;

4. Assisted living services provided in accordance with an assisted living plan and in an assisted living home licensed as such by the state are exempt;

5. Gross receipts or proceeds of the retail sale of prescription drugs are exempt;

6. Services rendered by massage therapists, including those working for a chiropractor or other medical provider, are not exempt.

M. *Newspapers.* Sales of newspapers are exempt.

N. *Nonprofits.* A sale of goods or services to any nonprofit entity that, at the time of sale, can produce a sales tax exemption card and that has a duly authorized federal tax-exempt status pursuant to IRS Regulations, Section 501(c)(3), (4) or (19) is exempt; provided, that any income from the exempt sale is also exempt from federal taxation.

O. *Public Assistance.* Purchases made with food coupons, food stamps, or other type of certificate issued under 7 USC Sections 2011 through 2025 (Food Stamp Act) or other certificates issued under 42 USC Section 1786 (Special Supplemental Food Program for Women, Infants and Children) are exempt.

P. *Real Estate Sales.* Sale of property consisting of land and/or buildings is exempt.

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

R. *Repealed by Ord. 21-14.*

S. *Retail Sales of Foods.* Prepared food sold under the following circumstances are exempt as follows:

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

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

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

T. *Sales to Retailers.* Are exempt only if the buyer presents to the seller a valid exemption card, issued by the city pursuant to this section, and for the class of activity involved for which the exemption is sought and:

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

2. The product is an item sold as part of the reseller’s primary business and is of such nature that it can be purchased by the general public in a transaction that is not dependent upon the purchase of another product or service.

3. *Repealed by Ord. 21-14.*

4. Food products that are purchased for resale must be purchased and sold as is or prepared in a commercial kitchen.

U. *School.*

1. Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations are exempt;

2. Sales by any student organization, parent/teacher organization or booster club recognized by the school or educational organization in which it operates, which proceeds are utilized to further the purposes for which the organization was formed are exempt;

3. Sales and services by schools or other educational organizations made in the course of their regular functions and activities, which proceeds are utilized to further the purposes for which such organization was formed, are exempt;

4. Sales of food and beverages at educational lunchrooms which are operated primarily for staff and/or students, and which are not operated for the purpose of sale to the general public for profit are exempt;

5. The service of transporting students to and from a school in vehicles when in the regular course of that business is exempt.

V. *Securities.* The sale of insurance and bonds of guaranty and fidelity, and the commission thereon (AS 21.09.210(f), 21.79.130, 21.80.130) are exempt.

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

1. Food intended for consumption by the senior citizen, their spouse, or same-sex partner living in the same household, or the unemancipated minor children of either the senior citizen or their spouse or same-sex partner, who live in the same household. For purposes of this subsection, "food" is defined in accordance with 7 USC Section 2012(g) (definition of "food" for purposes of the Food Stamp Act).

2. The payment of rent by a senior citizen on a single dwelling occupied as the senior citizen's primary residence and permanent place of abode.

3. Payment for telephone, electric, and heating fuel by a senior citizen on a single dwelling occupied as the senior citizen's primary residence and permanent place of abode.

X. *Services.* That portion of the selling price of a single service that exceeds twelve thousand dollars ($12,000) is exempt. This amount will be adjusted in 2022 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 one hundred dollars ($100). 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 (1) month, the selling price must be apportioned to a monthly or invoice basis, whichever is more frequent, proportionate to the service performed, except for:

1. A commission paid to an agent for negotiating the sale of real property; or

2. A written contingency fee agreement award or settlement.

Y. *Transportation.*

1. The sale of services for transporting passengers by river taxi, taxicab, bus, or hovercraft is exempt;

2. The sale of passenger seat tickets by a commercial airline is exempt;

3. The service of transporting disabled or handicapped individuals when in the regular course of that business is exempt;

4. The lease of vehicle for hire permits is not exempt;

5. The portions of a sale that are charges for recreational flightseeing or air/water/shore excursion travel or adventure services are not exempt, unless otherwise exempted by AS 29.45.820;

6. The lease or rental of vehicles is not exempt.

Z. *Utilities.* Payment for city water, sewer and refuse utility services by any and all persons or entities is exempt.

AA. *Wholesale.* Proceeds from products sold as wholesale sales to businesses designated by the state of Alaska as wholesalers are exempt. These include sales of goods, wares or merchandise to a retail dealer, manufacturer or contractor for resale within the city as is or incorporated into a product or commodity to be sold by the dealer, manufacturer or contractor within the city, if the subsequent sale is subject to the city sales tax. In this connection a retailer must stock that merchandise for resale, display the same to the public and hold themselves out as regularly engaged in the business of selling such products. [Ord. 22-23 § 2, 2022; Ord. 21-14 § 2, 2021; Ord. 20-06 § 2, 2020; Ord. 18-14 § 2; Ord. 18-02 § 2; Ord. 17-39 § 2.]

4.16.170 Exemption cards.

A. Sales to retailers, wholesalers, and senior citizens shall be exempted from sales tax only if the person requesting the exemption has obtained and produces a valid exemption authorization card.

B. Federal, state, and tribal entities are not required to produce exemption cards. Sales to these entities are only exempt when the method of payment is made directly by the federal, state or tribal entity. Payments made by cash, personal check or personal credit card, even if on behalf of a federal, state or tribal entity, are never exempt.

C. *Cost.* The annual charges for an exemption card are as follows:

1. *Retailer/Wholesaler.* One hundred dollars ($100) (maximum two (2) cards).

2. *Senior Citizen – Initial Card.* Free (maximum one (1) card).

3. *Senior Proxy Card.* Initial proxies: free; replacement/substitute proxies (fifteen dollars ($15) each).

4. *Replacement Card.* Thirty dollars ($30) each (first card); forty-five dollars ($45) (all subsequent replacement cards).

D. With the exception of nonprofit organizations which are covered in BMC 4.16.190, any person, corporation or other organization claiming an exemption under BMC 4.16.160 shall apply to the city for an exemption authorization card within one (1) month of operating or conducting business or sales or performing services within the city in the first year in which sales are made, and thereafter shall apply by November fifteenth (15th) of each year for the following calendar year. Numbered exemption authorization cards will be issued by the city. The exemption authorization card must be shown to all sellers and must be recorded at the time of sale by the seller.

The exemption is valid only for those items that are purchased for resale as described under BMC 4.16.160 or are purchased by persons, agencies and organizations that are exempted by city, state or federal law. Any person that believes an attempt to purchase unauthorized items as tax exempt is being made at their place of business may refuse to accept the exemption card.

E. The following require an exemption card in order to qualify for the exemption:

1. Exemptions for sales for resale (sales to retailers);

2. Exemptions for sales to wholesalers; and

3. Exemptions for senior citizens.

F. Persons requesting an exemption card shall apply at the finance department on a form approved by the finance director. The application shall be accompanied by any applicable fee that is required under this section. The finance director may require additional information of the applicant as necessary to determine whether the application should be granted.

G. The exemption card will include, at a minimum:

1. For resale or wholesale:

a. General character of property or service sold by the purchaser in the regular course of business intended for resale;

b. Name and address of the purchaser;

c. Signature of the purchaser;

d. Expiration date; and

e. City of Bethel authorization exemption number.

2. For senior citizen:

a. Name and address of the qualified senior citizen or proxy;

b. Signature of qualified senior citizen or proxy;

c. Expiration date;

d. City of Bethel authorization exemption number.

3. For all others:

a. Name and address of the exempt entity;

b. Name and address of the qualified purchaser(s);

c. Expiration date; and

d. City of Bethel authorized exemption number.

H. *Time Frame.*

1. For resale or wholesale: An exemption card is issued for two (2) years and expires on December thirty-first (31st).

2. For senior citizen: An exemption card expires five (5) years from the date of issuance.

3. For senior proxies: An exemption card expires two (2) years from the date of issuance.

I. *Proof.* The finance director may require, at a minimum, the following proof before issuance of an exemption card:

1. *Retailer Exemption Cards.*

a. City of Bethel business license;

b. State of Alaska business license;

c. If tobacco is to be purchased, must also present proof of state and city tobacco licenses.

2. *Senior Citizen Exemption Cards.* Proof of meeting the age requirement (must be at least sixty-five (65) years of age on January first (1st) of the year for which the exemption card is applied for).

J. *Repealed by Ord. 21-28.*

K. *Proxy for Senior Citizen Exemption Cards.* If a person who is authorized to receive a senior citizen exemption authorization card is physically or mentally disabled so that the applicant is physically unable to use the card, the applicant may designate up to two (2) proxies on their exemption application. Proxy cards are nontransferable. Only those purchases on behalf of the senior citizen are exempted from the sales tax. Before a proxy card can be issued, the finance director shall require:

1. The names, addresses and legal identifications of the proxy shoppers;

2. Proof that the senior citizen is unable to personally use the card and requires a proxy;

3. Legal proof that the proxy has the authority to represent the senior citizen (for example, a court order appointing the proxy as guardian or a valid power of attorney).

L. *Nontransferable.* An exemption authorization card is nontransferable and must be surrendered to the city finance office upon disqualification for use for any reason.

M. An exemption authorization card executed by the purchaser must be in the possession of the purchaser at the time that an exempt transaction occurs.

N. The finance director may revoke an exemption authorization card after notice to the holder of the certificate and hearing, if the director finds that the holder:

1. Gave materially false information when applying for the exemption authorization card;

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

3. Permitted the use of the exemption authorization card by a person other than an authorized agent or employee of the holder of the exemption; or

4. Ceased to be entitled to exemption from sales tax.

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

P. If the finance director revokes a person's authorization card, that person must pay sales tax, interest, penalties, etc., on all sales made to or by the person which were not duly exempt. [Ord. 21-28 § 2, 2021; Ord. 17-39 § 2.]

4.16.180 Special exemption for charitable events.

A. A special sales tax exemption may be granted no more than two (2) times in a calendar year to a nonprofit organization or business exempting the organization or business from the obligation to collect sales taxes on sales of tangible personal property or admissions sold by such organization or business as part of a project to raise funds for a particular charitable project, upon the filing of an application for a charitable project sales tax exemption permit filed not less than thirty (30) days prior to the date for commencement of the exemption on a form required by the city and compliance with each of the following requirements:

1. The nonprofit organization or institution is organized exclusively for religious, educational or charitable purposes;

2. The fundraising project must be to raise funds to be used and expended solely and exclusively for a qualified charitable project as set forth and specified in the application;

3. All proceeds and revenues received from the sales from the project, less only the actual cost of the items sold, including shipping, must be used solely and exclusively for the specific charitable purpose that is identified and approved in the application and permit as issued;

4. Separate accounting records as required by the finance department shall be kept as to all sales; and

5. A tax return on such form as is required by the finance director shall be filed no later than thirty (30) days after the date specified in the application for conclusion of the fundraising project which tax return shall specify:

   a. The total amount of gross receipts received;

   b. The amount actually paid to the charitable organization to be funded as specified in the application and permit; and

c. Such further and additional information, data and verification as is deemed appropriate by the finance director.

6. Sales taxes collected shall be submitted no later than the last day of the month following the month of collection along with the properly completed tax return form.

B. Requests for exemptions of nine hundred ninety-nine dollars ($999) or less may be approved by the finance director. All requests for exemptions totaling one thousand dollars ($1,000) or more will require city council approval prior to the exemption being granted.

C. In the event a tax return is not filed as herein provided, or if all of the funds are not paid in the manner and to the specific charity as required by the permit, the permittee shall be liable and responsible for payment of the entire amount of sales tax that would have been collected and remitted had the sales not been conducted as sales tax exempt, plus interest and penalties thereon as provided for in this chapter from the date the sales tax amount would have become due. [Ord. 17-39 § 2.]

4.16.190 Nonprofit exemption certificates.

A. No sales to a nonprofit organization shall be exempted from sales tax unless and until the nonprofit organization has applied for and received an exemption certificate from the finance director.

B. There shall be no cost for a nonprofit exemption certificate.

C. Any seller may demand proof of or copies of the nonprofit exemption certificate at any time prior to exempting a sale.

D. Nonprofits requesting an exemption certificate shall apply to the finance department on a form approved by the finance director. The finance director may require additional information of the applicant as necessary to determine whether the application should be granted.

E. Nonprofit certificates shall expire within four (4) years from the date of issuance.

F. Nonprofit exemption certificates shall include, at a minimum, the following information:

1. Type of 501 designation;

2. General character of services performed;

3. Expiration date.

G. *Proof.* The finance director may require, at a minimum, the following proof before issuance of the exemption certificate:

1. Proof of a city of Bethel business license;

2. Copy of a state of Alaska business license;

3. Proof of federal 501(c) status.

H. *Nontransferable.* The exemption authorization certificate is nontransferable and must be surrendered to the finance director upon disqualification for use by any reason.

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

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

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

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

4. Ceased to be entitled to exemption from sales tax.

J. If the finance director revokes an organization's exemption authorization certificate, that organization is no longer exempt from paying sales tax under this chapter until the organization obtains a new exemption certificate which may not occur sooner than one (1) year after the revocation.

K. If the finance director revokes an organization's authorization card, that organization must pay sales tax, interest, penalties, etc., on all sales made to or by the organization which were not duly exempt. [Ord. 17-39 § 2.]

4.16.200 Revocation of exemption status.

A. The finance director may revoke any exemption authorization card, or other authority to obtain an exemption, if the person holding the exemption has been found to have used the exemption authorization card to obtain an exemption to which the holder or any other person is not entitled. The burden of proving an exemption shall be on the person claiming an exemption.

B. Upon a determination by the finance director that an exemption holder has misused or permitted another to misuse the sales tax exemption authorization issued to the holder, the finance director may revoke the sales tax exemption authorization of such person by sending written notice via certified mail to the exemption holder. Before such action, the finance director shall send written notice to the exemption holder, via certified mail, advising the holder of the violation and that the holder has the right to request a meeting with the finance director to discuss and resolve the issue without revocation of the sales tax exemption authorization. Should the holder not respond within ten (10) calendar days of receipt of the certified letter or should the holder refuse service of the certified letter, the finance director may revoke the sales tax exemption authorization of the holder without further action.

C. The revocation shall be permanent unless the finance director provides for a shorter period in the revocation order. In no event, however, shall a revocation be for a period of less than one (1) year. [Ord. 17-39 § 2.]

4.16.210 Seller's liability for incorrect determination.

A seller shall determine in the first instance whether a sale is exempt under this chapter. However, if a seller incorrectly determines that a sale is exempt, and does not collect the tax from the buyer, then the seller is liable to the city for the uncollected tax. [Ord. 17-39 § 2.]

4.16.220 Buyer's protest of imposed taxes.

A. If a seller determines that a transaction is not exempt, but the buyer believes the transaction to be exempt, then the buyer may protest but only after paying the tax deemed due by the seller.

B. A buyer who has remitted sales tax under protest in accordance with subsection A of this section shall file with the finance director a statement of protest on a form provided by the finance director accompanied by a copy of the receipt or invoice for the sale within thirty (30) calendar days after the date of the sale. The buyer shall state on the form the terms of the sale, the amount of the sale, the goods, rental or service purchased, the location from which the seller fulfilled the order, and all other information necessary to support the exemption of the transaction from taxation. A buyer who fails to make a timely filing of a completed statement of protest waives the right to protest the tax or otherwise to challenge the imposition of the tax.

C. A buyer who files a statement of protest under subsection B of this section bears the burden of proving that a transaction is exempt from taxation. In addition, the finance director may investigate facts related to the claim of exemption, and seek the advice of the city attorney on the claim. The finance director shall issue a written decision within forty-five (45) calendar days after the filing, stating the reasons for granting or denying the protest. The ruling will be mailed to the buyer and the seller at the addresses given on the protest.

D. If a protest is granted, the city shall refund the protested tax amount to the buyer along with the written decision of the finance director.

E. If a protest is denied, the buyer may appeal the denial by filing an appeal to the city manager pursuant to the appeal procedure set out in BMC 4.16.440. [Ord. 17-39 § 2.]

4.16.230 Refunds – In general.

A. A claim for refund of payment of sales tax which is made more than six (6) months from the date on which the tax was paid or became due and payable is forever barred, except for a refund for construction materials and services.

B. A claim for refund of payment shall be made by filing with the finance director a statement of claim, specifying the date the tax was imposed, the amount of protest or refund claimed and the basis upon which the protest or claim for refund is made.

C. The finance director shall respond, in writing, within forty-five (45) calendar days. If the finance director does not respond within forty-five (45) days, the claim of refund or protest shall be deemed to be approved. [Ord. 17-39 § 2.]

4.16.240 Tax filing schedule.

A. All persons subject to this chapter shall file a return on a form or in a format prescribed by the city and shall pay the tax due. Each person engaged in business in the city subject to taxation shall file a return in accordance with the following:

1. *Monthly.* Unless as otherwise provided for in this section, sellers shall file on or before the last day of the month following the end of each preceding month.

2. *Semi–Monthly.* If a seller fails to file or is late in filing returns for two (2) or more months, whether or not consecutive, the finance director may require the seller to submit returns and payments semi-monthly for other good cause, including, but not limited to, a lack of sales history, seasonal sales, etc.

3. *Annually.* Upon approval of the finance director, a seller that has a documented history of less than twenty-four thousand dollars ($24,000) in taxable sales annually as well as a documented history of on-time filings and payments may file its sales tax return and remittance of taxes on an annual basis. Returns and taxes filed and paid on an annual basis must be received or postmarked by the United States Postal Service or private delivery service no later than January thirty-first (31st) following the calendar year for which the tax return is required to be submitted. Penalties for late filing of an annual return and for the late remittance of taxes shall be double the rate applicable to monthly returns and interest shall accrue on late annual remittances from January first (1st) of the preceding year.

4. *Filing to Be Continuous.* A person who has filed a sales tax return will be presumed to be making sales in successive periods unless the person files a return showing a termination or sale of their business in accordance with BMC 4.16.380.

B. *Special and/or Seasonal Events.* For all sellers only operating at special and/or seasonal events, the tax return shall be due on or before the fifth (5th) business day following the event(s).

C. It is the duty and responsibility of every seller liable for the collection of any tax imposed herein, unless otherwise provided herein, to file with the city, upon forms prescribed and furnished by the city, a return, prepared under oath, setting forth the amount of all sales, taxable and nontaxable, the amount of tax thereon and other information the city may require on the form or forms.

D. The completed and executed return, together with the remittance in full for the amount of the tax due, shall be transmitted to and must be received by the finance department or postmarked by the United States Postal Service or private delivery service on or before 5:00 p.m. local time on:

1. *Monthly Filers.* The last day of the following month.

2. *Annual Filers.* January thirty-first (31st) of the following year.

3. *Seasonal Filers.* The fifth (5th) business day following the event.

E. If the last day of the month following the end of the filing period falls on a Saturday, Sunday or federal, state or city holiday, the due date will be extended until the next business day immediately following. Exceptions will be made for proper proof of remittance (such as certified mail receipt, weigh bill, etc.) showing timely submittal.

F. Any person holding or required to hold a city of Bethel business license shall file a sales tax return even though no tax may be due. This return shall show why no tax is due. If the person intends to continue doing business they shall file a return reflecting no sales and a statement indicating their intent to continue doing business, and shall continue to do so each filing period until they cease doing business or sell the business. If the person intends to cease doing business they shall file a final return and statement of business closure, and must register before restarting operations. If the business is sold, then the person must file a final return upon sale of the business in accordance with BMC 4.16.380.

G. The seller shall prepare the return and remit sales tax to the city on the same basis, cash or accrual, which the seller uses in preparing its federal income tax return. The seller shall sign the return, and transmit the return, with the amount of sales tax that it shows to be due, to the city.

H. Sellers failing to comply with the provisions of this chapter shall, if required by the city, file and transmit collected sales taxes monthly until such time that they have demonstrated to the city that they are or will be able to comply with the provisions of this chapter. Six (6) consecutive on-time sales tax filings shall establish the presumption of compliance.

I. Sales tax returns shall be accompanied by proof, satisfactory to the city, as to claimed exemptions or exceptions from tax herein imposed. In the absence of proof, the sales, rentals or services shall be deemed to have been taxable. The burden of establishing any tax exemption is upon the claimant.

J. The preparer of the sales tax return form shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases and be able to produce the documentation if requested by the city. Documentation for exempted sales should include the number of the city exemption authorization card presented by the buyer at the time of the purchase, the date of the purchase, the name of the person making the purchase, the organization making the purchase, the total amount of the purchase and the amount of sales taxes exempted. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided. [Ord. 20-19 § 2, 2020; Ord. 17-39 § 2.]

4.16.250 Contents of tax returns.

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

1. Gross receipts, divided into the following categories:

   a. Sales – both retail and wholesale, including materials;

   b. Rentals of property or equipment;

c. Services;

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

3. Computation of taxes to be remitted;

4. Such other information as may be required by the city.

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

C. Sellers operating within the city of Bethel for even one (1) day of the month shall file a tax return for that reporting period even if no tax may be due.

D. The city reserves the right to reject a filed return for failure to comply with the requirements of this chapter for up to three (3) months from the date of filing. The city shall give written notice to a seller, via certified mail, that a return has been rejected, including the reason for the rejection. [Ord. 17-39 § 2.]

4.16.260 Extension of time to file tax return.

A. Upon written application of a seller, stating the reasons therefor, the finance director may extend the time to file a sales tax return but only if the finance director finds each of the following:

1. For reasons beyond the seller's control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the seller;

3. The seller has a plan to cure the problem that caused the seller to apply for an extension and the seller agrees to proceed with diligence to cure the problem;

4. At the time of the application, the seller is not delinquent in filing any other sales tax return, in remitting sales tax to the city or otherwise in violation of this chapter;

5. No such extension shall be made retroactively to cover existing delinquencies. [Ord. 17-39 § 2.]

4.16.270 Penalties and interest for late filing.

A. A late filing fee of twenty-five dollars ($25) per month or partial month shall be added to all late-filed sales tax reports in addition to interest and penalties.

B. Delinquent sales tax bears interest at the rate of fifteen (15) percent per annum until paid.

C. In addition, delinquent sales tax shall be subject to an additional penalty as follows:

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

The penalty does not bear interest. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected.

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

E. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the finance director, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city, within forty-five (45) business days after the date of delinquency. A seller may not be granted more than one (1) waiver of penalty under this subsection in any period of twenty-four (24) consecutive months. The finance director shall report all such waivers of penalty to the council in writing, at least once each calendar quarter. [Ord. 17-39 § 2.]

4.16.280 Repayment plans.

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

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

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

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

2. The seller agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.

3. Interest at a rate of fifteen (15) percent per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.

4. If the seller is a corporation or a limited liability entity the seller agrees to provide a personal guarantee of the obligations under the repayment plan.

5. The seller agrees to pay all future tax bills in accordance with the provisions of this chapter.

6. The seller agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the city at the time the repayment plan is signed. The seller shall be responsible for the cost of recording the tax lien.

D. If a seller fails to pay two (2) or more payments as required by the repayment plan agreement, the seller shall be in default and the entire amount owed at the time of default shall become immediately due. The city will send the seller a notice of default. The city may immediately foreclose on the sales tax lien or take any other remedy available under the law including placing the seller on the city's denied vendor list. [Ord. 17-39 § 2.]

4.16.290 Forgiveness of uncollected taxes, penalties and interest.

A. The city manager, with the concurrence of the city council, may forgive the payment of uncollected sales taxes, interest and penalties owed by a seller to the city upon a determination by the city manager, with confirmation by the city attorney, that:

1. Such uncollected taxes have never been collected by a substantial portion of a clearly definable class of sellers; or

2. Such uncollected taxes have never been collected on a clearly defined type of transaction or service.

B. The city manager may, upon recommendation of the city attorney, and with the concurrence of the city council, authorize forgiveness of uncollected sales taxes, interest and penalty thereon and penalties for failure to file, as part of the compromise and settlement of a disputed claim in an action for collection of such funds.

C. Except as provided in subsections A and B of this section, the city may not forgive or waive any amount of uncollected sales tax, interest or penalty. This section shall not prevent the finance director, with the concurrence of the city manager, from discharging debts determined to cost more to collect than what is owed. Such discharges shall occur quarterly and a report shall be provided to the council of all such discharges at the next regularly scheduled meeting following said discharge. [Ord. 17-39 § 2.]

4.16.300 Application of sales tax payments.

A. Payments on sales tax accounts shall be applied to the oldest balance due, by sales tax period, in the following order: (1) first to accrued fees and costs, (2) then accrued interest, (3) then accrued penalty, (4) then to the tax principal, and (5) then the next oldest balance due, in the above order, and so forth, until the payment is applied in full; except as otherwise provided in this section.

B. Payment on sales taxes submitted with sales tax returns shall be applied to the most current return period, in the following order: (1) first to accrued interest, (2) then to accrued penalty, and (3) then to the tax principal. Any remaining moneys shall be applied as in subsection A of this section.

C. Payments on sales tax accounts where sales tax liens have been recorded to secure payment on the accounts shall be applied to the oldest balance due, by sales tax period, in the order listed in subsection A of this section. [Ord. 17-39 § 2.]

4.16.310 Application of overpayments.

A. A seller in good standing who, through clerical or similar error, remits a tax that exceeds the amount actually due or to which the city is not entitled by law, may, within one (1) calendar year from the due date of the tax or the collection of the tax, whichever is earlier, apply in writing to the finance director for a refund.

B. A claim for refund is barred unless:

1. The claimant files an amended tax return within one (1) calendar year of the due date of the return, on the form prescribed by the city;

2. Made timely (the failure to file a claim for refund within the time allowed shall forever bar the claim); and

3. The claimant files an amended return pursuant to the requirements of BMC 4.16.320.

C. When the city initiates an audit or estimate pursuant to BMC 4.16.350 or 4.16.360, the period for claiming a refund under subsection A of this section is the same as the period under audit, but in no case more than three (3) years from the date of sale.

D. The city shall not be liable for interest on any refund claimed or paid, or for any costs incurred by a buyer or seller in claiming or obtaining a refund.

E. If the finance director determines, in writing, a refund is not due or is not due in the amount claimed, then the taxpayer may appeal pursuant to the provisions set out in BMC 4.16.440.

F. The procedure set forth in this section is the recognized procedure whereby a refund may be made; and the taxpayer must first duly comply with this section and BMC 4.16.440 (Appeals) as conditions precedent to bringing a suit to recover said taxes. Any person who has not timely availed themselves of these procedures shall be deemed to have waived any right to such refund as well as the right to recover said tax and interest. [Ord. 17-39 § 2.]

4.16.320 Amended returns.

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

1. The amended return is filed within one (1) year of the original due date for the return; and

2. The seller provides a written justification for requesting approval of the amended return; and

3. The seller held a current city business license for the period for which the amended return was filed and filed an original return for that period; and

4. The seller agrees to submit to an audit upon request of the city.

B. The city shall notify the seller in writing whether it accepts or rejects an amended return, including the reasons for any rejection.

C. The city may adjust a return for a seller if, after investigation, the city determines the figure included in the original returns are incorrect, and that additional sales taxes are due; and the city adjusts the return within two (2) years of the original due date for the return. [Ord. 17-39 § 2.]

4.16.330 Recordkeeping required of all sellers.

A. Every seller engaged in activity subject to this chapter shall keep and preserve suitable records of all sales made by the seller and such other books or accounts as may be necessary to determine the amount of tax which it is obliged to collect, including records of the gross daily sales, together with invoices of purchases and sales, bills of lading, bills of sale or other pertinent records and documents as will substantiate and prove the accuracy of a tax return.

B. It shall also be the duty of every seller who makes exempt sales to keep records of such sales, which shall be subject to examination by the city, or any authorized agent thereof, while engaged in checking or auditing the records of any seller required to make a report under the terms of this chapter.

C. "Suitable records of all sales made" as used in subsection A of this section shall mean at a minimum a daily "Z" or "Z-total" report or equivalent, for all businesses with a cash register (a "Z" or "Z-total" report is the report generated by the cash register at the end of each business day, which calculates, at least, the totals for each department key, total sales and total receipts – although some cash registers have more detailed "Z" or "Z-total" reports). All sales made at businesses with cash registers must be rung on the cash registers. Businesses that do not have cash registers shall use another method, such as sequentially numbered invoices or sequentially numbered cash receipt books, for recording daily sales. Summaries of invoices are suitable records of all sales made, provided that copies of all back-up invoices are preserved as required under this chapter. Whatever records are kept must reflect the total daily purchases of taxable items. If no taxable sales are made on a business day, the records kept shall so reflect "zero" sales on that day. Records must also be kept to substantiate any claimed deductions or exclusions authorized by law. Records may be written, stored on data processing equipment or may be in any form that the city may readily examine.

D. Unless a specific, written exception has been granted by the finance director, with the approval of the city manager, all sellers within the city required to provide receipts as per BMC 4.16.150(A) must have a cash register and must record each retail sale on a cash register that provides, at a minimum, a daily "Z" or "Z-total" report, or equivalent, as set forth in subsection C of this section.

E. Records shall be kept in a systematic manner conforming to accepted accounting methods and procedures. Such records include:

1. The books of accounts ordinarily maintained by a prudent businessperson. Records and accounting information stored on computers or in an electronic format must be provided to the city in a readable form when requested by the city;

2. Documents of original entry such as original source documents, prenumbered sequential source documents, prenumbered sequential receipts, cash register tapes, sales journals, invoices, job orders, contracts, or other documents of original entry that support the entries in the books of accounts;

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

F. Records must show:

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

2. All exemptions or deductions from gross sales, as set out in BMC 4.16.160; and

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

G. Every seller shall preserve suitable records of sales for a period of three (3) years from the date of the return reporting such sales, and shall preserve for a period of three (3) years all invoices of goods and merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the seller was obliged to collect under this chapter.

H. The city finance department may examine and audit any relevant books, papers, records, returns or memoranda of any seller, may require the attendance of any seller, or any officer or employee of a seller, at a meeting or hearing, and may require production of all relevant business records, in order to determine whether the seller has complied with this chapter.

I. The burden of proving that a sale, rental or service was not taxable shall be upon the seller. [Ord. 17-39 § 2.]

4.16.340 Loss of records.

A seller shall immediately notify the city of any fire, theft or other casualty which prevents their compliance with this chapter. The casualty constitutes a defense to any penalty provided in this chapter if determined to be the proximate cause of the failure to comply for a given reporting period, but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense against penalties of this chapter. [Ord. 17-39 § 2.]

4.16.350 Audits.

A. Any seller who has established a sales tax account with the city, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the seller in order to determine whether appropriate amounts of sales tax revenue have been collected by the seller and remitted to the city.

B. The city is not bound to accept a sales tax return as correct. The finance director may make an independent investigation of all retail sales or transactions conducted within the city.

C. The records that a seller is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the city for the purpose of auditing any return filed under this chapter, or to determine the seller’s liability for sales tax where no return has been filed.

D. In addition to the information required on returns, the city may request, and the seller must furnish, any reasonable information deemed necessary for a correct computation of the tax.

E. The city may adjust a return for a seller if, after investigation or audit, the city determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the city adjusts the return within three (3) years of the original due date for the return.

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

G. The city manager may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any person refuses to obey any such subpoena, the city manager may refer the matter to the city attorney for an application to the superior court for an order requiring the person to comply therewith.

H. Any seller or person engaged in business who is unable or unwilling to submit their records within the city shall be required to pay the city for all necessary expenses incurred for the examination and inspection of their records maintained outside the city.

I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner’s address of record.

J. In the event the finance director, upon completion of an audit, discovers more than five hundred dollars ($500) in additional sales taxes due from a seller resulting from a seller’s failure to accurately report sales and taxes due thereupon, the seller shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the finance director at the time of the conclusion of the audit. [Ord. 17-39 § 2.]

4.16.360 Estimated tax.

A. In the event the finance director is unable to ascertain the tax due from a seller by reason of the failure of the seller to keep accurate books, allow inspection, or file a return, or by reason of the seller filing a false or inaccurate return, the finance director may make an estimate of the tax due based on any evidence in their possession.

B. Sales taxes may also be estimated, based on any information available, whenever the finance director has reasonable cause to believe that any information on a sales tax return is not accurate.

C. A seller's tax liability under this chapter may be determined and assessed for a period of three (3) years after the date the return was filed or due to be filed with the city. No civil action for the collection of such tax may be commenced after the expiration of the three- (3-) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the three- (3-) year period, unless the seller waives the protection of this section.

D. The city shall notify the seller, in writing, that the city has estimated the amount of sales tax that is due from the seller, stating the estimated amount. The city shall serve the notice on the seller by delivering the notice to the seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address. A seller who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

E. The city's estimate of the amount of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within fifteen (15) calendar days after service of notice of the estimated tax:

1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs and other charges due; or

2. Files a written notice with the finance director appealing the estimated tax amount in accordance with the appeal procedures set out in BMC 4.16.440.

3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:

a. The identity of the seller is in error;

b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or

c. The seller disputes the denial of exemption(s) for certain sales.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty as provided in BMC 4.16.270, from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars ($50) for each calendar month or partial month for which the amount of sales tax that is due has been determined. [Ord. 17-39 § 2.]

4.16.370 Accelerated returns.

A. A seller who is required to file a return and remit taxes to the city, who fails for more than sixty (60) days to file a return or remit the taxes due or who has, within a twelve- (12-) month period, filed or paid taxes late on two (2) or more occasions, may be required to file and remit on an accelerated basis.

B. The time frame for filing on an accelerated basis will be determined by the finance director and will be communicated in writing prior to implementation. [Ord. 17-39 § 2.]

4.16.380 Cessation or transfer of business.

A. A seller who sells, leases, conveys, forfeits, transfers or assigns any portion of their business interest, including a creditor or secured party, shall make a final sales tax return within fifteen (15) days after the date of such conveyance.

B. At least ten (10) business days before any such sale is completed, the seller shall send to the finance director, by certified first-class mail, postage prepaid, a notice that the seller's interest is to be conveyed and shall include the name, address and telephone number of the person or entity to whom the interest is to be conveyed.

C. Upon notice of sale and disclosure of buyer, the finance director shall be authorized to disclose the status of the seller's sales tax account to the named buyer or assignee.

D. Upon receipt of notice of a sale or transfer, the finance director shall send the transferee a copy of the sales tax code with this section highlighted.

E. Neither the finance director's failure to give the notice nor the transferee's failure to receive the notice shall relieve the transferee of any obligations under this section.

F. Following receipt of said notice, the city shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the city shall have twelve (12) months from the later of the completion of the sale or the city's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. The city may also initiate an estimated assessment if the requirements for such an assessment exist.

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

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

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

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

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

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

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

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

L. A seller who terminates their business without the benefit of a purchaser, successor or assign shall make a final tax return and settlement of tax obligations within thirty (30) days after such termination. If a final return and settlement are not received within thirty (30) days of the termination, the seller shall pay a penalty of one hundred dollars ($100), plus an additional penalty of twenty-five dollars ($25) for each additional thirty- (30-) day period, or part of such a period, during which the final return and settlement have not been made, for a maximum of six (6) additional periods.

M. A new or renewed business license may not be issued to a seller who has failed to make the return and settlement under this section until the return and settlement required have been made and the penalty imposed has been paid. [Ord. 17-39 § 2.]

4.16.390 Use of information on tax returns.

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the city under this chapter, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the city whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The city will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of a person who holds a current city business license;

2. The name and address of sellers, whether or not the business is registered to collect taxes;

3. Whether a business is registered to collect taxes under this chapter;

4. The name and address of businesses that are sixty (60) days or more delinquent in filing returns and/or in remitting sales tax; and, if so delinquent, the amount of estimated sales tax due, and the number of returns not filed.

D. The city may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular seller is disclosed.

E. Nothing in this section shall be construed to prohibit the delivery to a person, or their duly authorized representative, a copy of any return or report filed by them, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers and sellers, nor to prohibit the furnishing of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws.

F. Nothing in this section shall be construed to prohibit the disclosure through the enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any seller or agent of any seller required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within sixty (60) days after the required date for that business. Entry into an agreement whether pursuant to the provisions of this chapter or otherwise shall not act as any prohibition to disclosure of the records of that seller as otherwise provided in this chapter.

G. A prospective lessee or purchaser of any business or business interest may inquire as to the obligation or tax status of any business upon presenting to the finance director a release of tax information request signed by the registered owner of the business.

H. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection. [Ord. 17-39 § 2.]

4.16.400 Publication of delinquent sellers.

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

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

2. Did not pay all balances due, as long as the balance is greater than five hundred dollars ($500).

B. Notwithstanding subsection A of this section, the city is not required to include in the quarterly publication a closed business which has been published in the preceding four (4) publications.

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

D. The publication of such delinquent sales tax accounts shall not be considered a disclosure within the provisions of this chapter. [Ord. 17-39 § 2.]

4.16.410 Lien.

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

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

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

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

E. Within ten (10) calendar days of receiving the conformed, filed notice of lien, or amended notice of lien from the recorder's office, the city shall mail a copy of the notice by certified mail, return receipt requested, to the last known address of seller; provided failure to so mail the copy shall not void the lien or lessen its priority.

F. The city attorney, at the request and consent of the city council, may file an action to foreclose the lien of the city for the tax upon property and rights to property, real or personal, and sell the same, applying the proceeds thereof to the payment of the tax, interest, penalty, fees and costs. The action shall be commenced and pursued in the manner provided for the foreclosure of liens by applicable Alaska Statutes (currently AS 09.45.170 through 09.45.220); provided, however, upon commencement, the city shall provide written notice of the action to all reasonably known persons having an interest of record in the property being foreclosed, including persons in possession of the property. The action may be commenced within six (6) years after the lien arises.

G. The remedy provided in this section is not exclusive and shall be in addition to all other remedies available to the city to collect the sales taxes, interest, penalties and costs due under this chapter.

H. The failure to record a lien does not constitute a waiver or abrogation of any priorities, rights or interest of the city at law or in equity.

I. Fees for the filing and releasing of liens shall be as set out in the Bethel fee and rate schedule.

J. Upon full satisfaction of payment of all taxes, interest and costs, including the administrative costs for the filing and release of the liens due and owing to the city, the finance director shall file a certificate discharging the lien. [Ord. 17-39 § 2.]

4.16.420 Violations.

A. Failure to comply with any of the provisions of this chapter shall be a violation and will be considered an infraction.

B. Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.

C. A seller that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this chapter, shall pay to the city all costs incurred by the city to determine the amount of the seller's sales tax liability or to collect the sales tax, including without limitation costs of obtaining, reviewing and auditing the seller's business records, collection agency fees, and actual reasonable attorney's fees.

D. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the city as required by this chapter shall be liable to the city for the amount that should have been collected or remitted, plus any applicable interest and penalty.

E. In addition to issuing citations for violation of this chapter, the city may bring a civil action to:

1. Enjoin a violation of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.

2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due under BMC 4.16.360.

3. Recover a civil penalty of up to five hundred dollars ($500) for each violation of this chapter.

4. Foreclose a recorded sales tax lien as provided by law.

F. All remedies hereunder are cumulative and are in addition to those existing at law or equity. [Ord. 17-39 § 2.]

4.16.430 Penalties for violations.

A. A person who is convicted of a violation of this chapter, where a fine is not otherwise specifically described in this section, shall be subject to a fine of not more than five hundred dollars ($500) plus any surcharge required to be imposed by AS 29.25.074.

B. A buyer or seller who knowingly or negligently submits false information in a document filed with the city pursuant to this chapter is subject to a fine of five hundred dollars ($500).

C. A seller who knowingly or negligently falsifies or conceals information related to its business activities within the city is subject to a fine of five hundred dollars ($500).

D. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a fine of three hundred dollars ($300).

E. Any seller who fails to file a return required under this chapter within fifteen (15) days of written notification by regular mail, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars ($25) for the first sales tax return not timely filed, and fifty dollars ($50) for each subsequent sales tax return not timely filed within a one- (1-) year period thereafter. The filing of an incomplete return shall be treated as the filing of no return.

F. Sellers who have not filed returns for two (2) consecutive reporting periods shall be assumed to have ceased conducting business and shall be removed from the roll of active businesses. Reinstatement of a business removed from the active roll by this section shall require the payment of a mandatory reinstatement fee.

G. A person subject to the requirements of BMC 4.16.150, who fails to provide a written receipt or invoice setting out the amount of tax due on the transaction when the amount of the tax is required to be shown on the receipt or invoice, shall pay a penalty to the city equal to twice the amount of the tax due on the sale; however, the minimum penalty is twenty-five dollars ($25).

H. A seller who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the city a penalty equal to three (3) times any deficiency found or estimated by the finance department with a minimum penalty of five hundred dollars ($500).

I. A seller who falsifies or misrepresents any record filed with the city is guilty of an infraction and subject to a penalty of five hundred dollars ($500) per document.

J. Misuse of an exemption card is an infraction and subject to a penalty of:

1. Fifty dollars ($50) for a first occurrence and a one- (1-) month suspension of the privilege to use an exemption card;

2. One hundred dollars ($100) for a second occurrence and a one- (1-) year suspension of the privilege to use an exemption card; and

3. Five hundred dollars ($500) for a third occurrence and the potential lifetime revocation of the privilege to use an exemption card issued by the city.

K. A penalty imposed under any part of this section may not be waived or reduced except upon a clear showing of reasons beyond the control of the person upon whom the penalty is imposed and only with the written consent of the city attorney. Any other waiver or reduction of penalties shall only occur with the consent of the city council.

L. All remedies for violations of this chapter are cumulative and are in addition to any others existing at law or in equity.

M. Nothing in this chapter shall be construed as preventing the city from filing and maintaining an action at law to recover any taxes, penalties, interest and fees due from a seller. The city may also recover full actual reasonable attorney's fees in any action against a delinquent seller.

N. If the city manager or finance director has reason to believe that a seller who has been removed from the roll of active businesses pursuant to this section is in fact continuing to conduct business, the city manager may cause a proceeding to be filed in the Superior Court requesting the issuance of an injunction prohibiting that business from continuing to conduct business. [Ord. 17-39 § 2.]

4.16.440 Appeals.

A. Unless a different time frame is specified, a seller aggrieved by an action of the finance director in fixing the amount of tax or in imposing a penalty or interest shall appeal to the city manager within thirty (30) calendar days from the date of the postmark on the finance director's written notification. A taxpayer who has a cause of action, grievance or protest concerning the legality, collection or payment of the sales tax shall appeal in this manner and within the same time frame. All right to an appeal shall be deemed waived if not timely requested as set forth in this subsection.

B. All appeals shall be filed in writing addressed to the city manager, must be signed by the seller/taxpayer (or counsel therefor) and shall contain the following information:

1. Name, address and telephone number of aggrieved seller/taxpayer;

2. A specific and detailed statement of the amount of tax, interest or penalty contested, the basis and grounds upon which the appeal is made, and all pertinent records, documents or other evidence substantiating the grounds as stated; and

3. A statement of the relief sought.

C. Failure to file an appeal within the time and manner provided shall be deemed a waiver of that right and to any appellate review to which the aggrieved party might have otherwise been entitled.

D. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting any appeal are limited to:

1. The identity of the seller is in error;

2. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for a hearing);

3. The seller disputes the denial of exemption(s) for certain sales;

4. Taxes have been levied and forgiven; or

5. The Bethel Municipal Code has been misinterpreted, misapplied or not followed.

E. A request for appeal is filed on the date it is personally delivered or, if delivered to the city manager by United States mail, the date of the United States Postal Service postmark stamped on the properly addressed cover in which the request is mailed.

F. A current mailing address must be provided to the city manager with the request for appeal, and any change in mailing address after the request for appeal is filed must be reported to the city manager.

G. Upon notice of the filing of a written appeal, the finance director shall immediately send a copy of their decision, and any information or documents utilized in reaching their decision, to the city manager with a copy to the city attorney and the party filing the appeal.

H. The city manager shall decide the appeal based upon the pertinent records provided by the parties involved.

I. The taxpayer must prove by a preponderance of the evidence the factual basis upon which they are relying.

J. The city manager's determination shall be based upon the evidence received and any written materials submitted by the parties. The determination need not make formal findings of fact or conclusions of law, but the written determination shall state the reasons for the decision and indicate the evidence relied upon. Such determination shall be issued no later than fifteen (15) calendar days after the appeal is filed. Such determination shall be final.

K. The city manager may retain the services of the city attorney to assist them in making their decision.

L. A seller who is not satisfied with a final written ruling of the city manager may appeal the decision by requesting an appellate hearing before the hearing officer. The process for seeking appellate review of the city manager's decision is as follows:

1. Completing a written request for appeal;

2. Submitting the appropriate appeal fee;

3. Filing both with the city clerk no later than twenty (20) calendar days from the date of the city manager's written decision.

M. Appeals of the city manager's decision shall contain the following information:

1. Name of appellant, name of business (if different than appellant), address and telephone number of aggrieved taxpayer;

2. A specific and detailed statement outlining the procedural, factual or legal error on which the appeal is based; and

3. A statement of the relief sought.

N. Upon a properly filed appeal, the city clerk shall request a full copy of the record used by the city manager. That record will be forwarded to the hearing officer with a copy to the party filing the appeal.

O. An appeal of the city manager's decision shall be limited solely to the information previously provided. No new evidence will be permitted during the appeal. The parties will be allowed an opportunity to argue their case before the hearing officer.

P. The order of presentation will be:

1. Brief opening statement by the city's representative (optional);

2. Brief opening statement by the taxpayer/appellant (optional);

3. Argument and presentation of evidence by the city's representative;

4. Argument and presentation of evidence by the taxpayer/appellant;

5. Rebuttal as necessary.

Q. All testimony shall be under oath. The proceedings shall be recorded. Upon written request, the appellant is entitled to a copy of the recording at no charge. The appellant or their legal counsel and the city may examine and cross-examine witnesses. Exhibits may be introduced. The rules of evidence need not be strictly followed; however, irrelevant or unduly repetitious evidence may be excluded.

R. The factual record is closed at the close of the hearing. The hearing officer may continue the hearing for good cause.

S. The hearing officer may choose to rule orally on the record or may choose to take the matter under advisement and issue a written decision at a later time. In either scenario, no later than twenty (20) calendar days from the date of the appeal hearing, a written decision will be issued. This decision will be final and may be appealed to the Superior Court as provided in the Alaska Rules of Appellate Procedure.

T. Contested taxes, penalties and interest that have been paid and are found to be overpaid shall be refunded with interest at the rate of five (5) percent from the date of the payment.

U. Contested taxes, penalties and interest that remain unpaid shall continue to accrue penalty and interest as provided by this chapter until paid. [Ord. 17-39 § 2.]

4.16.450 Transition period.

A. Sellers already licensed to do business at the time of the passage of this chapter shall be provided the following timelines for compliance:

1. *Equipment.* Sellers shall have six (6) months from the date of the passage of this chapter to implement all of the requirements for compliance with the necessary equipment, hardware and/or software requirements.

a. Except as set forth herein, no additional implementation or preparation time may be granted to sellers except for those who have taken timely, verifiable, good faith steps to comply with the provisions of this chapter and yet, through extraordinary circumstances beyond the control of seller, need additional time to comply.

b. In such cases, the finance director may grant no more than ninety (90) additional calendar days.

c. Requests for such additional time to comply shall be in writing, setting out the specific, extraordinary circumstances which merit consideration for additional time.

d. Inadvertence, neglect or delay on the part of a seller is not grounds for an extension of time.

e. Only one (1) extension may be granted to any given seller.

2. *Sales Tax Collection Certificate.* Existing businesses shall register.

3. *Filing Status Changes.* Sellers already licensed to do business within the city of Bethel who are filing other than as now prescribed in this chapter shall have six (6) months from the date of passage of this chapter to change their filing status to meet the new requirements as set out herewith. This change will not apply to those sellers specifically notified by the finance director to remain monthly due to poor sales tax payment history.

4. *Seasonal Businesses.* Sellers who wish to change their status to a seasonal business may do so any time after the passage of this chapter.

B. This section does not apply to the obligations of sellers under this chapter to collect and remit applicable sales taxes mandated by this chapter. The collection and remission of the city’s sales tax must be done in a timely manner, regardless of any extensions of time sought for other obligations imposed by this chapter. Likewise, all the remedies, penalties and interest assessed for failure to properly collect and remit the city's sales tax obligations are applicable to sellers who fail to do so, as required by this chapter. [Ord. 17-39 § 2.]

1 Code reviser's note: Ord. 17-36 proposed a change to the tax on alcohol sales, from twelve (12) percent to fifteen (15) percent, and that change was ratified by the voters in the October 2017 election. This section has been amended to reflect the fifteen (15) percent tax rate on alcohol sales, and Ord. 17-36 has been retained in its legislative history.

Chapter 4.16A
ALASKA REMOTE SELLER SALES TAX CODE

Sections:

4.16A.010 Interpretation.

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

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

C. Exemptions from the tax levied under this code or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this code or the taxing jurisdiction's code.

D. The scope of this code shall apply to remote sellers or marketplace facilitators, delivering products or services to member municipalities adopting this code, within the state of Alaska. [Ord. 20-06 § 3, 2020.]

4.16A.020 Title to collected sales tax.

Upon collection by the remote seller or marketplace facilitator, title to collected sales tax vests in the Commission for remittance to the taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction. [Ord. 20-06 § 3, 2020.]

4.16A.030 Imposition – Rate.

A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a member, within the state of Alaska.

B. The applicable tax shall be added to the sales price.

C. The tax rate added to the sales price shall be the tax rate for the taxing jurisdiction(s) where the property or product is sold, or service that was rendered is received, and based on the date the property or product was sold or the date the service rendered was received.

D. An address and tax rate database will be made available to remote sellers and marketplace facilitators, indicating the appropriate tax rate to be applied.

E. The tax assessed shall be consistent with relevant jurisdictional tax caps, single unit sales, and exemptions.

F. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered, based on the local jurisdictions' code(s).

G. When a sales transaction involves placement of a single order with multiple deliveries made at different points in time that are separately invoiced, the applicable sales tax shall be collected on each separately invoiced delivery, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered. [Ord. 20-06 § 3, 2020.]

4.16A.040 Obligation to collect tax – Threshold criteria.

A. Any remote seller or marketplace facilitator must collect and remit sales tax in compliance with all applicable procedures and requirements of law, provided the remote seller or marketplace facilitator has met one (1) of the following threshold criteria (“threshold criteria”) in the previous calendar year:

1. The remote seller’s statewide gross sales, including the seller’s marketplace facilitator’s statewide gross sales, from the sale(s) of property, products or services delivered into the state meets or exceeds one hundred thousand dollars ($100,000); or

2. The remote seller, including the seller’s marketplace facilitator, sold property, products, or services delivered into the state in two hundred (200) or more separate transactions.

B. For purposes of determining whether the threshold criteria are met, remote sellers or marketplace facilitators shall include all gross sales, from all sales of goods, property, products, or services rendered within the state of Alaska. [Ord. 20-06 § 3, 2020.]

4.16A.050 No retroactive application.

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code. [Ord. 20-06 § 3, 2020.]

4.16A.060 Payment and collection.

Pursuant to this code, taxes imposed shall be due and paid by the buyer to the remote seller or marketplace facilitator at the time of the sale of property or product or date service is rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of each remote seller or marketplace facilitator to collect the taxes from the buyer and to hold those taxes in trust for the taxing authority of the taxing jurisdiction. Failure by the remote seller or marketplace facilitator to collect the tax shall not affect the remote seller’s, or marketplace facilitator’s, responsibility for payment to the Commission. [Ord. 20-06 § 3, 2020.]

4.16A.070 Remote seller and marketplace facilitator registration requirement.

A. If a remote seller's gross statewide sales within the last calendar year meet or exceed the threshold criteria, the remote seller shall register with the Commission. If a marketplace facilitator's gross statewide sales within the last calendar year meet or exceed the threshold criteria, the marketplace facilitator shall register with the Commission.

B. A remote seller or marketplace facilitator meeting the threshold criteria shall apply for a certificate of sales tax registration within thirty (30) calendar days of the effective date of this code or within thirty (30) calendar days of meeting the threshold criteria, whichever occurs second. Registration shall be to the Commission on forms prescribed by the Commission.

C. An extension may be applied for and granted based on criteria established by the Commission, based on evidence produced to describe time necessary to update software or other technical needs, not to exceed ninety (90) days.

D. Upon receipt of a properly executed application, the Commission shall confirm registration, stating the legal name of the remote seller or marketplace facilitator, the primary address, and the primary sales tax contact name and corresponding title. The failure of the Commission to confirm registration does not relieve the remote seller or marketplace facilitator of its duty to collect and remit sales tax. Each business entity shall have a sales tax registration under the advertised name.

E. The sales tax certificate is nonassignable and nontransferable. [Ord. 20-06 § 3, 2020.]

4.16A.080 Tax filing schedule.

A. All remote sellers or marketplace facilitators subject to this code shall file a return on a form or in a format prescribed by the Commission and shall pay the tax due.

B. Filings of sales tax returns are due monthly; quarterly filing is optional upon application and approval by the Commission, consistent with the code of the local jurisdiction.

C. A remote seller or marketplace facilitator who has filed a sales tax return will be presumed to be making sales in successive periods unless the remote seller or marketplace facilitator files a return showing a termination or sale of the business in accordance with this code.

D. The completed and executed return, together with the remittance in full for the tax due, shall be transmitted to and must be received by the Commission on or before midnight Alaska Standard Time on the due date. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:

Quarter 1 (January – March)	April 30
Quarter 2 (April – June)	July 31

Quarter 3 (July – September)	October 31
Quarter 4 (October – December)	January 31

E. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday or Alaska state holiday, the due date will be extended until the next business day immediately following.

F. Any remote seller or marketplace facilitator holding a remote seller registration shall file a sales tax return even though no tax may be due. This return shall show why no tax is due. If the remote seller or marketplace facilitator intends to continue doing business a return shall be filed reflecting no sales and a confirmation of the intent to continue doing business and shall continue to do so each filing period until the entity ceases doing business or sells the business. If the remote seller or marketplace facilitator intends to cease doing business, a final return shall be filed along with a statement of business closure.

G. The remote seller or marketplace facilitator shall prepare the return and remit sales tax to the Commission on the same basis, cash or accrual, which the remote seller or marketplace facilitator uses in preparing its federal income tax return. The remote seller or marketplace facilitator shall sign the return, and transmit the return, with the amount of sales tax and any applicable penalty, interest or fees that it shows to be due, to the Commission.

H. Remote sellers and marketplace facilitators failing to comply with the provisions of this code shall, if required by the Commission and if quarterly filing has been chosen, file and transmit collected sales taxes more frequently until such time as they have demonstrated to the Commission that they are or will be able to comply with the provisions of this code. Six (6) consecutive on-time sales tax filings, with full remittance of the sales taxes collected, shall establish the presumption of compliance and return to quarterly filing.

I. The preparer of the sales tax return shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases. Documentation for exempted sales should include the number of the exemption authorization card presented by the buyer at the time of the purchase; the date of the purchase; the name of the person making the purchase; the organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the Commission upon request. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided. [Ord. 20-06 § 3, 2020.]

4.16A.090 Estimated tax.

A. In the event the Commission is unable to ascertain the tax due from a remote seller or marketplace facilitator by reason of the failure of the remote seller or marketplace facilitator to keep accurate books, allow inspection, or file a return, or by reason of the remote seller or marketplace facilitator filing a false or inaccurate return, the Commission may make an estimate of the tax due based on any evidence in their possession.

B. Sales taxes may also be estimated, based on any information available, whenever the Commission has reasonable cause to believe that any information on a sales tax return is not accurate.

C. A remote seller's or marketplace facilitator's tax liability under this code may be determined and assessed for a period of six (6) years after the date the return was filed or due to be filed with the Commission. No civil action for the collection of such tax may be commenced after the expiration of the six- (6-) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the six- (6-) year period, unless the remote seller or marketplace facilitator waives the protection of this section.

D. The Commission shall notify the remote seller or marketplace facilitator, in writing, that the Commission has estimated the amount of sales tax that is due from the remote seller or marketplace facilitator. The Commission shall serve the notice on the remote seller or marketplace facilitator by delivering the notice to the remote seller's or marketplace facilitator's place of business, or by mailing the notice by certified mail, return receipt requested, to the remote seller's or marketplace facilitator's last known mailing address. A remote seller or marketplace facilitator who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

E. The Commission's estimate of the amount of sales tax that is due from a remote seller or marketplace facilitator shall become a final determination of the amount that is due unless the remote seller or marketplace facilitator, within thirty (30) calendar days after service of notice of the estimated tax:

1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs and other charges due; or

2. Files a written notice with the Commission appealing the estimated tax amount in accordance with the appeal procedures.

3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:

a. The identity of the remote seller or marketplace facilitator is in error;

b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or

c. The remote seller or marketplace facilitator disputes the denial of exemption(s) for certain sales.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars ($50) for each calendar month or partial month for which the amount of sales tax that is due has been determined. [Ord. 20-06 § 3, 2020.]

4.16A.100 Returns – Filing contents.

A. Every remote seller or marketplace facilitator required by this chapter to collect sales tax shall file with the Commission upon forms furnished by the Commission a return setting forth the following information with totals rounded to the nearest dollar:

1. Gross sales;

2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;

3. Computation of taxes to be remitted;

4. Calculated discount (if applicable) based on taxing jurisdiction's code; and

5. Such other information as may be required by the Commission.

B. Each tax return remitted by a remote seller or marketplace facilitator shall be signed (digital or otherwise) by a responsible individual who shall attest to the completeness and accuracy of the information on the tax return.

C. The Commission reserves the right to reject a filed return for failure to comply with the requirements of this code for up to three (3) months from the date of filing. The Commission shall give written notice to a remote seller or marketplace facilitator that a return has been rejected, including the reason for the rejection. [Ord. 20-06 § 3, 2020.]

4.16A.110 Refunds.

A. Upon request from a buyer or remote seller or marketplace facilitator the Commission shall provide a determination of correct tax rate and amount applicable to the transaction. In the case of an overpayment of taxes, the remote seller or marketplace facilitator shall process the refund and amend any returns accordingly.

B. If the claimant is a remote seller or marketplace facilitator, and the tax refund is owed to any buyer, the remote seller or marketplace facilitator submits, and the Commission approves, a refund plan to all affected buyers.

C. The taxing jurisdictions may allow a buyer to request a refund directly from the taxing jurisdiction. [Ord. 20-06 § 3, 2020.]

4.16A.120 Amended returns.

A. A remote seller or marketplace facilitator may file an amended sales tax return, with supporting documentation, and the Commission may accept the amended return, but only in the following circumstances:

1. The amended return is filed within one (1) year of the original due date for the return; and

2. The remote seller or marketplace facilitator provides a written justification for requesting approval of the amended return; and

3. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission.

B. The Commission shall notify the remote seller or marketplace facilitator in writing (by email or otherwise) whether the Commission accepts or rejects an amended return, including the reasons for any rejection.

C. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation, the Commission determines the figures included in the original returns are incorrect; and the Commission adjusts the return within two (2) years of the original due date for the return.

D. A remote seller or marketplace facilitator may file a supplemental sales tax return, with supporting documentation, and the Commission may accept the supplemental return, but only in the following circumstances:

1. The remote seller or marketplace facilitator provides a written justification for requesting approval of the supplemental return; and

2. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission. [Ord. 20-06 § 3, 2020.]

4.16A.130 Extension of time to file tax return.

Upon written application of a remote seller or marketplace facilitator, stating the reasons therefor, the Commission may extend the time to file a sales tax return but only if the Commission finds each of the following:

A. For reasons beyond the remote seller's or marketplace facilitator's control, the remote seller or marketplace facilitator has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

B. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the remote seller or marketplace facilitator;

C. The remote seller or marketplace facilitator has a plan to cure the problem that caused the remote seller or marketplace facilitator to apply for an extension and the remote seller or marketplace facilitator agrees to proceed with diligence to cure the problem;

D. At the time of the application, the remote seller or marketplace facilitator is not delinquent in filing any other sales tax return, in remitting sales tax to the Commission or otherwise in violation of this chapter;

E. No such extension shall be made retroactively to cover existing delinquencies. [Ord. 20-06 § 3, 2020.]

4.16A.140 Audits.

A. Any remote seller or marketplace facilitator who has registered with the Commission, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the remote seller or marketplace facilitator in order to determine whether appropriate amounts of sales tax revenue have been collected by the remote seller or marketplace facilitator and remitted to the Commission.

B. The Commission is not bound to accept a sales tax return as correct. The Commission may make an independent investigation of all retail sales or transactions conducted within the state or taxing jurisdiction.

C. The records that a remote seller or marketplace facilitator is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the Commission for the purpose of auditing any return filed under this chapter, or to determine the remote seller's or marketplace facilitator's liability for sales tax where no return has been filed.

D. In addition to the information required on returns, the Commission may request, and the remote seller or marketplace facilitator must furnish, any reasonable information deemed necessary for a correct computation of the tax.

E. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation or audit, the Commission determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the Commission adjusts the return within two (2) years of the original due date for the return.

F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Commission may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any remote seller or marketplace facilitator at any reasonable hour on the premises of the remote seller or marketplace facilitator and may require the attendance of any officer or employee of the remote seller or marketplace facilitator. Upon written demand by the Commission, the remote seller or marketplace facilitator shall present for examination, in the office of the Commission, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the Commission and the person upon whom the demand is made agree to presentation of such materials at a different place.

G. The Commission may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any remote seller or marketplace facilitator refuses to obey any such subpoena, the Commissioner may refer the matter to the Commission's attorney for an application to the Superior Court for an order requiring the remote seller or marketplace facilitator to comply therewith.

H. Any remote seller, marketplace facilitator, or person engaged in business who is unable or unwilling to submit their records to the Commission shall be required to pay the Commission for all necessary expenses incurred for the examination and inspection of their records maintained outside the Commission.

I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.

J. In the event the Commission, upon completion of an audit, discovers more than five hundred dollars ($500) in additional sales tax due from a remote seller or marketplace facilitator resulting from a remote seller's or marketplace facilitator's failure to accurately report sales and taxes due thereupon, the remote seller or marketplace facilitator shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the Commission at the time of the conclusion of the audit. [Ord. 20-06 § 3, 2020.]

4.16A.150 Audit protest.

A. If the remote seller or marketplace facilitator wishes to dispute the amount of the estimate, or the results of an examination or audit, the remote seller or marketplace facilitator must file a written protest with the Commission, within thirty (30) calendar days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:

1. The remote seller's or marketplace facilitator's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated; or

2. The remote seller's or marketplace facilitator's reasons for challenging the examination or audit results.

B. In processing the protest, the Commission may hold an informal meeting or hearing with the remote seller or marketplace facilitator, either on its own or upon request of the remote seller or marketplace facilitator, and may also require that the remote seller or marketplace facilitator submit to an audit, if one was not previously conducted, or a more formal audit, if an estimation audit was previously performed.

C. The Commission shall make a final written determination on the remote seller's or marketplace facilitator's protest and mail a copy of the determination to the remote seller or marketplace facilitator.

D. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination result shall be final, due and payable to the Commission. [Ord. 20-06 § 3, 2020.]

4.16A.160 Penalties and interest for late filing.

A. A late filing fee of twenty-five dollars ($25) per month (or quarter) shall be added to all late-filed sales tax reports in addition to interest and penalties.

B. Delinquent sales tax bears interest at the rate of fifteen (15) percent per annum until paid.

C. In addition, delinquent sales tax shall be subject to an additional penalty of five (5) percent per month, or fraction thereof, until a total of twenty (20) percent of delinquent tax has been reached. The penalty does not bear interest.

D. Fees, penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to fees, penalties and interest, second to past due sales tax.

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

F. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the Commission, upon written application of the remote seller or marketplace facilitator accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the remote seller or marketplace facilitator, within forty-five (45) calendar days after the date of delinquency. A remote seller or marketplace facilitator may not be granted more than one (1) waiver of penalty under this subjection in any one (1) calendar year. The Commission shall report such waivers of penalty to the taxing jurisdiction, in writing. [Ord. 20-06 § 3, 2020.]

4.16A.170 Repayment plans.

A. The Commission may agree to enter into a repayment plan with a delinquent remote seller or marketplace facilitator. No repayment plan shall be valid unless agreed to by both parties in writing.

B. A remote seller or marketplace facilitator shall not be eligible to enter into a repayment plan with the Commission if the remote seller or marketplace facilitator has defaulted on a repayment plan in the previous two (2) calendar years.

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

1. The remote seller or marketplace facilitator agrees to pay a minimum of ten (10) percent down payment on the tax, interest and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.

2. The remote seller or marketplace facilitator agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.

3. Interest at a rate of fifteen (15) percent per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.

4. If the remote seller or marketplace facilitator is a corporation or a limited liability entity the remote seller or marketplace facilitator agrees to provide a personal guarantee of the obligations under the repayment plan.

5. The remote seller or marketplace facilitator agrees to pay all future tax bills in accordance with the provisions of this chapter.

6. The remote seller or marketplace facilitator agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the Commission at the time the repayment plan is signed. The remote seller or marketplace facilitator shall be responsible for the cost of recording the tax lien.

D. If a remote seller or marketplace facilitator fails to pay two (2) or more payments as required by the repayment plan agreement, the remote seller or marketplace facilitator shall be in default and the entire amount owed at the time of default shall become immediately due. The Commission will send the remote seller or marketplace facilitator a notice of default. The Commission may immediately foreclose on the sales tax lien or take any other remedy available under the law. [Ord. 20-06 § 3, 2020.]

4.16A.180 Remote seller or marketplace facilitator record retention.

Remote sellers or marketplace facilitators shall keep and preserve suitable records of all sales made and such other books or accounts as may be necessary to determine the amount of tax which the remote seller or marketplace facilitator is obliged to collect. Remote sellers or marketplace facilitators shall preserve suitable records of sales for a period of six (6) years from the date of the return reporting such sales, and shall preserve for a period of six (6) years all invoices of goods and merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the remote seller or marketplace facilitator was obliged to collect under this chapter. [Ord. 20-06 § 3, 2020.]

4.16A.190 Cessation or transfer of business.

A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including a creditor or secured party, shall make a final sales tax return within thirty (30) days after the date of such conveyance.

B. At least ten (10) business days before any such sale is completed, the remote seller or marketplace facilitator shall send to the Commission, by approved communication (email confirmation, certified first-class mail, postage prepaid) a notice that the remote seller's or marketplace facilitator's interest is to be conveyed and shall include the name, address and telephone number of the person or entity to whom the interest is to be conveyed.

C. Upon notice of sale and disclosure of buyer, the Commission shall be authorized to disclose the status of the remote seller's or marketplace facilitator's sales tax account to the named buyer or assignee.

D. Upon receipt of notice of a sale or transfer, the Commission shall send the transferee a copy of this code with this section highlighted.

E. Neither the Commission's failure to give the notice nor the transferee's failure to receive the notice shall relieve the transferee of any obligations under this section.

F. Following receipt of the notice, the Commission shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the Commission shall have twelve (12) months from the date of the completion of the sale or the Commission's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. The Commission may also initiate an estimated assessment if the requirements for such an assessment exist.

G. A person acquiring any interest of a remote seller or marketplace facilitator in a business required to collect the tax under this chapter assumes the liability of the remote seller or marketplace facilitator for all taxes due the

Commission, whether current or delinquent, whether known to the Commission or discovered later, and for all interest, penalties, costs and charges on such taxes.

H. Before the effective date of the transfer, the transferee of a business shall obtain from the Commission an estimate of the delinquent sales tax, penalty and interest, if any, owed by the remote seller or marketplace facilitator as of the date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the remote seller or marketplace facilitator has produced a receipt from the Commission showing that all tax obligations imposed by this chapter have been paid. A transferee that fails to withhold the amount required under this subsection shall be liable to the Commission and taxing jurisdiction for the lesser of the amount of delinquent sales tax, penalty and interest due from the remote seller or marketplace facilitator as of the date of transfer, and the amount that the transferee was required to withhold.

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

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

2. A sale of all or substantially all the assets used in the business of the remote seller or marketplace facilitator; or

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

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

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

L. A remote seller or marketplace facilitator who terminates the business without the benefit of a purchaser, successor or assign shall make a final tax return and settlement of tax obligations within thirty (30) days after such termination. If a final return and settlement are not received within thirty (30) days of the termination, the remote seller or marketplace facilitator shall pay a penalty of one hundred dollars ($100), plus an additional penalty of twenty-five dollars ($25) for each additional thirty- (30-) day period, or part of such a period, during which the final return and settlement have not been made, for a maximum of six (6) additional periods. [Ord. 20-06 § 3, 2020.]

4.16A.200 Use of information on tax returns.

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the Commission under this code, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the Commission and taxing jurisdiction whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The Commission will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of sellers;

2. Whether a business is registered to collect taxes under this chapter;

3. The name and address of businesses that are sixty (60) days or more delinquent in filing returns or in remitting sales tax, or both filing returns and remitting sales tax; and, if so delinquent, the amount of estimated sales tax due, and the number of returns not filed.

D. The Commission may provide the public statistical information related to sales tax collections; provided, that no information identifiable to a particular remote seller or marketplace facilitator is disclosed.

E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or their duly authorized representative, of a copy of any return or report filed by them, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers, remote sellers, or marketplace facilitators, nor to prohibit the furnishing of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws.

F. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any remote seller or marketplace facilitator or agent of any remote seller or marketplace facilitator required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within thirty (30) days after the required date for that business. Entry into any agreement whether pursuant to the provisions of this chapter or otherwise shall not act as any prohibition to disclosure of the records of that remote seller or marketplace facilitator as otherwise provided in this chapter.

G. A prospective lessee or purchaser of any business or business interest may inquire as to the obligation or tax status of any business upon presenting to the Commission a release of tax information request signed by the authorized agent of the business.

H. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection. [Ord. 20-06 § 3, 2020.]

4.16A.210 Violations.

A. A remote seller or marketplace facilitator that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this code, shall pay to the Commission all costs incurred by the Commission to determine the amount of the remote seller's or marketplace facilitator's liability or to collect the sales tax, including, without limitation, reviewing and auditing the remote seller's or marketplace facilitator's business records, collection agency fees, and actual reasonable attorney's fees.

B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the Commission as required by this code shall be liable to the Commission for the amount that should have been collected or remitted, plus any applicable interest and penalty.

C. Notwithstanding any other provision of law, and whether or not the Commission initiates an audit or other tax collection procedure, the Commission may bring a declaratory judgment action against a remote seller or marketplace facilitator believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state and federal law. The action shall be brought in the judicial district of the taxing jurisdiction.

D. The Commission may cause a sales tax lien to be filed and recorded against all real and personal property of a remote seller or marketplace facilitator where the remote seller or marketplace facilitator has:

1. Failed to file sales tax returns for two (2) consecutive filing periods as required by the code; or

2. Failed within sixty (60) days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement as provided in this code.

E. Prior to filing a sales tax lien, the Commission shall cause a written notice of intent to file to be mailed to the last known address of the delinquent remote seller or marketplace facilitator.

F. In addition to other remedies discussed in this code, the Commission may bring a civil action to:

1. Enjoin a violation of this code. On application for injunctive relief and a finding of a violation or threatened violation, the Superior Court shall enjoin the violation.

2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.

3. Foreclose a recorded sales tax lien as provided by law.

G. All remedies hereunder are cumulative and are in addition to those existing at law or equity. [Ord. 20-06 § 3, 2020.]

4.16A.220 Penalties for violations.

A. A buyer, remote seller, or marketplace facilitator who knowingly or negligently submits false information in a document filed with the Commission pursuant to this code is subject to a penalty of five hundred dollars ($500).

B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or taxing jurisdiction is subject to a penalty of five hundred dollars ($500).

C. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a penalty of five hundred dollars ($500).

D. Any remote seller or marketplace facilitator who fails to file a return by the due date required under this chapter, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars ($25) for the first sales tax return not timely filed. The filing of an incomplete return shall be treated as the filing of no return.

E. A remote seller or marketplace facilitator who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the Commission a penalty equal to three (3) times any deficiency found or estimated by the Commission with a minimum penalty of five hundred dollars ($500).

F. A remote seller or marketplace facilitator who falsifies or misrepresents any record filed with the Commission is guilty of an infraction and subject to a penalty of five hundred dollars ($500) per record.

G. Misuse of an exemption card is a violation and subject to a penalty of fifty dollars ($50) per incident of misuse.

H. Nothing in this chapter shall be construed as preventing the Commission from filing and maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a remote seller or marketplace facilitator. The Commission may also recover attorney's fees in any action against a delinquent remote seller or marketplace facilitator. [Ord. 20-06 § 3, 2020.]

4.16A.230 Sellers with a physical presence in the taxing jurisdiction.

A. Sellers with a physical presence in a taxing jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the taxing jurisdiction.

B. Sellers with a physical presence in a taxing jurisdiction that also have remote or internet-based sales where the point of delivery is in a different taxing jurisdiction shall:

1. Report and remit the remote or internet sales to the Commission; and

2. Report and remit the in-store sales to the taxing jurisdiction.

C. Sellers with a physical presence in a taxing jurisdiction that also have remote or internet-based sales where the point of delivery is in the same taxing jurisdiction shall report and remit those remote sales to the taxing jurisdiction.

D. Sellers and marketplace facilitators that do not have a physical presence in a taxing jurisdiction must report and remit all remote sales to the Commission.

E. For all purchases the tax rate added to the sales price shall be as provided in the taxing jurisdiction's sales tax code, based on point of delivery.

F. A marketplace facilitator is considered the remote seller for each sale facilitated through its marketplace and shall collect, report, and remit sales tax to the Commission. A marketplace facilitator is not considered to be the remote seller for each sale or rental of lodging facilitated through its marketplace, wherein the seller is considered to have a physical presence in the taxing jurisdiction. [Ord. 20-06 § 3, 2020.]

4.16A.240 Remittance of tax – Remote seller held harmless.

A. Any remote seller or marketplace facilitator that collects and remits sales tax to the Commission as provided by law may use an electronic database of state addresses that is certified by the Commission pursuant to subsection C of this section to determine the jurisdictions to which tax is owed.

B. Any remote seller or marketplace facilitator that uses the data contained in an electronic database certified by the Commission pursuant to subsection C of this section to determine the jurisdictions to which tax is owed shall be held harmless for any tax, charge, or fee liability to any taxing jurisdiction that otherwise would be due solely as a result of an error or omission in the database.

C. Any electronic database provider may apply to the Commission to be certified for use by remote sellers or marketplace facilitators pursuant to this section. Such certification shall be valid for three (3) years. In order to be certified, an electronic database provider shall have a database that satisfies the following criteria:

1. The database shall designate each address in the state, including, to the extent practicable, any multiple postal address applicable to one (1) location and the taxing jurisdictions that have the authority to impose a tax on purchases made by purchasers at each address in the state.

2. The information contained in the electronic database shall be updated as necessary and maintained in an accurate condition. In order to keep the database accurate, the database provider shall provide a convenient method for taxing jurisdictions that may be affected by the use of the database to inform the provider of apparent errors in the database. The provider shall have a process in place to promptly correct any errors brought to the provider's attention. [Ord. 20-06 § 3, 2020.]

4.16A.250 Definitions.

Adoption of definitions does not compel an individual municipality to exempt certain defined items. Each municipality should specifically adopt definitions necessary for consistency to implement both brick-and-mortar sales tax code and provisions related to remote sellers or marketplace facilitators. For definitions that have no applicability to brick-and-mortar sales tax code, municipality may choose either to include definitions in the definitions section of the general sales tax ordinance (BMC 4.16.010) or adopt the common definitions by reference.

“Advertising” means services rendered to promote a product, service, idea, concept, issue, or the image of a person, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including research; design; layout; preliminary and final art preparation; creative consultation, coordination, direction, and supervision; script and copywriting; editing; and account management services.

“Aircraft charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

“Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one (1/2) percent or more of alcohol by volume.

“Arts and crafts” mean articles produced individually by artistic or craft skill such as painting, sculpture, pottery, jewelry or similar articles.

“ATV” or “off-highway vehicle” means a vehicle designed or adapted for cross-country operation over unimproved terrain, ice or snow, and which has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided in this title; it does not include implements of husbandry and special mobile equipment.

“Authentic Native artwork” means any product which is Alaska Native handcrafted and is not made by machine. “Alaska Native handcrafted” means the skillful and expert use of the hands in making products solely by Alaska Natives within the United States, including the use of findings, hand tools and equipment for buffing, polishing, grinding, drilling or sewing. “Made by machine” means the producing or reproducing of a product in mass production by mechanically stamping, casting, blanking or weaving.

“Bank services” or “financial services” means deposit account services, loan transaction fees, transactions relating to the sale or exchange of currency or securities, transactions for conversion of negotiable instruments, safe deposit services, escrow collection services, late fees, overdraft fees, and interest charged on past due accounts.

“Boat” means a vessel used or capable of being used as a means of transportation on the water.

“Buyer or purchaser” means a person to whom a sale of property or product is made or to whom a service is furnished.

"Child care" means a regular service of care and education provided for compensation for any part of a day less than twenty-four (24) hours to a child or children under sixteen (16) years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

"Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

"Clothing and related products" means all human wearing apparel suitable for general use. Clothing includes: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

"Commercial airline tickets" means any card, pass, certificate, or paper, electronic or otherwise, providing or intending to provide for the carriage or transportation of any person or persons upon any airline.

"Commission" means the Alaska Remote Sellers Sales Tax Commission established by agreement between local government taxing jurisdictions within Alaska and delegated tax collection authority.

"Common carrier" means an individual or a company which is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment and makes deliveries of goods sold to its customers.

"Construction materials" means an item of tangible personal property that is used to construct or renovate a building, a structure, or an improvement on land and that typically loses its separate identity as personal property once incorporated into the real property. "Construction material" includes building materials, building systems equipment, landscaping materials, and supplies.

"Construction services" means all labor and services provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

"Crop production" means purchases of seed, plants, fertilizer, pesticides, fungicides, and other tangible personal property and agricultural machinery, tools, and equipment to be directly used in the production of food or commodities that are sold either for human consumption or for further food or commodity production. The phrase "directly used" means that the property must be integral and essential to the crop production process.

"Disabled veteran" means a disabled person:

1. Separated from the military service of the United States under a condition that is not dishonorable who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as fifty (50) percent or more by the branch of service in which that person served or by the United States Department of Veterans Affairs; or

2. Who served in the Alaska Territorial Guard, who is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska Territorial Guard, and whose disability has been rated as fifty (50) percent or more.

“Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages”:

1. Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or

2. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

3. Intended to affect the structure or any function of the body.

“Drugs for animal use” means:

1. A drug for animal use recognized in the official United States Pharmacopoeia or National Formulary of the United States;

2. A drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals;

3. A drug, other than feed, medicated feed, or a growth promoting implant intended to affect the structure or function of the body of an animal; or

4. A drug intended for use as a component of a drug in subsection (1), (2) or (3) of this definition.

“Dues, membership and subscription” means monies paid for the purpose of membership, or qualifying or becoming eligible for goods or services, or discounts to goods or services.

“Durable medical equipment” means equipment including repair and replacement parts for same, but does not include “mobility enhancing equipment,” which:

1. Can withstand repeated use; and

2. Is primarily and customarily used to serve a medical purpose; and

3. Generally is not useful to a person in the absence of illness or injury; and

4. Is not worn in or on the body.

“Delivered electronically” means delivered to the purchaser by means other than tangible storage media.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Entity-based exemption” means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

"Farming supplies" means animal food, seed, plants, fertilizers and other consumables used in an agriculture or mariculture business that sells its harvested grains, produce, meats, animal products or other farm production.

"Food" means any food or food product for home consumption except alcoholic beverages, tobacco, and prepared food. Food or food products includes property, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

"Food stamps" means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

"Funeral fees" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

"Gaming" means any game defined in AS 05.15.690, as amended or renumbered.

"Gasoline, heating fuels and other consumable fuels" means refined petroleum and petroleum-based products used for internal combustion engines and as the primary source for residential heating or domestic hot water. This may also include other types of fossil fuels as well as fuel sources that are renewable.

"Goods for resale" means:

1. The sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.

2. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

3. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

"Government" means the federal government and any agency or instrumentality thereof; any state and any agency or instrumentality thereof; any local government within a state, and any unit, agency, or instrumentality of such local government; any tribal government; any other governmental instrumentality.

"Handling," "crating," or "packing" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser including, but not limited to, transportation, shipping, postage, handling, crating, and packing.

"Insurance" means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

"Internet service" means a service that enables users to access proprietary and other content, information, electronic mail, and the internet as part of a package of services sold to end-user subscribers.

"Loan" means an extension of credit resulting from direct or indirect negotiations between a lender and a debtor.

"Lobbying" means the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators and the practice of promoting or opposing official action of any public official or the legislature.

"Long-term vehicle lease" means a lease of a motor vehicle, as defined in this section, for a period of twenty-four (24) months or longer.

"Manufacturing components" means sales of personal property as raw material to a person engaged in manufacturing for sale, where the property sold is consumed in the manufacturing process of or becomes an ingredient or component part of a product manufactured for sale by the manufacturer.

"Marijuana accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

"Marketplace facilitator" means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller's property or services through a physical or electronic marketplace operated by the person, and engages:

1. Directly or indirectly, through one (1) or more affiliated persons in any of the following:

    a. Transmitting or otherwise communicating the offer or acceptance between the buyer and remote seller;

    b. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;

    c. Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or

    d. Software development or research and development activities related to any of the activities described in subsection (2) of this definition, if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

2. In any of the following activities with respect to the seller's products:

    a. Payment processing services;

    b. Fulfillment or storage services;

    c. Listing products for sale;

    d. Setting prices;

e. Branding sales as those of the marketplace facilitator;

f. Order taking;

g. Advertising or promotion; or

h. Providing customer service or accepting or assisting with returns or exchanges.

"Medical equipment and supplies, and prescriptions" means all medicines, medical goods or equipment prescribed by a health care provider licensed to practice in Alaska or any other state in the United States.

"Medical services" means those professional services rendered by persons duly licensed under the laws of this state to practice medicine, surgery, chiropractic, podiatry, dentistry, and other professional services rendered by a licensed midwife, certified registered nurse practitioners, and psychiatric and mental health nurse clinical specialists, and appliances, drugs, medicines, supplies, and nursing care necessary in connection with the services, or the expense indemnity for the services, appliances, drugs, medicines, supplies, and care, as may be specified in any nonprofit medical service plan. "Medical services" include hospital services.

"Member" means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax Intergovernmental Agreement, thereby members of the Commission, and who have adopted the Remote Seller Sales Tax Code.

"Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include "durable medical equipment," which:

1. Is primarily and customarily used to provide or increase the ability to move from one (1) place to another and which is appropriate for use either in a home or a motor vehicle; and

2. Is not generally used by persons with normal mobility; and

3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Monthly" means occurring once per calendar month.

"Motor vehicle" means a motor vehicle, as defined in AS 28.90.990(17), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, "motor vehicle" does not include either an "off-highway vehicle" as defined in 13 AAC 40.010(a)(30) or a "snowmobile" as defined in 13 AAC 40.010(a)(49). "Motor vehicle" includes parts for a motor vehicle.

"Newspaper" means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two (2) weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

"Nonprofit organization" means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

"Over the counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

1. A "Drug Facts" panel; or

2. A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

"Periodical" means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one (1) of a series.

"Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

"Physical presence" means a seller who establishes any one (1) or more of the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;

2. Solicits business or receives orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state;

3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;

4. Rents or leases property located within the boundaries of the local taxing jurisdiction. A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

"Point of delivery" means the location at which property or a product is delivered or service rendered.

1. When the product is not received or paid for by the purchaser at a business location of a remote seller in a taxing jurisdiction, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller.

2. When the product is received or paid for by a purchaser who is physically present at a business location of a remote seller in a taxing jurisdiction the sale is considered to have been made in the taxing jurisdiction where the purchaser is present even if delivery of the product takes place in another taxing jurisdiction. Such sales are reported and tax remitted directly to the taxing jurisdiction, not to the Commission.

3. For products transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.

"Precious gems and metals" means any mineral, including but not limited to gold, silver, platinum and palladium, and any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphire, opals, pearls or any other such precious gems or stones that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content (such as an ingot or bar) and not its form (such as jewelry or artwork).

"Prepared food" means:

1. Food sold in a heated state or heated by the seller;

2. Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or

3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

"Prepared food" in subsection (2) of this definition does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent foodborne illnesses.

"Prewritten computer software" means "computer software," including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software." "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances "computer software" of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software"; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software."

"Printing services" means those activities relating to the work of the printing, publishing or graphic arts industries and shall include any mechanical process whereby ink is transferred to paper or other materials.

"Product-based exemptions" means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations that require a professional license under the Alaska Statutes.

“Property” and “product” mean both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e., intellectual property, brand recognition, goodwill, trade, copyright and patents).

“Prosthetic device” means replacement, corrective, or supportive device including repair and replacement parts for same worn on or in the body to:

1. Artificially replace a missing portion of the body;

2. Prevent or correct physical deformity or malfunction; or

3. Support a weak or deformed portion of the body.

“Quarter” means trimonthly periods of a calendar year; January – March, April – June, July – September, and October – December.

“Raw seafood” means uncooked marine and estuarine fauna or flora used as food or of a kind suitable for food and specifically includes, but is not limited to, shrimp taken for bait.

“Receive” or “receipt” means:

1. Taking possession of property;

2. Making first use of services;

3. Taking possession or making first use of digital goods, whichever comes first.

The terms “receive” and “receipt” do not include temporary possession by a shipping company on behalf of the purchaser.

“Remote sales” means sales of goods or services by a remote seller or marketplace facilitator.

“Remote seller” means a seller or marketplace facilitator making sales of goods or services delivered within the state of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

“Resale of services” means sales of intermediate services to a business the charge for which will be passed directly by that business to a specific buyer.

“Retail car rental” means renting a rental car to a consumer. “Rental car” means a passenger car, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty (30) consecutive days. “Rental car” does not include:

1. Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;

2. Vehicles licensed and operated as taxicabs.

"Sale" or "retail sale" means any transfer of property for consideration for any purpose other than for resale.

"Sales or purchase price" means the total amount of consideration, including cash, credit, property, products, and services, for which property, products, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

1. The seller's cost of the property or product sold;

2. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

3. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

4. Delivery charges;

5. Installation charges; and

6. Credit for any trade-in, as determined by state law.

"Sales-type lease" means, at lease commencement, (1) the lease transfers ownership of the underlying property, goods, or services to the lessee by the end of the lease term; (2) the lease grants the lessee an option to purchase the underlying property, goods, or services that the lessee is reasonably certain to exercise; (3) the lease term is for the major part of the remaining economic life of the underlying property, goods, or services. However, if the commencement date falls at or near the end of the economic life of the underlying property, goods, or services, this criterion shall not be used for purposes of classifying the lease; (4) the present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments equals or exceeds substantially all of the fair value of the underlying property, goods, or services; (5) the underlying property, goods, or services is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

"School materials" means items commonly used by a student in a course of study. "School materials" includes the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. "School materials" does not include any item purchased for use in a trade or business.

"School meals" includes breakfasts, lunches, or the serving of foods or beverages, or both, or any combination thereof, served by a school cafeteria or a school lunchroom.

"School transportation" means transportation of students to and from schools in motor or other vehicles.

"Seller" means a person making sales of property, products or services, or a marketplace facilitator facilitating sales or acting on behalf of a seller.

"Senior citizen" means any individual defined by a taxing jurisdiction as qualifying for an age-based exemption from sales tax.

"Services" means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing jurisdiction, including but not limited to:

1. Professional services;

2. Services in which a sale of property or product may be involved, including property or products made to order;

3. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;

4. The sale of transportation services;

5. Services rendered for compensation by any person who furnishes any such services in the course of their trade, business, or occupation, including all services rendered for commission;

6. Advertising, maintenance, recreation, amusement, and craftsman services.

"Smoked fish" means a freshwater or saltwater finfish that is prepared by treating it with salt (sodium chloride) and subjecting it to the direct action of the smoke from burning wood, wood sawdust, or similar burning material or from liquid smoke flavoring applied to the surface in a gaseous, liquid, or vaporized state with or without heat.

"Snowmobile" means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires.

"Software downloads" means software, applications, services and other digital programming for computers, tablets, smartphones and other electronic devices. This includes online subscriptions or purchases of news services, publications, audio books and other similar electronic versions of printed materials.

"Software maintenance contracts" means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both. A "mandatory computer software maintenance contract" is a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software. An "optional computer maintenance contract" is a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

"Specified digital products" means electronically transferred:

1. Digital audio works;

2. Digital audiovisual works; or

3. Digital books.

“Streaming services” means digital content provided online for on-demand consumption rather than downloadable consumption. This typically includes, but is not limited to, video and audio files.

“Tax cap” means a maximum taxable transaction.

“Tax free days” means a duration of time in which persons who purchase goods or services are exempt from the sales tax of the taxing jurisdiction.

“Taxing jurisdiction” means a local government in Alaska that has a sales tax and is a member of the Alaska Remote Sellers Sales Tax Commission.

“Telephone service” means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system.

“Ticket admission” means the paid right or privilege to enter into or use a place or location.

“Title insurance premium” means and includes premium, examination fees, settlement fees, closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance.

“Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

“Transferred electronically” means obtained by the purchaser by means other than tangible storage media.

“Transportation services” means the transportation of individuals for hire.

“Travel agency” means a person or organization who represents, directly or indirectly, that the person or organization is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect. [Ord. 20-06 § 3, 2020.]

Chapter 4.17
EXCISE TAX ON CIGARETTES AND TOBACCO PRODUCTS

Sections:

4.17.010 Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

A. “Cardholder” or “exemption cardholder” means a person in whose name a valid and current exemption card has been issued by the finance director.

B. “Cigarette” means a roll for smoking of any size or shape, made wholly or partly of tobacco, whether the tobacco is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco.

C. “Department” means the finance department of the city.

D. "Distributor" means: (1) a person who brings cigarettes or other tobacco products or causes them to be brought into the city, and who sells or distributes them to others for resale in the city or (2) a person who supplies cigarettes to retailers for sale.

E. "Exemption card" means a city cigarette and tobacco products card issued under this chapter.

F. "Finance director" means the finance director of the city of Bethel or their designee.

G. "Other tobacco products" means:

1. A cigar;

2. A cheroot;

3. A stogie;

4. A perique;

5. Snuff and snuff flour;

6. Smoking tobacco, including granulated, plug-cut, crimp-cut, and ready-rubbed tobacco, and any form of tobacco suitable for smoking in a pipe or cigarette;

7. Chewing tobacco, including Cavendish, twist, plug, or scrap tobacco, and tobacco suitable for chewing; or

8. An article or product made of tobacco or a tobacco substitute, but not including a cigarette as defined in this section or a tobacco substitute prescribed by a licensed physician.

H. "Person" includes an individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), corporation, syndicate, or political subdivision of this state, or combination acting as a unit including individuals who are employees or officers of any of the such entities who are under a duty to perform an act concerning which a violation of this chapter could occur. It is the intent of this chapter that such persons be personally liable for unremitted taxes.

I. "Place of business" means a place where cigarettes or other tobacco products are sold, or where they are brought or kept for the purpose of sale or consumption, including a vessel, vehicle, airplane or train.

J. "Retailer" means a person who brings cigarettes or other tobacco products or causes them to be brought into the city and who is engaged in the business of selling cigarettes or other tobacco products at retail.

K. "Sale" includes a sale, barter, exchange, and every other manner of transferring the ownership of personal property.

L. "Tax" means the cigarette and other tobacco products excise tax assessed pursuant to this chapter.

M. "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a distributor or other person, after deduction of a discount or other reduction received by the distributor for quantity or cash. [Ord. 12-09 § 2.]

4.17.020 Tax on cigarettes.

A. The city hereby levies an excise tax of one hundred (100) mils, adjusted annually as provided in subsection B of this section, on each cigarette brought into the city for sale. Cigarettes upon which the tax is imposed are not again subject to the tax when acquired by another person.

B. The annual Consumer Price Index adjustment shall be based on the August release date of the semiannual report for the Municipality of Anchorage from the United States Department of Labor statistics and determined to be the percent change to the current year from the average of the first and second halves of the prior year, and will be effective January first (1st) of each year following the August release date. The first such adjustment date shall be January 1, 2014. [Ord. 12-09 § 2.]

4.17.030 Tax on other tobacco products.

An excise tax of forty-five (45) percent of the wholesale price is levied on tobacco products, other than cigarettes, brought into the city for sale. Tobacco products upon which this tax is imposed are not again subject to this tax when acquired by another person. [Ord. 12-09 § 2.]

4.17.040 Intent and purpose of this chapter.

A. It is the intent and purpose of this chapter to provide for the collection of the excise tax from the retailer who brings cigarettes or other tobacco products into the city for sale. The excise tax is levied when a retailer:

1. First acquires the cigarettes or other tobacco products within the city;

2. Brings or causes cigarettes or other tobacco products to be brought into the city;

3. Makes, manufactures, or fabricates cigarettes or other tobacco products in the city; or

4. Ships or transports cigarettes or tobacco products into the city.

B. Notwithstanding anything to the contrary contained in this chapter, the taxpayer shall be those persons described in this section and no others. [Ord. 12-09 § 2.]

4.17.050 Exemptions.

A. *Military.* Cigarettes and other tobacco products brought into or acquired in the city by a military exchange, commissary, or ship's store operated by one of the uniformed services of the United States as defined in 5 USC Section 2101 are exempt from tax under this chapter if the cigarettes and other tobacco products are sold to and for the sole use of authorized personnel according to current military regulations.

B. The tax imposed under this chapter does not apply to cigarettes and other tobacco products if the United States Constitution or other federal laws prohibit the levying of this tax on such products by the city. [Ord. 12-09 § 2.]

4.17.060 Exemption cards.

A. Except as otherwise provided herein, no person may acquire cigarettes or other tobacco products in the city exempt of the tax unless that person has been issued an exemption card in accordance with this chapter. No licensee shall claim any exemption under this chapter unless cigarettes or other tobacco products for which exemption is claimed have been sold or transferred to a person presenting a valid and current exemption card issued by the department in accordance with this chapter prior to such sale or transfer.

1. Any person with a current city of Bethel business license may apply for an exemption card under this section as an agent for merchants whose principal places of business are located outside of the city and who acquire from an agent cigarettes or other tobacco products exempt from the tax imposed under this chapter, provided each merchant has a valid state of Alaska business license with a tobacco endorsement and the line of business (LOB) code or equivalent thereon.

2. A merchant acquiring cigarettes and other tobacco products through an agent under this section shall be considered an exemption cardholder for all purposes under this chapter.

3. A person or licensee issued an exemption card as an agent under this section shall comply with all provisions of this chapter except the agent shall not be required to maintain records to prove that cigarettes and other tobacco products for which an exemption is claimed under the agent's exemption card have been resold outside of the city by the merchant. Violation of any provision of this chapter relating to exemption cardholders by a licensee as agent for a merchant shall be grounds for revocation of the licensee's license issued under this chapter.

4. Notwithstanding anything to the contrary contained in or implied by other provisions of this chapter, the licensee shall be and remain the taxpayer liable for the payment of taxes due under this chapter.

B. Application for an exemption card is restricted to person with an active physical business presence in the city of Bethel acting as an agent for merchants whose principal places of business are located outside of the city, shall be on a form provided by the department, and shall include the following information and such other information as the department may require:

1. The applicant's name and address;

2. A copy of the applicant's current state of Alaska business license, including a tobacco endorsement and the line of business (LOB) code or equivalent;

3. The merchant names and locations where cigarettes and tobacco products will be sold;

4. Each application for an exemption card shall be accompanied by a fee of fifty dollars ($50).

C. All exemption cardholders must maintain a valid, current business license, with a tobacco endorsement and line of business (LOB) code or equivalent, issued by the state of Alaska.

D. Each exemption card, unless suspended or revoked by the finance director, is valid from its date of issue until the end of that calendar year and may be renewed each year upon application and payment of the fee to the department.

E. The finance director may suspend, revoke or refuse to issue an exemption card under this section for any violation of or failure to comply with the requirements of this chapter by agent or cardholder, including any act or omission by such person which withholds, misstates or provides false or misleading information required by the department. [Ord. 12-09 § 2.]

4.17.070 License required for dealers in cigarettes or tobacco products.

A. No person may sell, purchase, possess or acquire cigarettes or tobacco products in the city as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer without a license issued under this chapter.

B. The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator or buyer. A copy of the applicant's state of Alaska business license required under AS 43.50.010 through 43.50.390 must accompany the application. The application must include the following information:

1. The applicant's name and address;
2. The name under which the cigarette or tobacco products business will be conducted;
3. The applicant's cigarette or tobacco products business categories as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer;
4. In the case of vending machine operator, the number of vending machines which will be operated;
5. Proof of a valid state of Alaska business license with a tobacco endorsement; and
6. Other information required on the department's application form.

C. The department may refuse to issue a license if there is reasonable cause to believe that the applicant has willfully withheld information requested to determine the applicant's eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

D. The department shall refuse to issue a license if the applicant is delinquent on their city sales tax at the time of their application. If the applicant has been delinquent for more than thirty (30) days in the twelve (12) months preceding the license application, the city shall have the discretion to issue a provisional license subject to monthly review and subject to on-time remittance of city sales taxes.

E. A license required by this chapter is in addition to any other license required by law or city code.

F. A license issued under this chapter shall include:

1. The name and address of the licensee;

2. The type of business to be conducted;

3. The address at which the business is conducted; and

4. The years for which the license is issued. [Ord. 12-09 § 2.]

4.17.080 License fee.

For each license issued under this chapter, and for each renewal, the fee is one hundred dollars ($100) per calendar year. This license shall be in addition to the business license required by Bethel Municipal Code (BMC). [Ord. 12-09 § 2.]

4.17.090 Expiration and renewal of licenses.

A license issued under BMC 4.17.070 expires on December thirty-first (31st). A licensee, on application to the department accompanied by the renewal fee, may, before the expiration of the license, renew the license for two (2) years from the expiration date of the license. If the licensee moves the business to another location within the city, the license shall, upon application to the department, be reissued a license for the new location for the balance of the unexpired term. A person whose license is lost, stolen or defaced shall immediately file an application with the department for reissuance of the license for the balance of the unexpired term. [Ord. 12-09 § 2.]

4.17.100 Transfer of license.

A license issued under this chapter is not assignable or transferable. However, in the case of death, bankruptcy, receivership or incompetency of the licensee, or if the business of the licensee is transferred to another person by operation of law, the department may in its discretion extend the license for a limited time to the executor, administrator, trustee or receiver, or the transferee of the licensee. [Ord. 12-09 § 2.]

4.17.110 Refund of tax or license fee.

A. The department shall not refund the license fee paid pursuant to this chapter upon the surrender or revocation of a license after the beginning of the license year. Upon application, the department may refund a license fee that is paid or collected in error.

B. If a remittance by a licensee exceeds the amount due, and the department, on audit of the account in question, is satisfied that this is the case, the department shall, upon written request of the licensee, refund the excess to the licensee without interest.

C. Any claim for refund filed more than one (1) year after the due date of the tax is forever barred. [Ord. 12-09 § 2.]

4.17.120 Display of license – Surrender of license – Suspension or revocation of license.

A. A license issued under this chapter must be prominently displayed at the licensee's place of business.

B. A licensee shall surrender a license within ten (10) days after:

1. A revocation of a license;
2. A cessation of business;
3. A change of ownership; or
4. A change of a place of business.

C. The finance director may suspend or revoke a license issued under this chapter:

1. For violation of this chapter or a regulation of the city adopted pursuant to this chapter; or
2. If a licensee ceases to act in the capacity for which the license was issued; or
3. If the licensee fails to submit their taxes due in a timely manner as required by city code.

No person whose license is suspended or revoked shall sell cigarettes or tobacco products or permit cigarettes or tobacco products to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person. No disciplinary proceedings or action is barred or abated by the expiration, transfer or surrender, renewal or extension of a license issued under this chapter. [Ord. 12-09 § 2.]

4.17.130 Tax returns.

On or before the last day of the month following the period for which the return is required to be submitted a licensee shall submit to the office of the finance director all taxes required to be collected, as well as any interest, penalty, costs and charges due. In addition, licensees shall submit a tax return, upon forms provided by the department, for each license.

A. The return shall be signed under penalty of perjury by the licensee or their agent and must include:

1. The name and address of the licensee.

2. The name and address of the person filing the return, if different from the licensee.

3. The number of licenses issued under BMC 4.17.070.

4. The name under which the cigarette or tobacco business is being conducted.

5. The number of cigarettes manufactured, brought into or acquired in the city during the preceding month from any source whatsoever.

6. The wholesale price of all tobacco products brought into or acquired in the city during the preceding month from any source whatsoever.

7. The names of persons from whom cigarettes or other tobacco products were brought into or acquired in the city during the preceding month from any source whatsoever.

8. The number of cigarettes brought into or acquired in the city from each person named in subsection (A)(7) of this section.

9. Deductions claimed for the number of cigarettes and the wholesale price of other tobacco products for which exemptions are claimed under this chapter.

10. Deductions claimed for the number of cigarettes and the wholesale price of other tobacco products, specified in the return in response to subsections (A)(5) and (6) of this section, for which the tax has been paid previously by another person.

11. The amount of tax due on the nonexempt cigarettes manufactured, brought into or acquired in the city during the preceding month; and the amount of tax due based on the wholesale price of nonexempt other tobacco products manufactured, brought into or acquired in the city during the preceding month.

12. Other information and supporting documentation which may be required by the department with the return.

B. Each licensee shall report the cigarette and other tobacco product sales for which an exemption is claimed under BMC 4.17.050 as deduction on its monthly tax return to the department and shall provide a copy of an invoice or other document satisfactory to the department supporting each sale to a cardholder.

C. A tax return must be filed even if there were no cigarettes or tobacco products manufactured, brought into or acquired in the city during the preceding month.

D. The taxes imposed under this chapter and the return required by this section must be received by the department or postmarked on or before the last day of each calendar month following the month covered by the return. [Ord. 12-09 § 2.]

4.17.140 Estimated tax.

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

B. The estimated assessment of tobacco sales tax and other amounts due and owing, as provided in subsection A of this section, shall be deemed to be admitted to be the amount due and owing to the city unless the finance director receives, within twenty (20) days of the date of the certified mailing of notice of the estimated assessment, an accurate and complete tobacco tax return for the delinquent periods together with full remittance of all taxes, interest, penalty, costs and other charges due, or the seller remits the amount due under protest under the provisions of BMC 4.17.210. [Ord. 12-09 § 2.]

4.17.150 Amended tax returns.

A. Any tax return filed under BMC 4.17.130 may be amended by the licensee.

B. Any tax return prepared and filed by the department on behalf of the licensee under BMC 4.17.140 may be amended by the licensee within one (1) year of the date filed by the department.

C. No amendment by the licensee shall be allowed after this one- (1-) year period. [Ord. 12-09 § 2.]

4.17.160 Application of payments.

Any payment submitted to the department for any taxes, penalties, interest or costs due under any provision of this chapter or any return or any finding or determination by the department under this chapter shall be credited to the monthly tax period for which remitted first to the payment of costs and then to penalties, interest and taxes in that order. [Ord. 12-09 § 2.]

4.17.170 Prohibited acts and penalties.

A. No distributor may:

1. Import cigarettes or other tobacco products into the city;

2. Sell, transfer or acquire cigarettes or other tobacco products in the city; or

3. Participate in the importation into the city or in the sale, transfer or acquisition within the city of cigarettes or other tobacco products in violation of or without complying with the provisions of this chapter.

B. A penalty of six (6) percent of the taxes due shall be incurred automatically when a person fails to pay the full amount of the tax due under this chapter within seven (7) calendar days following its due date. An additional penalty of six (6) percent of the taxes due shall be incurred automatically when a person fails to file a tax return or report within seven (7) calendar days following its due date under this chapter. If a person fails to pay the full amount of the tax due and/or file a tax return or report required under this chapter within sixteen (16) calendar days after its due date, the six (6) percent penalties incurred above shall be increased automatically to fifteen (15) percent.

1. The penalty shall be computed on the unpaid balance of the tax liability as determined by the department.

2. Notice of the penalties incurred and to be incurred shall be given to the person responsible for payment of the taxes or filing the return or report when such tax payment or return or report is delinquent for seven (7) calendar days after its due date.

3. The penalties provided for in this section shall be in addition to all other penalties and interest provided for under this chapter.

C. If a properly filed, amended return reduces the total tax liability or the tax required to be paid, or the department reduces the tax liability, the related penalty will be reduced accordingly.

D. All penalties and remedies enumerated in this chapter are cumulative.

E. Unless otherwise provided in this section, any person who violates or fails to comply with the provisions of this chapter shall be personally liable for all costs, interest, penalties and taxes due under this chapter plus a penalty equal to thirty (30) percent of the tax due. For good cause shown, finance director may waive or reduce all or part of any penalty imposed under this subsection. [Ord. 12-09 § 2.]

4.17.180 Civil fraud.

A. A civil fraud penalty may be assessed against a person in addition to a penalty for failure to file or failure to pay.

B. If it is determined by the finance director that a tax deficiency or part of a tax deficiency is due to fraud, then a penalty will be added to the tax. The penalty is fifty (50) percent of the deficiency due or one thousand dollars ($1,000), whichever is greater. The penalty is computed on the total amount of the deficiency due.

C. Fraud is the intentional misrepresentation of a material fact with the intent to evade payment of tax which the person believed to be owing. The person must have had knowledge of its falsity and intended that it be acted upon or accepted as the truth.

D. To establish civil fraud, the finance director must prove by clear and convincing evidence that:

1. The tax liability reported was understated; and

2. The understatement was the result of an intent to evade tax.

E. An intent to evade tax may be demonstrated by any relevant evidence, including but not limited to the following:

1. The person has provided false explanations regarding understated or omitted acquisitions of cigarettes or tobacco products;

2. The person has provided falsified or incomplete source documents;

3. The person has not justified an omission or understatement of a significant amount of acquisitions of cigarettes or tobacco products; or

4. The person has substantially overstated a deduction and has failed to justify the overstatement. [Ord. 12-09 § 2.]

4.17.190 Tax lien.

A. If any person who is liable to pay a tax or license fee under this chapter neglects or refuses to pay the tax or licensee fee after demand, the amount, including interest, additional amounts, or assessable penalty together with costs, is a lien in favor of the city upon all property and right to property, real or personal, belonging to that person.

B. The lien imposed by this section arises upon delinquency and continues until the amount is paid or a judgment against the person arising out of the liability is satisfied.

C. A lien arising out of a tax due under this chapter, including the penalties and interest on the tax, is, subject to AS 29.45.300, a lien prior, paramount and superior to all other liens, mortgages, hypothecation, conveyances and assignments, upon all real and personal property of the person liable for the tax and upon all the real and personal property used with the permission of the owner to carry on the business which is subject to the tax.

D. The lien and real property may be enforced as provided in AS 29.45.300 through 29.45.480 for enforcement of real and personal property tax liens. [Ord. 12-09 § 2.]

4.17.200 Interest on unpaid tax.

In addition to any penalties imposed by this chapter, interest at the rate of fifteen (15) percent per annum shall be charged on the unpaid balance of delinquent taxes. [Ord. 12-09 § 2.]

4.17.210 Administrative hearings – Taxpayer, licensee, cardholder or other person remedies.

A. Any person aggrieved by any action of the department in issuing, suspending, revoking or refusing to issue any license or exemption card under this chapter or in fixing the amount of taxes, penalties, interest or costs under this chapter may file a written protest to the finance director within twenty (20) days from the date the department mails or takes action. Upon timely protest, the finance director shall review the protest and issue written findings no more than thirty (30) days after receipt of the protest.

B. Any person who disagrees with the decision of the finance director may file a written request for an appeal within fifteen (15) days of the finance director's written decision by filing a written request for appeal and paying the appropriate appeal fee. An application for a hearing (appeal) must notify the city of the specific action complained of and the amount of tax, interest, cost or penalty contested or action contested and the reason it is contested.

C. Upon timely receipt of a request for appeal, the city manager shall hold a hearing on the matter to determine whether a correction is warranted. Hearings before the city manager under this subsection may, at the option of the city manager, be conducted by an administrative hearing officer designated by the city manager.

D. The hearing officer shall conduct the hearing and prepare written findings and conclusions.

E. Within thirty (30) days after receipt of a written decision by the hearing officer, a person may appeal to the Superior Court of the Fourth Judicial District at Bethel. The person shall be given copies of the department's file in the matter for preparation of the appeal.

F. A request for appeal is filed on the date it is personally delivered, or, if delivered to the department by United States mail, the date of the postmark stamped on the properly addressed cover in which the request is mailed. If the due date falls on a Saturday, Sunday or holiday, the due date is the next working day. A current mailing address must be provided to the department with the request for appeal, and any change in mailing address after the request for appeal is filed must be reported to the department.

G. If the notice to the person pursuant to subsection A of this section shows an amount due the department, the uncontested portion of the amount due must be paid within thirty (30) days after the date of the notice. If the uncontested amount is not paid within thirty (30) days, collection action will be taken on that amount even if the person has filed a request for appeal. Payment of the total amount due may be made at any time before the hearing. If the department has reason to believe that collection of the total amount due might be jeopardized by delay, immediate payment of the total amount will be demanded and the department may pursue any collection remedies provided by law. Payment in full does not affect the person's right to a hearing.

H. If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking additional evidence from that person, unless that person shows good cause for failure to appear within seven (7) days after the date scheduled for the hearing.

I. Taxes, license fees, penalties and interest declared to be due in the final administrative decision must be paid within thirty (30) days after the date of the decision, or a bond must be filed with the court in accordance with Alaska Court Rules of Appellate Procedures. [Ord. 12-09 § 2.]

4.17.220 Reports by distributors.

No later than the end of each calendar month, a distributor shall submit a report to the department stating:

A. A list of the tobacco products, the quantity and their wholesale price and the number of cigarettes which were brought into the city from the distributor during the preceding month;

B. The names and addresses of those persons bringing cigarettes and tobacco products into the city from the distributor during the preceding month; and

C. A list of the quantity of tobacco products, the wholesale price, and the number of cigarettes brought from the distributor into the city by each person named in subsection B of this section. [Ord. 12-09 § 2.]

4.17.230 Inspection and maintenance of documents.

A. Every person subject to this chapter shall keep a complete and accurate record of all cigarettes and other tobacco products manufactured, purchased, sold, brought into, transported outside of or acquired in the city by such person.

1. Except in the case of a manufacturer, the records shall include a statement containing the name and address of the person from whom cigarettes or other tobacco products were purchased or acquired, the date of delivery, the quantity of cigarettes and other tobacco products, the trade name and brand, and the price paid for other tobacco products purchased.

2. Each invoice or other documentation of the sale of cigarettes or other tobacco products within the city shall state whether the tax imposed under this chapter has been paid.

3. Persons subject to this chapter shall keep such other documents and records as the department prescribes.

4. All documents and records required by this section shall be preserved by person subject to this chapter for three (3) years. All records and documents required by this chapter to be kept or retained are subject to inspection within the city upon demand by the department.

B. A licensee transferring or selling cigarettes or other tobacco products to a cardholder must keep a record of cigarettes and other tobacco products transferred or sold to such person, including the serial number of the exemption card.

C. The finance director may, during business hours, enter the business premises of a licensee or cardholder where cigarette or other tobacco products are kept or stored, so far as it may be necessary for the purpose of examining such products and the related business records. [Ord. 12-09 § 2.]

4.17.240 Administrative regulations.

The finance director, or their designee, may adopt regulations providing for the application and interpretation of this chapter and providing methods and forms and collecting the tax imposed in this chapter. [Ord. 12-09 § 2.]

4.17.250 Confidential and nonconfidential tax information.

A. The following information is publicly available information:

1. Names and addresses of business owners who filed tax returns under this chapter;

2. Whether a business is registered to collect taxes under this chapter in the city of Bethel;

3. Whether a business is current in filing tax returns and in remitting taxes due under this chapter, and the number of returns not filed; and

4. Names and exemption numbers of those entities which have received a tax-exempt number from the city of Bethel relating to taxes due under this chapter.

B. The city of Bethel may permit any authorized representative of any federal, state or other local government agency to inspect and copy any tax returns filed and reports prepared under this chapter, if the other governmental agency provides substantially similar access to the city of Bethel, files a timely request in accordance with the city's public request for information procedures, and if the city of Bethel determines that the other governmental agency provides adequate safeguards to the confidentiality of the tax returns and reports.

C. Except as otherwise provided in this section, tax forms and their contents are confidential and shall not be disclosed by the finance department except:

1. In connection with efforts by the city of Bethel to collect the tax;

2. In response to a subpoena issued by a court, state agency or governmental board or commission;

3. In connection with legislative inquiry specifically authorized by the assembly;

4. In connection with the city of Bethel audits for purposes of verifying city of Bethel accounting practices;

5. In compilation of statistics and studies by the finance department for public distribution, so long as information from individual businesses is not identifiable as to source. [Ord. 12-09 § 2.]

Chapter 4.18
BETHEL ENDOWMENT FUND

Sections:

4.18.010 Fund established.

There is established a separate fund named the Bethel endowment fund. The Bethel endowment fund consists of money originally appropriated to the Bethel endowment fund by the city council, called the principal, plus the accumulation of thirty (30) percent of the annual net income for each year since inception. [Ord. 08-19 § 2; Ord. 93-27 § 1.]

4.18.020 Purpose of fund.

The purpose of the Bethel endowment fund is to maximize income for the continuing operations of general government of the city. Seventy (70) percent of the net income of the previous year shall be deposited in the general fund upon adoption of the annual budget each year. [Ord. 08-19 § 2; Ord. 93-27 § 1.]

4.18.021 Fund management.

A. A separate single investment account recommended by the finance director with concurrence by the city manager, and approved by the city council by majority vote, will be established for holding the Bethel endowment fund principal.

B. The city manager is directed to prepare the annual budget for submission to the city council not later than the fifteenth day of March of each calendar year. Concurrently, the city manager shall cause to be introduced an ordinance proposing an appropriation to the general fund of monies in an amount equal to seventy (70) percent of the endowment fund's net income of the previous fiscal year. In the event that there were no earnings from the previous fiscal year, no appropriation to the general fund will be proposed.

C. The city of Bethel finance director, or the assistant finance director in the absence of the finance director, will submit a complete written disclosure of the status of the Bethel endowment fund monthly to the city council. A copy of this disclosure will be provided to the city manager. [Ord. 08-19 § 2.]

4.18.030 Investments.

A. The "Prudent Man" Rule shall be applied in the management and investment of the Bethel endowment fund assets. This rule means that in making investments, the same judgment and care under the circumstances then prevailing shall be exercised which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation, but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

B. The Bethel endowment fund assets shall only be used for income-producing investments. [Ord. 08-19 § 2; Ord. 93-27 § 1.]

4.18.040 Accounting for earnings.

The net income of the Bethel endowment fund shall be computed in accordance with generally accepted accounting principles (GAAP). [Ord. 08-19 § 2; Ord. 93-27 § 1.]

4.18.050 Procedure for repeal.

A. The principal of the Bethel endowment fund shall not be invaded unless approved by a majority of the voters at a general or special election called for that purpose by the city council.

B. If a majority of the voters approve an invasion of the Bethel endowment fund, an ordinance will be created to that effect and duly adopted by the Bethel city council.

C. Upon introduction of an ordinance invading the principal of the Bethel endowment fund, the city manager must provide at least one (1) month's public notice of said ordinance. This notice shall include the holding of at least two (2) informational meetings open to the public. At least two (2) such meetings shall be held prior to the public hearing on the proposed ordinance before the city council. [Ord. 08-19 § 2; Ord. 93-27 § 1.]

4.18.060 Reinvestment proposals.

Simultaneous with the submission of the annual budget, the city manager shall cause to be introduced an ordinance proposing appropriation and reinvestment of an amount equal to thirty (30) percent of the Bethel endowment fund's net income of the previous year. [Ord. 08-19 § 2; Ord. 93-27 § 1.]

Chapter 4.19
ENTERPRISE FUNDS

Sections:

4.19.010 Purpose, application and exceptions.

A. It is the purpose of this chapter to formally recognize or establish certain enterprise operations of the city and to set out generally applicable procedures governing the funds of such enterprises. This chapter applies only to enterprise funds set out in BMC 4.19.020.

B. Enterprise operations not specifically identified or described under this chapter are not subject to the provisions of this chapter. The restrictions set out in this chapter do not apply as limitations on the authority of the council to transfer the fund balance, or of the council or the manager to restructure the fund or operation, of a city enterprise that is not specifically set out and identified in this chapter. [Ord. 99-13 § 2.]

4.19.020 Enterprise funds established.

There is established the following enterprise fund of the city:

A. *Braund Building Enterprise Fund.* The Braund Building Enterprise Fund consists of Lot 1 of the Court House Subdivision, according to Plat 99-____[1] filed in the Bethel Recording District, including all improvements thereto, and all revenues derived from the leasing, licensing, other revenue-producing use of the property, including the disposal of fixtures and improvements to the property and moneys transferred to the fund by the council from other sources. [Ord. 99-13 § 2.]

4.19.030 Fund accounting.

Expenses, assets, liabilities, revenues, expenditures, and other financial matters shall be accounted for in accordance with generally accepted accounting principles applicable to governmental enterprises. [Ord. 99-13 § 2.]

4.19.040 Fund balance transfers.

A. No part of the unappropriated, unreserved and unobligated part of the fund balance of an enterprise fund may be transferred to the general fund or appropriated for a use other than for the benefit of the property or operation of the enterprise so long as there remain outstanding any bonds, notes or similar debt secured by the pledge of the enterprise fund unless the city has obtained the concurrence of all holders of the bonds or other debt instruments to such appropriation or other transfer of the funds. A transfer or appropriation authorized under this subsection is subject to the limitations of subsection B of this section.

B. By an appropriation or other ordinance, the council may transfer a part of the unappropriated, unobligated and unreserved fund balance of an enterprise so long as there remains in the unappropriated, unobligated and unreserved part of the fund balance an amount equal to the greater of either twenty (20) percent of the total actual expenses for the preceding fiscal year or twenty (20) percent of the budgeted expenses for the current fiscal year. [Ord. 99-13 § 2.]

4.19.050 Modification of enterprise funds.

For so long as there are outstanding bonds, notes or similar debt obligations secured by the pledge of the revenues of an enterprise fund, the council may not dissolve, divide or take such other action with respect to the enterprise operation or fund if such action would clearly have an adverse effect on the security interest of the bond, note or other debt holders unless the consent of such debt holders has been obtained. [Ord. 99-13 § 2.]

1 Editor’s note: Plat number can be found in the office of the planning commission.

Chapter 4.20
PURCHASING

Sections:

Article IV. Awards

Article V. Exceptions

Article VI. Specific Procurements

Article VII. Bid Protests and Appeals

Article I. General Provisions

4.20.010 Definitions.

As used in this chapter, the following words, terms and phrases shall have the meanings set out in this chapter, except where the context clearly indicates a different meaning:

A. "Business" means any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.

B. "Construction" means the on-site erection, rehabilitation, alteration, extension or repair of improvements to real property, including painting or redecorating buildings, highways, or other improvements under contract for the city, but does not include routine operation, repair, or maintenance of existing buildings or improvements which are recurring services normally performed in connection with the ownership, occupancy or use of the building or improvement.

C. “Contract” means all types of city agreements, regardless of what they may be called, for the procurement of supplies, services or construction but does not include collective bargaining agreements or subdivision agreements.

D. “Contract amendment” means any change in the term of a contract accomplished by agreement of the parties, including change orders.

E. “Contractor” means any person having a contract with the city or a using agency thereof.

F. “Financial interest” includes the receipt of a pecuniary benefit or the expectation of a pecuniary benefit:

1. A financial interest of a person includes a financial interest of any member of the person’s household.

2. A person has a financial interest in an organization if the person:

    a. Has an ownership interest in the organization; or

    b. Is a director, officer or employee of the organization.

3. Whether a financial interest is substantial is determined on a case-by-case basis.

G. “Immediate family” means:

1. The spouse of the person;

2. Another person cohabiting with the person in a conjugal relationship that is not a legal marriage;

3. A child, including a stepchild and an adoptive child, of the person;

4. A parent, sibling, grandparent, aunt or uncle of the person; and

5. A parent or sibling of the person’s spouse.

H. “Invitation for bids” means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids or proposals.

I. “Person” means any business, individual, union, committee, club, other organization, or group of individuals.

J. “Procurement” means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, professional services, preparation and award of contract, and all phases of contract administration.

K. “Professional service” means those advisory, consulting, technical, research or other services, such as architectural, engineering, land surveying, legal and financial, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise or training gained by formal studies or experience.

L. “Qualified products list” means an approved list of supplies, services, or construction items described by model or catalogue numbers which, prior to competitive solicitation, the city has determined will meet the applicable specification requirements.

M. “Responsive bidder” means a person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.

N. “Services” means the furnishing of labor, time, or effort, by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements, collective bargaining agreements or agreements relating to the procurement of insurance coverage through an insurance broker.

O. “Specification” means any description of the physical or functional characteristics or of the nature of a supply, service, professional service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

P. “Subcontract” means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of employer and an employee) for the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or under which any portion of the contractor’s obligation under any one (1) or more contracts is performed, undertaken, or assumed.

Q. “Supplies” means all property, including but not limited to equipment, materials, printing, and leases of real property, excluding land or a permanent interest in land. [Ord. 14-27 § 4.]

Article II. Purchasing Agent

4.20.020 Purchasing agent.

A. The finance director or their designee shall serve as the purchasing agent.

B. The purchasing agent shall have the following authority and responsibilities:

1. To procure or supervise the procurements of all supplies, services and construction required by the city;

2. To administer or supervise the sale, trade or other disposal of surplus supplies belonging to the city;

3. To join with other units of government in cooperative purchasing ventures where the best interest of the city would be served thereby;

4. To maintain all records pertaining to the procurement of supplies, services and construction, and the disposal of supplies, by the city in accordance with the city’s most recent retention schedule or the retention schedule for the funding source, whichever is later;

5. To prescribe the time, manner, authentication and form of making requisitions for supplies and services; and

6. Any other authorities and responsibilities which this chapter assigns to the purchasing agent.

7. The city manager may delegate authority, in writing, to a department head, to purchase certain supplies, services, or construction if such delegation is deemed necessary for the effective procurement of those items, provided such obligation does not exceed five thousand dollars ($5,000).

8. When faced with an especially complex procurement, such as a complex construction project, the city may find it necessary to temporarily appoint a highly qualified construction management professional as construction procurement officer for that project. As an alternative, the city may choose to contract for the services of a construction management firm to oversee all phases of the project. As a city contractor, this firm shall be closely supervised in its performance by the purchasing agent or other city official as the city manager deems appropriate. In selecting and utilizing such a project management firm, the city will ensure that the contractors providing this management function are independent of those contractors providing construction or other project services to the city. Consistent oversight will be essential for the successful completion of such complex construction projects. [Ord. 14-27 § 4.]

Article III. Source Selection

4.20.030 Competitive sealed bidding.

Unless otherwise authorized under this chapter or other provision of law, all city contracts for supplies, services (excluding professional services), and construction shall be awarded by competitive sealed bidding.

A. The purchasing agent shall initiate competitive bidding by issuing an invitation for bids. The invitation for bids shall be prepared by the using department and shall state, or incorporate by reference, all specifications and contractual terms and conditions applicable to the procurement.

B. Bids shall be opened publicly in the presence of one (1) or more city witnesses at the time and place designated in the invitation for bids. The purchasing agent shall tabulate the amount of each bid and shall record such other information as may be necessary or desirable for evaluation together with the name of each bidder. The tabulation shall be open to public inspection, and a copy of the tabulation shall be furnished to each bidder upon request. Any bidder may review the bids after tabulation or summary.

C. Bids shall be accepted unconditionally without alteration or correction. For purposes of determining the low bidder and the responsiveness of bids, no criteria except those set forth in the invitation for bids, including all specifications and addenda, may be used. [Ord. 14-27 § 4.]

4.20.040 Competitive sealed proposals.

A. *Conditions for Use.* When the purchasing agent determines, in writing, that the use of competitive sealed bidding is either not practicable or not advantageous to the city, the city may procure supplies, professional services, general services or construction by competitive sealed proposals as outlined in this section.

B. The request for proposals shall be prepared by the using department. The purchasing agent shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all specifications and contractual terms and conditions to which a proposer must respond, and shall state the factors to be considered in evaluating proposals and the relative importance of those factors.

C. Proposals shall be received at the time and place designated in the request for proposals, and shall be opened so as to avoid disclosing their contents to competing proponents during the evaluation, discussion, and negotiation process. Notwithstanding Chapter 2.40 BMC, the names of the responding firms, contents of the proposals, tabulations and evaluations thereof shall be open to public inspection only upon city council approval of a contract award. However, the purchasing agent shall issue a notice of intent to award to all responding proposers at least seven (7) business days prior to the city council approval.

1. Competing proponents may make written request to view their proposal or competing proposals prior to city council consideration of a contract. All such reviews must be in person and under the supervision of the purchasing agent. The review by a competing proponent is to assure reasonable access and opportunity to request a debriefing from the purchasing agent prior to council action on the proposed award.

D. In the manner provided in the request for proposals, the purchasing agent may enter into discussions with those responsible proponents whose proposals are determined by the purchasing agent to be most reasonably responsive to the request for proposals (short-listed firms). The purchasing agent may issue an interim notice to the remaining firms that a qualified list has been established for discussion purposes. No disclosure of the short-listed firms, contents of proposals, tabulations or evaluations thereof shall be made in accordance with subsection C of this section. Discussions shall be used to clarify and ensure full understanding of the requirements of the request for proposals. The purchasing agent may permit those short-listed firms to revise their proposals after submission and prior to award to obtain best and final offers. Proponents deemed eligible for discussions shall be treated equally regarding any opportunity to discuss and revise proposals. However, if during the discussions it is evident that the proposals, as submitted, will exceed the available funding, and/or other changes in the terms, conditions, or requirements are needed to clarify or fulfill the requirements of the city, the purchasing agent shall issue a written modification to those short-listed firms with an established date and time for the firms to respond. The failure of a short-listed firm to respond or to notify the purchasing officer of a needed time extension may be just cause to remove the proposer from further consideration. In conducting discussions or requesting revisions, neither the purchasing agent nor any other city officer or employee shall disclose any information derived from other competing proposals.

E. If fair and reasonable compensation, contract requirements and contract documents can be agreed upon with the most qualified proposer, the contract shall be awarded to that firm.

F. If fair and reasonable compensation, contract requirements and contract documents cannot be agreed upon with the most qualified proposer, the purchasing agent shall advise the proposer of the termination of negotiations within five (5) business days of the determination. If the proposals were submitted by one (1) or more other proponents determined to be qualified, negotiations may be conducted with such other proposers in the order of their respective rankings. The contract may be awarded to the proposer then determined to be most advantageous to the city.

G. When the service is routine and repetitious, costs of the anticipated service shall be considered during evaluation of proposals. This subsection shall not apply to a qualifications-based selection process.

1. When the source selection is for architectural and/or engineering services, a qualifications-based selection process shall be used. Price will not be a sole factor in the selection of the architect or engineer during the evaluation process.

2. Notwithstanding subsection (G)(1) of this section, the purchasing agent may include price as an added factor in selecting architectural and engineering services when, in the judgment of the purchasing agent, the services required are repetitious in nature, and the scope, nature, and amount of services required are thoroughly defined by measurable and objective standards to reasonably enable firms or persons making proposals to compete with a clear understanding and interpretation of the services required.

3. Except as otherwise required by state law in particular situations, this section shall apply to all procurements of architectural and engineering services by the city. [Ord. 14-27 § 4.]

4.20.050 Specifications generally for bids and proposals.

A. Requests for bids/proposals should clearly and accurately describe the technical requirements for the goods or services to be purchased. The specifications should not contain features that unduly restrict competition. A qualified products list may be used. It is the responsibility of the vendor to demonstrate to the city's satisfaction that its product is "equal" to that specified. Requests for approval of substitutions must be made with sufficient time to allow the city to adequately review the substitution request, including time for vendors to respond to questions and requests for additional information or clarification. The city has no obligation to accept proposed substitutions or to hire outside experts to evaluate proposed substitutions. Acceptance of a substitute product proposed as an "equal" to that specified will be made in writing and, if made prior to award, other firms/individuals will be notified if practical and convenient.

B. *Public Notice.* Adequate public notice of the invitation for bids/proposals shall be given a reasonable time, not less than twenty (20) calendar days prior to the date set forth therein for the opening of bids/proposals. Such notice may include publication in a newspaper of general circulation for a reasonable time prior to bid/proposal opening.

1. The public notice shall state the place, date and time of bid/proposal submission and opening.

2. The contents of the notice shall be sufficient to inform interested readers of the general nature of the supplies, services or construction being procured and the procedure for submitting a bid/proposal.

3. The failure of any person to receive notice under this subsection shall not affect the validity of any award or contract.

C. The purchasing agent, at the request of the using department director, may provide for a pre-bid/proposal conference to be held at least seven (7) business days before the last day for submitting bids/proposals.

D. The terms of an invitation for bids/proposals may be modified or interpreted only by written addenda issued by the purchasing agent or the designee. Only a bid/proposal which acknowledges receipt of all addenda may be considered responsive. If an addendum is issued less than five (5) business days before the last day on which bids/proposals are to be accepted, the time for accepting bids shall be extended by at least five (5) business days after the date on which the addendum was sent.

E. All requests for bids or requests for proposals shall require the bidder to attach to their proposal a sworn declaration:

1. Stating that neither they nor any of their representatives or third party mandated by them has attempted to contact city representatives or members of the selection committee, when applicable, for the purpose of influencing their choice, judgment or recommendation relating to the contract, or with members of the city council to influence their decision;

2. Stating that they have produced their proposal without collusion, communication, agreement or arrangement with a competitor with regards to prices, methods, factors or formulas for setting prices, to the decision to submit or not submit a proposal or to present a proposal that does not comply, directly or indirectly, with specifications contained in the request;

3. Stating that neither they nor any of their representatives engaged in intimidating measures, influence peddling or corruption or entered into any form of collusion, communication, agreement or arrangement with other suppliers or third parties relating to a contract with the city; and

4. Stating that if selected, the contractor agrees neither they nor any of their representatives will engage in discriminating against any person because of race, color, religion (creed), gender, gender expression or identity, age, national origin (ancestry), disability, marital status, sexual orientation, military status, political affiliation, or other statuses protected by law.

F. All requests for bids or requests for proposals must clearly state that:

1. A bidder's/proposer's failure to attach the sworn declarations required above shall result in automatic rejection of the proposal/bid; and

2. That in the event that a bidder or proposer, or a representative or third party mandated by them, has been in violation of the statements called for above, the bidder's proposal shall be automatically rejected; and

3. That the city of Bethel may cancel a contract that has been awarded if the city becomes aware, during the course of the contract, of a situation contravening a sworn statement required by this section.

G. Sealed bids/proposals shall be designated as such on the outer envelope and shall be submitted by mail, in person, e-mail or facsimile at the place and no later than the time specified in the invitation for bids/proposals.

Bidders/proposers who submit their bids/proposals via facsimile or e-mail do so at their own risk. The city is not responsible for failures or delays in transmission. Bids/proposals not submitted at the proper place or within the time specified shall not be opened or considered.

H. Awards shall be made by written notice to the bidder/proponent whose final proposal is determined to be most advantageous to the city. No criteria other than those set forth in the request for bids/proposals may be used in bid/proposal evaluation.

I. If the city manager determines that it is in the best interest of the city to do so, the city may reject all bids/proposals. [Ord. 21-34 § 5, 2021; Ord. 15-34 § 2; Ord. 14-27 § 4.]

4.20.060 Local preferences.

A. In awarding competitive purchases or construction contracts, preference may be given to an otherwise qualified “local bidder” unless such preference is prohibited by the funding source.

B. For purposes of this section, a “local bidder/proposer” is a person who:

1. Holds a current state business license, and, in addition, for construction contracts holds a current, appropriate state contractor’s registration certificate; and

2. Holds a current city of Bethel business license both at the time the bid is announced and at the time it is scored; and

3. Submits a bid for a competitive purchase or construction contract under the name as appearing on the person’s license, and, where applicable, a certificate; and

4. Has continuously maintained a physical place of business within the city of Bethel staffed by the bidder or an employee of the bidder for a period of one hundred eighty (180) calendar days immediately preceding the date of the bid opening; and

5. Is compliant with all requirements of the city sales tax ordinance;

6. A Bethel post office box number or residential address may not be used solely to establish status as a local business.

C. *Sliding Scale for Local Preference.*

1. A five (5) percent preference in bid/proposal prices not to exceed five thousand dollars ($5,000) on purchases not exceeding two hundred fifty thousand dollars ($250,000);

2. A three (3) percent preference in bid/proposal prices not to exceed ten thousand dollars ($10,000) on purchases between two hundred fifty-one thousand dollars ($251,000) and five hundred thousand dollars ($500,000); and

3. A two (2) percent preference in bid/proposal prices not to exceed twenty thousand dollars ($20,000) on purchases exceeding five hundred thousand dollars ($500,000). [Ord. 14-27 § 4.]

4.20.070 Contractor in good standing.

A. No procurement contract may be awarded to a person, group, organization, or other entity that is delinquent in the payment or collection of sales taxes, fees, charges, penalties, interest or other amounts that are due and owing, or otherwise obligated to the city which is not remedied within ten (10) business days of notice to the contractor.

B. Any contract can be terminated for cause if it is determined that the contractor is in violation of any taxation ordinance and if such violation is not remedied within ten (10) business days of written notification by regular mail. If the delinquency arises due to nonfiling of sales tax, no payment will be made to the contractor until all filings have been made and all amounts due are remitted.

C. The city reserves any right it may have to offset amounts owed by its contractor(s) for delinquent city taxes against any amount owing to the contractor(s) under a contract between the city and the contractor(s). [Ord. 14-27 § 4.]

Article IV. Awards

4.20.080 Award to be made only to responsive bidders or proposers.

A contract awarded under this chapter shall be made only to a qualified, responsive and responsible bidder or proposer. The purchasing agent shall determine, after consultation with the appropriate department director and the city manager, whether a bidder/proposer is qualified, responsive and responsible on the basis of the following criteria:

A. The skill and experience demonstrated by the bidder in performing contracts of a similar nature;

B. The bidder’s capacity to perform in terms of facilities, personnel, financing and location (including whether the bidder/proposer has performed contracts of a similar nature);

C. The bidder’s/proposer’s past performance under city contracts. If the bidder/proposer has failed in any material way to perform its obligations under any contract with the city, the bidder/proposer may be deemed a nonresponsible bidder/proposer;

D. At all times the best interests of the city shall be recognized in awarding bids/proposals. [Ord. 14-27 § 4.]

4.20.090 Procedures for award.

A. Contracts shall be awarded by written notice issued by the purchasing agent to the lowest qualified, responsive and responsible bidder or proposer.

B. At least seven (7) business days before council approval, the purchasing agent shall send written notice of intent to award the contract. Notice will be sent by to the three (3) lowest bidders/proposers.

C. If the lowest qualified, responsive and responsible bid/proposal exceeds the amount of funds certified by the purchasing agent to be available for the procurement, and if sufficient additional funds are not made available, the scope of the procurement may be reduced to bring its estimated cost within the amount of available funds. The purchasing agent shall issue a new invitation for bids/proposals for the reduced procurement, or, upon finding that the efficient operation of the city government requires that the contract be awarded without delay, the purchasing agent may negotiate with the three (3) lowest qualified, responsive and responsible bidders starting with the first lowest and progressing upward by price or with the three (3) most qualified proposers starting with the highest scored proposer and progressing downward by score; and may award, or recommend to the city council for award, the reduced contract to the best negotiated bid/proposal, except where prohibited by state and federal grant conditions or where another procedure has been specified in this chapter. [Ord. 14-27 § 4.]

4.20.100 Bonds.

A. *Bid Bonds.* The purchasing agent may require that persons submitting bids pursuant to this chapter accompany their bids with a bid bond in an amount and in a form acceptable to the purchasing agent. The bonds shall be issued by a company qualified by law to do business as a surety in the state, or shall be in the form of a cash deposit. A condition of the bond shall be that, if the bidder receives the award, they shall enter into a contract therefor with the city.

B. *Performance and Payment Bonds.* If a requirement for a performance and payment bond is included in the terms of the invitation to bid, the purchasing agent may require that any person awarded a city contract furnish such bond, issued by a company qualified by law to do business as surety in the state. The bond shall be in an amount determined by the purchasing agent and in a form approved by the city attorney. Such bonds shall, at a minimum, guarantee the full and faithful performance of all contract obligations and payment for all labor and materials to be used under the contract.

C. *Exceptions.* The purchasing agent, with the using department head concurrence, may grant exceptions from bonds pursuant to AS 36.25.025. [Ord. 14-27 § 4.]

Article V. Exceptions

4.20.110 When competitive bidding is not required.

The following may be purchased without giving an opportunity for competitive bidding:

A. Supplies, materials, equipment or contractual services, purchased from another unit of government at a price deemed below that obtainable from private dealers, including war surplus;

B. Contractual services purchased from a public utility at a price or rate determined by state or other government authority;

C. Supplies, materials, equipment or contractual services purchasable under the contract of another governmental agency in which contract the city is authorized to participate. [Ord. 14-27 § 4.]

4.20.120 Waiver of irregularities.

The city council, or the city manager for bids of fifty thousand dollars ($50,000) or less, shall have the authority to waive irregularities on any and all bids, except that timeliness and signature requirements shall not be waived. [Ord. 14-27 § 4.]

4.20.130 Cancellation of bid invitations and proposal requests.

An invitation for bids, a request for proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part, when it is for good cause and in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors. [Ord. 14-27 § 4.]

4.20.140 Determination of nonresponsiveness.

A. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsive, a written determination of nonresponsiveness, setting forth the basis of the finding, shall be prepared by the purchasing agent and presented to the bidder or offeror within three (3) business days.

B. The unreasonable failure of a bidder or offeror to supply information in connection with an inquiry within three (3) business days of notice by the purchasing agent may be grounds for a determination of nonresponsiveness. A copy of the determination shall be sent promptly to the nonresponsive bidder or offeror. The final determination shall be made part of the contract file and be made a public record. [Ord. 14-27 § 4.]

4.20.150 Waiver of formal bidding procedures.

The city manager may waive, in writing, some of the formal bidding procedures of this chapter when there is not sufficient time to comply with the waived requirements, or the best interests of the city will be served by such action.

Following such waiver, the city manager shall submit a written report to the council clearly outlining all waivers made. Such written report shall be included in the next available council packet following the waiver. [Ord. 14-27 § 4.]

Article VI. Specific Procurements

4.20.160 Construction.

A. *Source Selection.* The source selection process for the procurement of construction contracts, whether it be remodeling or construction of a new structure, shall be made as follows:

1. *One Hundred Thousand Dollars ($100,000) and Over.* For any construction or remodeling project estimated by the requisitioning department director to cost one hundred thousand dollars ($100,000) or more, the competitive sealed bid procedure shall be used as stated in this chapter.

2. *Under One Hundred Thousand Dollars ($100,000).* For any construction or remodeling project estimated by the requisitioning department director to cost under one hundred thousand dollars ($100,000), no less than three (3) businesses shall be contacted to submit written quotations. Award shall be given to the lowest responsible and responsive contractor.

B. *Contract Administration for Construction Contracts.* For construction contracts of less than one million dollars ($1,000,000), the city manager or council shall have discretion to select the appropriate method of construction contracting management for a particular project. For contracts exceeding one million dollars ($1,000,000), the discretion shifts solely to the city council.

1. In determining which method to use, the following shall be considered:

    a. The city's requirements,

    b. The city's resources, and

    c. The potential contractor's capabilities;

2. The city manager shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project. It is recognized that at least the following methods are currently being used for control and coordination of construction projects:

a. A single prime contractor (including a turnkey or design-build contractor); or

b. Multiple prime contractors managed by:

i. A designated general contractor,

ii. A construction manager, or

iii. The public works director.

C. *Bonds.* All construction contracts exceeding one hundred thousand dollars ($100,000) shall require the contractor to furnish the following bonds prior to the signing of any final contract:

1. Performance bond with a corporate surety qualified to do business in the state of Alaska, the amount of the performance bond shall be equivalent to the amount of the payment bond;

2. *Payment Bond.* A payment bond with a corporate surety qualified to do business in the state of Alaska.

a. When the total amount payable by the terms of the contract is not more than one million dollars ($1,000,000), the payment bond shall be in sum equal to one-half (1/2) the total amount payable by the terms of the contract.

b. When the total amount payable by the terms of the contract is more than one million dollars ($1,000,000) but not more than five million dollars ($5,000,000), the payment bond shall be in a sum of forty (40) percent of the total sum payable by the terms of the contract.

c. When the total amount payable by the terms of the contract is more than five million dollars ($5,000,000), the payment bond shall be in the sum of two million five hundred thousand dollars ($2,500,000).

3. Payment and performance bonds shall be for equivalent amounts. [Ord. 14-27 § 4.]

4.20.170 Consulting services for city council.

The city council may solicit, evaluate, and select consultants to assist them in performance of their duties without the necessity of following the formal procedures for procurement of services set forth in this code. The city council shall direct the method and criteria for obtaining consultant services by resolution setting forth the urgent situation necessitating the need to bypass the regular procurement processes and demonstrating how the city is obtaining the best possible value. [Ord. 14-27 § 4.]

4.20.180 Emergency procurements.

The city may award a contract for supplies, services or professional services or construction without competition, formal advertising or other formal procedure where the city manager determines, in writing, that an emergency threatening the public health, safety or welfare of the city requires that the contract be awarded without delay. A report on such emergency procurement shall be made to the city council no later than the second regular meeting following the decision to award the contract.

For purposes of this section, an "emergency" is defined as the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from:

A. An incident such as a storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic, explosion or riot;

B. The release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage;

C. Equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;

D. Enemy or terrorist attack or a credible threat of imminent enemy or terrorist attack in or against the state that the Adjutant General of the Department of Military and Veterans Affairs or a designee of the Adjutant General, in consultation with the Commissioner of Public Safety or a designee of the Commissioner of Public Safety, certifies to the Governor has a high probability of occurring in the near future (the certification must meet the standards set out in AS 26.20.200); or

E. An outbreak of disease or a credible threat of an imminent outbreak of disease that the Commissioner of Health and Social Services or a designee of the Commissioner of Health and Social Services certifies to the Governor has a high probability of occurring in the near future. The certification must be based on specific information received from local, state, federal or international agency or other source that the Commissioner or the designee determines is reliable. [Ord. 14-27 § 4.]

4.20.190 General equipment, materials and supplies.

A. *Source Selection.* Except as otherwise provided in BMC 4.20.050, the source selection process for procurement of general equipment, materials and supplies, other than those for construction, shall be as follows:

1. *Twenty Thousand Dollars ($20,000) and Over.* For the procurement of any single item or purchase order transaction expected to cost twenty thousand dollars ($20,000) or more, it shall be required that the request be put out for bid following the process as stated in BMC 4.20.030.

2. *Under Twenty Thousand Dollars ($20,000).* For the procurement of any single item or purchase order transaction expected to cost ten thousand dollars ($10,000) or more, but less than twenty thousand dollars ($20,000), no less than three (3) businesses shall be solicited to submit written quotations. The names of the businesses submitting quotations shall be recorded and maintained as a public record.

3. *Under Ten Thousand Dollars ($10,000).* For the procurement of any single item or purchase order transaction expected to cost five thousand dollars ($5,000) or more, but less than ten thousand dollars

($10,000), at least three (3) businesses shall be contacted for a phone quotation. The names of the businesses submitting a phone quotation shall be recorded and maintained as a public record.

4. *Under Five Thousand Dollars ($5,000).* The purchasing agent shall use judgment based on knowledge of vendors and products to determine whether or not it is necessary or practical or in the best interests of the city to solicit for quotations or bids. [Ord. 14-27 § 4.]

4.20.200 Governmental and proprietary procurements.

A. The purchasing agent may contract, without the use of the competitive source selection procedures of this chapter, for the following supplies, services, professional services or construction:

1. For contracts, including reimbursable agreements, with federal, state or local units of government or utility providers where the city has a financial responsibility or beneficial interest in entering into an agreement.

2. For contracts issued pursuant to any federal, state or local government contract where the city is an authorized user, or where the resulting contractor agrees to extend the same terms, conditions, and pricing to the city as those awarded under the original contract, all in accordance with BMC 4.20.050. Such agreements shall be limited to those contracts where the award is issued pursuant to a formally advertised solicitation.

B. All contract awards under this section, and any amendments thereto, shall be subject to the applicable approval requirements of this chapter prior to execution.

C. No contractor may provide supplies, services, professional services, or construction to the city before the applicable requirements of this section are first satisfied. [Ord. 14-27 § 4.]

4.20.210 Joint purchasing.

A. The city manager may join with other units of government in cooperative purchasing ventures for the purchase of personal property to include bid extension, where the best interest of the city would be served thereby, provided such other unit of government uses competitive bidding on the item purchased. The property to be purchased must be budgeted and substantially meet or exceed the city requirements for a similar item.

B. The city manager may join with other units of government in the cooperative purchasing of professional services and products, where the best interest of the city is served. The professional service or product must be budgeted and substantially meet or exceed the city requirements for a similar service or product.

C. The city manager may purchase personal or real property from other governmental agencies, without competition, provided the city manager presents to the council, through an ordinance as provided in Chapter 4.08 BMC, a description of the transaction, including a description of the property, its price and any such terms or information that may be relevant prior to the purchase of any real property.

D. The other units of government may be outside of Alaska, to include other municipalities, states, and the federal government. If, for a federal government purchase, the point of purchase or contract is outside of Alaska or if the unit of nonfederal government is outside of Alaska, then the bidder must agree: (1) to have venue in Bethel, Alaska, for any dispute arising out of or related to the purchase or to the good or service provided, (2) to have the laws of the state of Alaska apply to all disputes arising out of or related to the purchase or to the good or service provided, and (3) to have the laws of no state other than the state of Alaska apply to all disputes arising out of or related to the purchase or to the good or service provided. If the goods are reasonably expected to require service over their lifetime, the bidder/proposer must certify that there is a service center for the goods available in Alaska; provided, that this requirement may be omitted by the city manager for good cause in writing.

1. In addition, the bidder must agree to ship the goods FOB Bethel, Alaska, at the best shipping rate available providing for a reasonable delivery time, which shipping rate and time must be preapproved by the city manager. The bidder must agree that the city will bear only that portion of the shipping costs FOB Bethel that exceed the shipping costs to the point of delivery under the contract with the other unit of government.

E. Any purchases or agreements exceeding fifty thousand dollars ($50,000) must also be approved by the city council. [Ord. 14-27 § 4.]

4.20.220 Insurance.

A. The city shall procure liability, workmen’s compensation and property insurance coverage by sealed competitive proposals for up to a five- (5-) year period either through one (1) or more insurance brokers, directly from an insurance company or through participation in a joint insurance arrangement established in accordance with AS 21.76.010.

B. The city shall procure insurance intended to benefit city employees by competitive sealed proposals for up to a five- (5-) year period either through one (1) or more insurance brokers, directly from an insurance company or through participation in a health insurance trust or similar arrangement established in accordance with applicable state or federal law.

C. Competitive sealed proposals shall be solicited in accordance with BMC 4.20.040. The city may hire a consultant to assist in either soliciting or evaluating the competitive sealed proposals. [Ord. 14-27 § 4.]

4.20.230 Legal services.

A. Legal services shall be procured in accordance with BMC 4.20.040.

B. No negotiations or contracts for the services of legal counsel may be pursued or awarded without the prior written approval of the city attorney and/or city council. The city attorney shall review the responses received by the purchasing agent and shall be assisted by the purchasing agent in the selection process.

C. All bills or invoices for payment for legal services obtained pursuant to this section shall be reviewed and approved by the city attorney prior to payment. All funds budgeted, obligated or expended by any city department or utility for contract legal services must be charged to a separate legal services budget account within that department or utility.

D. The city council shall approve, in advance, the participation by the city in any litigation as plaintiff or intervener, where outside counsel is retained to represent the city if the cost, including attorneys' fees and litigation expenses of that representation, is likely to exceed thirty thousand dollars ($30,000).

E. *Exceptions and Waiver.* The city manager, city clerk and/or city attorney are exempt from this section only during the following situations:

1. Threatened or actual litigation initiated by an outside person;

2. Temporary coverage while the city attorney's office is vacant for any period of time;

3. Situations where immediate legal action of a specialized nature is necessary; or

4. Situations where a neutral third party attorney is needed such as appeals to a commission or the city council.

5. Following such waiver, a written report to the council shall be presented clearly outlining the waiver and the reason for it. Such written report shall be included in the next available council packet following the waiver. [Ord. 14-27 § 4.]

4.20.240 Professional services.

A. *Source Selection.* The method of source selection process for professional services shall be made through the solicitation for request for proposals as stated in BMC 4.20.040.

B. *Public Notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in BMC 4.20.050. The request for proposal shall describe services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.

C. *Statement of Qualifications.* Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. Persons may amend these statements during the filing period by filing a new statement.

D. *Discussions.* The purchasing agent may enter into discussions with those responsible proponents whose proposals are determined to be most responsive in accordance with the procedures laid out in BMC 4.20.040(D).

E. *Award.* An award shall be made to the offeror determined, in writing, to be the best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. [Ord. 14-27 § 4.]

4.20.250 Sole-source procurements.

A. A sole-source contract may be awarded under this section only when the purchasing agent determines, in writing, that there is only one (1) source for the required purchasing or construction.

B. A sole-source purchase may not be made if a reasonable alternative source exists. The written determination must include findings which support the determination that only one (1) source exists.

C. The authority to make the determination and findings required by this section may not be delegated.

D. The using department shall submit written evidence to support a sole-source determination. The purchasing agent may also require the submission of cost or pricing data in connection with an award under this section.

E. The purchasing agent shall negotiate with the single supplier, to the extent practicable, to obtain the most advantageous contract to the city.

F. A sole-source contract may be awarded without competition when the purchasing agent documents in writing, after conducting a good faith review of available resources, that there is only one (1) source for the required supply, service or construction item.

G. All sole-source determinations will be made in advance and require council approval prior to final execution. [Ord. 14-27 § 4.]

4.20.260 State and federal grants.

A. The city council has the power and authority to appropriate funds and accept grant offers from state and federal agencies.

B. The council may authorize the city manager to enter into grant agreements with state and federal granting agencies.

C. All rights, powers and authority pertaining to grants, and the administration of grants, are vested in the city manager or their designee.

D. The council may authorize the city manager to enter into contracts with incorporated entities, including organized municipalities, to assist the city in performing under the terms and conditions of grant agreements.

E. When, in the opinion of the city attorney, it is determined that certain mandated provisions of a grant agreement regarding procurement are inconsistent with this chapter, the grant provisions shall take precedent. [Ord. 14-27 § 4.]

Article VII. Bid Protests and Appeals

4.20.270 Filing of a bid protest.

A. The city establishes these administrative review procedures for bid/procurement protests to promote the fair and efficient resolution of such disputes over contracts awarded by the city pursuant to the provisions of this chapter regarding bids and requests for proposals. Time is of the essence in any protest. All documents the city issues shall be deemed to contain language advising bidders/proposers of the right to protest the determination of the successful bid/proposal as set out in this section.

B. An interested party may protest the intended award of a contract or a solicitation of supplies or services by filing a written protest with the purchasing agent.

C. All protests must include the following information:

1. The name, address, and telephone number and continuously operating fax number of the interested party filing the protest;
2. The signature of the interested party or the interested party's authorized representative;
3. Identification of the invitation, request or proposed award at issue;
4. A detailed statement of the legal or factual grounds for the protest;
5. Copies of all relevant documents;
6. The form of relief requested;
7. Certification under oath that the claim is made in good faith and that the supporting data are accurate and complete to the best of the bidder's/protester's knowledge and belief; and
8. A fee in the amount listed in the most current city of Bethel schedule of rates. Charges and fees shall be paid to the city and must be received by the deadline for filing the written protest. This fee shall be refundable if the appellant prevails in the protest to the city manager or city council.

D. The purchasing agent shall reject an untimely or incomplete protest or a protest filed without timely payment of the required fee. Such rejection shall be final and may be appealed to the Superior Court pursuant to Part VI of the Rules of Appellate Procedure. [Ord. 14-27 § 4.]

4.20.280 Timeline.

A. *Pre-Award Notice Timeline.* A protest based on alleged improprieties or ambiguities in an invitation to bid or a request for proposals must be filed with the purchasing agent at least ten (10) business days before the due date of the bid or proposal. Failure to meet this timeline shall constitute a waiver of the protesting party's rights and bar any further action regarding this matter.

B. *Post-Award Notice Timeline.* Any party bidding or submitting a proposal for a contract with the city that is adversely affected by the provisions of this chapter, or regulations promulgated hereunder, or by any acts of the city in connection with the intention of the city to award a city contract, may protest to the city manager, in writing, personally received at the office of the city purchasing agent within five (5) business days from the date of notice of intent to award a contract. The protest may be hand delivered, delivered by mail or by facsimile and must comply with the requirements of this section.

C. The purchasing agent shall immediately give notice of a protest filed to all interested parties. [Ord. 14-27 § 4.]

4.20.290 Stay of an award.

A. If a timely and complete protest is filed, the award of a contract shall be stayed until all administrative remedies have been exhausted, unless the city manager determines, in writing, that award of the contract pending resolution of the protest is in the best interest of the city.

B. Notice of the stay, protest and decision of the city manager whether or not to grant the stay shall be delivered to all interested parties within three (3) business days of receipt of a properly filed protest. [Ord. 14-27 § 4.]

4.20.300 Review by city manager.

A. The city manager shall issue a written decision to the protesting party within ten (10) business days of the date the protest is filed by certified mail or other authorized method. If multiple protests have been filed, they may be consolidated for purposes of the decision. The decision may include any lawful action, including without limitation an amendment of all or any part of the recommended award. For good cause shown the city manager may extend the date for the decision for such additional period as may be necessary. In such situation, the city manager shall immediately give written notice to all interested parties and shall provide a date when a decision is expected.

B. If a decision is not made by the date it is due, the protester may proceed as if the city manager had issued a decision adverse to the protester. [Ord. 14-27 § 4.]

4.20.310 Appeal of city manager decision.

A. The city manager's decision may be appealed to the city council by filing a notice of appeal to the city clerk and requesting the city manager to forward the written appeal and the city manager's response to the council. The council shall conduct a de novo review of the issue appealed. The request to appeal to the city council must be submitted in writing to the city clerk within three (3) business days of the city manager's decision. Any appeal not timely filed shall be rejected by the clerk and the appeal forever barred. Appeals to the city council will be heard at the date and time established by the city clerk, not less than twelve (12) calendar nor more than thirty-five (35) calendar days after receipt of the appeal. For good cause the city council may shorten or extend the hearing date. [Ord. 14-27 § 4.]

4.20.320 Notice and record on appeal.

A. The city clerk shall provide all interested parties, who may be adversely affected by a decision of the council, notice of the appeal and scheduled hearing date within seven (7) business days of receipt of the notice of appeal. Such notice shall also advise the parties of their right to appear and be heard at the appeal, and shall also set forth a schedule for written statements and submission of evidence.

B. The purchasing agent shall submit to the clerk the record of the bid or proposal process including the invitation to bid or request for proposal, any amendments thereto, all correspondence to or from all parties, the protest filed to the city manager and supporting documentation, and the decision issued by the city manager. The clerk shall prepare the record on appeal, to include written statements and all evidence submitted, and provide copies to interested parties upon payment of appropriate copying fees in the amount listed in the most current city of Bethel fee and rate schedule. Prior to the scheduled hearing the clerk shall distribute copies of the record to all city councilmembers, the purchasing agent and the city manager.

C. The city council shall act in its quasi-judicial capacity when considering an appeal under this section and shall accordingly remain impartial and refrain from ex parte contact with any interested party regarding a specific invitation to bid or request for proposal from the time it has been issued. Any councilmember found to have violated this provision shall be recused from participation in the appeal.

D. Written arguments and submittals of evidence shall be filed in the following manner:

1. *Written Arguments Due.* Written arguments shall be filed by the parties on a date set by the clerk no later than four (4) business days prior to the hearing. All exhibits, evidence, and affidavits supporting a party's position shall be filed on the date written arguments are due.

2. *Party Participation.* Any eligible party wishing to participate in the appeal must submit its mailing address, telephone and facsimile numbers, if any, to the clerk, in writing, within five (5) business days of the clerk issuing notice of the appeal. The clerk shall provide the parties, the city manager and council with written submittals before the hearing date. [Ord. 14-27 § 4.]

4.20.330 Hearing procedures.

The following procedures shall be followed by the council when conducting a hearing under this chapter:

A. Evidence not submitted to the clerk five (5) business days prior to the hearing may not be considered by the council unless good cause is shown. Good cause may include, but is not limited to, evidence that was not available to the party presenting the evidence at the time it was due to the clerk. Any objection to new evidence by any party shall be made at the time of the hearing before the council.

B. The following order shall be followed for the hearing, unless for good cause shown the council permits a change:

1. Appellant’s opening presentation;

2. Administration’s opening presentation;

3. Opening presentation by any other party;

4. Rebuttal by the appellant;

5. Rebuttal and closing by the administration;

6. Rebuttal by any other interested party; and

7. Surrebuttal and closing by the appellant.

C. If the appellant or representative is not present when called, the council shall consider any written presentation, evidence, and documents presented to it pursuant to and thereafter proceed according to the remaining applicable provisions of this chapter.

D. All persons presenting evidence shall do so under oath, administered by the city clerk.

E. The hearing shall be conducted informally with respect to the introduction of evidence. Irrelevant evidence may be excluded by the presiding officer. Each interested party shall have a total of no more than thirty (30) minutes to present their case. Each party shall be responsible for dividing their thirty (30) minutes between oral presentation, argument, testimony (including witness testimony), and rebuttal. The council may expand or limit the length of the hearing depending on its complexity, or take other action to expedite the proceedings. Cross-examination will not be permitted during presentation of the case. If a witness testifies during presentation of either the appellant’s or any other parties’ case, unless excused by the council, with the concurrence of the appellant and all other parties, the witness must remain available in council chambers to be called to testify during rebuttal by the appellant and the administration or other interested party. City council questions and parties’ responses shall not be included in the time limitation. [Ord. 14-27 § 4.]

4.20.340 Decision by city council.

A. The council may uphold the city manager’s decision, remand the matter back to the city manager or order a rejection of all bids or proposals. The council shall make written findings of fact which are supported by the substantial evidence in the record, written conclusions and an order. The councilmember chairing the hearing shall execute the order. If the matter is remanded to the city manager, any further appeals of the city manager’s decision shall be to the Superior Court pursuant to Part VI of the Alaska Rules of Appellate Procedure.

1. “Substantial evidence” means relevant evidence a reasonable mind might accept to support a conclusion.

B. The clerk shall serve the written decision on the parties in person, or by mail within ten (10) business days after the oral decision. If facsimile service is requested by a party, service by U.S. mail shall follow. [Ord. 14-27 § 4.]

4.20.350 Appeal to Superior Court.

Appeals may be taken from the written decision of the council within thirty (30) calendar days of the date of the decision pursuant to Part VI of the Alaska Rules of Appellate Procedure. [Ord. 14-27 § 4.]

Article VIII. Contract Formation and Modification

4.20.360 Budget approval – Availability of funds.

A. No contract for supplies, services or construction may be approved or executed unless the finance director has certified that funds are available for the city's performance under the contract.

B. It is the duty of the finance director to confirm that sufficient funds are available for the procurement of any single item, contract, bid/proposal or purchase order transaction exceeding five thousand dollars ($5,000), inclusive of all shipping costs.

C. The purchasing agent may give budget approval for the procurement of any single item or purchase order transaction less than five thousand dollars ($5,000).

D. Any item for which the procurement of is not otherwise included in the current fiscal year budget must be approved by council prior to the solicitation or procurement of the item. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

4.20.370 Contracting authority.

The city may, pursuant to an award in accordance with this chapter, contract with any person to acquire any supplies, services, professional services or construction required by the city. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

4.20.380 Contracts enforceable against the city.

A. No contract for supplies, services, professional services or construction, or any amendment thereto, may be enforced against the city unless its terms have been approved in accordance with this chapter and unless the contract or amendment thereto has been set forth in writing executed in accordance with this chapter.

B. No oral contracts may be enforced against the city. The city only recognizes and accepts written contracts that follow the processes laid out in this chapter. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

4.20.390 Execution of contracts.

A. All city contracts, and any amendments thereto, must be signed by the city manager or, in the absence of the city manager, by their duly appointed designee.

B. No contract or any amendments thereto may be enforced against the city unless the contract or amendment thereto has been set forth in writing and executed in accordance with this chapter. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

4.20.400 Contract administration.

The using department shall administer all contracts for supplies, services, professional services and construction except as otherwise designated, in writing, by the city manager. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

4.20.410 Contract amendments.

Contract amendments shall not be used to avoid procurement by the competitive procedures established under this chapter. Contracts for supplies, services, professional services and construction may be amended by the city manager only for the following reasons:

A. To change the quantity of supplies ordered or date of delivery under a contract for supplies, where necessary to meet unforeseen city requirements;

B. To change the quantity of services or professional services to be rendered or to change the scope of a project under a contract for services or professional services, where necessary to meet unforeseen changes in city requirements;

C. To change the scope of a project or the scope of services or professional services under a construction contract to meet unforeseen city requirements or to change the specifications under a construction contract because unforeseen conditions render the original specifications impracticable;

D. To change the time for completing a project under a contract for services, professional services or construction;

E. To correct an error in contract specifications made by the city in good faith or to resolve a good faith dispute between the city and a contractor as to a party's rights and obligations under the contract; or

F. To change administrative provisions of a contract without materially altering the contract terms governing the quantity or quality of supplies, services, professional services or construction furnished to the city.

G. No contact amendment or change order that will cause the total value of the contract to increase by more than fifteen thousand dollars ($15,000) may be executed unless the council has approved a memorandum setting forth the essential terms of the amendment or change order request.

H. No contract amendment that will increase the contract price may be approved or executed unless the finance director has certified that funds are available for the city's performance under the contract as amended. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

4.20.420 Multi-year contracts.

A. The city may enter into contracts for terms exceeding one (1) year; provided, that funds for the city's performance during the fiscal year in which the contract term commences are certified in writing by the finance director as being available.

B. The city's payment and performance obligations for succeeding fiscal years after issue of a multi-year contract shall be subject to the availability of funds lawfully appropriated therefor.

C. Contracts for construction or in connection with requirements of federal and state grants are not to be construed as multi-year contracts; however, lawfully appropriated funds must be available for the term of the contract. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

4.20.430 Council approval of contracts.

A. Prior council approval by action memorandum is required before contracts for the following can be sought:

1. All contracts over five hundred thousand dollars ($500,000);

2. Supply contracts over five thousand dollars ($5,000);

3. Services, other than professional services, over fifty thousand dollars ($50,000);

4. Insurance contracts over two hundred fifty thousand dollars ($250,000);

5. Professional service contracts over two hundred fifty thousand dollars ($250,000); and

6. Legal services over thirty thousand dollars ($30,000).

B. No contract under subsection A of this section shall be authorized unless the following essential terms of the contract are identified:

1. The identity of the selected contractor and all contractors contacted;

2. The contract price;

3. The nature and quantity of the performance that the city shall receive under the contract;

4. The using department; and

5. The time for performance under the contract.

C. Prior council approval by action memorandum is required before contract renewals or extensions are executed if the contract terms fall within the scope of subsection A of this section.

D. If contracts are awarded to more than one (1) bidder pursuant to an invitation for bids, contracts with different bidders shall be considered together for purposes of determining the application of subsection A of this section. If any contract to be awarded under a given bid is subject to council approval, the award of other contracts pursuant to the same invitation for bids may, at the discretion of the purchasing officer, be delayed pending council approval.

E. No grant to a governmental or quasi-governmental agency or to a private nonprofit corporation for any amount may be issued unless the council has approved a memorandum setting forth:

1. The identity of the grantee;

2. The grant amount;

3. The purpose to which grant funds are to be devoted; and

4. The department charged with administration of the grant.

F. No contractor may provide supplies, services, professional services, or construction to the city before the applicable requirements of this section are first satisfied.

G. Council approval via action memorandum as described in this section constitutes authorization for the city manager to execute the contract described in the memorandum.

H. Regardless of the amount involved, all contracts for professional lobbying services must be approved in advance by the council. [Ord. 20-24 § 2, 2020; Ord. 14-27 § 4.]

Article IX. Contract Disputes

4.20.440 Administrative review of contract disputes.

A. A person having a claim concerning a contract or other matter arising out of this chapter (other than a bid protest as covered in BMC 4.20.270) may file the claim with the purchasing agent. The claim must be accompanied by a filing fee as set out in the Bethel schedule of rates. When filing the claim, the claimant shall certify under oath:

1. That the claim is made in good faith;

2. That the supporting data are accurate and complete to the best of the claimant’s knowledge and belief; and

3. That the amount requested accurately reflects the adjustment for which the claimant reasonably believes the city is liable.

B. A claim under this section must be filed within thirty (30) calendar days after the claimant becomes aware of the basis of the claim or should have known the basis of the claim or within such shorter period as may be required in the contract, whichever is earlier. If the claim does not meet the requirements of subsections A and B of this section, it shall be denied.

C. If a claim asserted concerning a matter arising out of this chapter cannot be resolved by agreement, the purchasing agent shall issue a written decision and serve it upon the claimant. The purchasing agent shall make the decision not more than thirty (30) calendar days after receipt of all necessary information from the claimant, except that if the claim is for more than fifty thousand dollars ($50,000), the decision will be made within sixty (60) calendar days after receipt of all necessary information. If the claimant fails to furnish necessary information requested by the purchasing agent, the purchasing agent shall proceed to decide the claim and may, in the purchasing agent's discretion, deny all or part of the claim because of the failure to furnish necessary information.

D. During an appeal under this chapter, the claimant may not rely on or introduce information that the claimant has failed to furnish to the purchasing agent in support of the claim. Before issuing the decision, the purchasing agent shall review the facts relating to the claim and obtain necessary assistance from legal, fiscal, and other advisors.

E. The purchasing agent shall furnish a copy of the decision to the claimant by certified mail or other method that provides evidence of receipt. The decision must include:

1. A description of the claim;

2. A reference to the pertinent contract provisions;

3. A statement of the agreed-upon and disputed facts;

4. Findings of fact about the claim;

5. A determination of any amount payable;

6. A statement of reasons supporting the decision; and

7. A statement substantially as follows:

> This is the final decision of the purchasing agent. This decision may be appealed to the City manager. If you appeal, you must file a written notice of appeal with the City manager within fourteen (14) calendar days after you receive this decision.

[Ord. 14-27 § 4.]

4.20.450 Appeal of purchasing agent's decision.

A. An appeal from a decision of the purchasing agent on a contract claim (excluding bid protests) arising out of a matter in this chapter may be filed by the claimant with the city manager. The appeal by a claimant shall be filed within fourteen (14) calendar days after the decision is received by the claimant. An appeal by a claimant may not raise any new factual issues or theories of recovery that were not presented to the purchasing agent in the decision under BMC 4.20.440. The claimant shall serve a copy of the appeal with the purchasing agent at the time of filing with the clerk.

B. An appeal must contain a copy of the decision being appealed and identification of the factual or legal errors in the decision that form the basis for the appeal.

C. The city manager shall appoint a hearing officer. [Ord. 14-27 § 4.]

4.20.460 Hearing procedures.

A. The hearing officer shall arrange for a prompt hearing and notify the parties in writing of the time and place of the hearing. The hearing shall be conducted in an informal manner.

B. The hearing officer may:

1. Hold prehearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;

2. Require parties to state their positions concerning the various issues in the proceeding;

3. Require parties to produce for examination those relevant witnesses and documents under their control;

4. Rule on motions and other procedural matters;

5. Regulate the course of the hearing and conduct of the participants;

6. Establish time limits for submission of motions or memoranda;

7. Impose appropriate sanctions against a person who fails to obey an order of the hearing officer, including:

   a. Prohibiting the person from asserting or opposing designated claims or defenses or introducing designated matters into evidence;

   b. Excluding all testimony of an unresponsive or evasive witness; and

   c. Excluding a person from further participation in the hearing;

8. Take official notice of a material fact not appearing in evidence, if the fact is among the traditional matters subject to judicial notice;

9. Administer oaths or affirmations;

10. Exclude witnesses when not testifying.

C. The parties shall have the right:

1. To present witnesses and evidence; and

2. To cross-examine opposing witnesses and rebut evidence.

D. The hearing will be open to the public.

E. The hearing shall be recorded. A transcribed record of the hearing shall be made available at cost to a party that requests it.

F. The hearing officer shall review the purchasing agent's decision using a preponderance of evidence standard with the burden of proof on the claimant. [Ord. 14-27 § 4.]

4.20.470 Determination after hearing.

A. The hearing officer's decision will be written findings of fact and conclusions of law and will be made within thirty (30) calendar days of the end of the hearing, except that if the amount claimed exceeds fifty thousand dollars ($50,000), the decision will be made within seventy-five (75) calendar days of the end of the hearing. The decision shall include a statement substantially as follows:

> This is the final decision of the hearing officer. This decision may be appealed to a court. If you appeal, you must commence your lawsuit in the Superior Court for the State of Alaska at Bethel within thirty (30) calendar days after your receipt of this decision.

B. The hearing officer shall deliver the written decision to the city manager and serve the written decision on the parties by fax and by mail.

C. *Appeal to Superior Court.* An appeal may be made from the written decision of the hearing officer pursuant to the Alaska Rules of Appellate Procedure to the Superior Court for the state of Alaska at Bethel only. [Ord. 14-27 § 4.]

4.20.480 Misrepresentation and fraudulent claims.

A. A person who makes or uses in support of a claim or a bid protest under this chapter a misrepresentation, or who practices or attempts to practice a fraud, at any stage of proceedings relating to a matter arising out of this chapter:

1. Forfeits all claims relating to that procurement or contract; and

2. Is liable to the city for reimbursement of all sums paid on the claim, for all costs, including without limitation actual attorney's fees, attributable to review of the claim or protest, and for a civil penalty equal to the amount by which the claim is misrepresented.

B. The purchasing agent, hearing officer, or court shall make specific findings of misrepresentation, attempted fraud, or fraud before declaring a forfeiture under subsection (A)(1) of this section.

C. Suits to recover costs and penalties under subsection (A)(2) of this section must be commenced within six (6) years after the discovery of the misrepresentation, fraud, or attempted fraud.

D. In this section, "misrepresentation" means a false or misleading statement of material fact, or conduct intended to deceive or mislead concerning material fact, whether or not it succeeds in deceiving or misleading. [Ord. 14-27 § 4.]

4.20.490 Exclusive remedy.

The bid protest and claims procedures in this chapter provide the exclusive procedure for asserting a bid protest or claim against the city in relation to a matter arising under this chapter. [Ord. 14-27 § 4.]

The Bethel Municipal Code is current through Ordinance 22-37, passed November 8, 2022.

Disclaimer: The city clerk's office has the official version of the Bethel Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: www.cityofbethel.org
Code Publishing Company

Chapter 5.04
BUSINESS LICENSE CODE

Sections:

5.04.010 Business defined.

In this chapter, unless the context otherwise requires, "business" means and includes all activities or acts, personal, professional or corporate, engaged in or following or engaging in a trade, profession or business (including receipts from advertising services, rental of personal or real property, construction, processing manufacturing, fisheries businesses, liquor license, insurance businesses, mining and coin-operated amusement and gaming machines, but excluding fishermen), calling or vocation, with the object of financial or pecuniary gain, profit or benefit, either direct or indirect, and not exempting subactivities producing marketable commodities or services used or consumed in the main business. The giving or supplying of services as an employee to an employer does not constitute "business" under this chapter. The selling of games of skill and chance, even if done by a nonprofit organization, does constitute "business" under this chapter. [Ord. 98-29 § 2.]

5.04.020 Other provisions.

A person engaging in a business must, unless determined otherwise for good cause by the finance director, in addition to filing the regular application required by this chapter, be current on payment and collection of sales taxes, port fees, and any and all other payments, fees, taxes, charges, penalties, interest, and/or other amounts that are due and owing and/or obligated to the city, and comply with any other provisions before being entitled to a license. The finance director shall not issue or renew a business license to a person who is not in compliance with this section. [Ord. 00-26 § 3; Ord. 98-29 § 2.]

5.04.025 Appeal of finance director's decision.

A. A decision of the finance director not to issue or renew a business license to a person who is not in compliance with BMC 5.04.020 may be appealed to the city manager within five (5) working days of receipt of the finance director's decision. The appeal must be in writing and must state with specificity the reason(s) for the appeal.

B. After due consideration of the reason(s) stated in the appeal, the city manager shall issue a written decision setting forth their findings and conclusions to accept, modify, reject or remand the decision of the finance director. The decision shall be issued within ten (10) working days of receipt of the appeal. The appellant has the burden of proof and persuasion with respect to their appeal. Before issuing the decision, the city manager shall provide the appellant an opportunity to provide additional relevant information to the city manager for their consideration of the appeal. The city manager may conduct a hearing for the purpose of hearing the appellant's additional information, and may allow the finance director an opportunity to respond to any information provided by the appellant. Any hearing conducted under this section shall be informal, and shall not be governed by formal rules of evidence. The city manager may consider any relevant evidence that is not unduly prejudicial or cumulative in reaching their decision.

C. The city manager's decision is the final decision. Within thirty (30) calendar days of the date of receipt of the final decision, the final decision may be appealed to the Alaska Superior Court, Fourth Judicial District at Bethel, Alaska, pursuant to the Alaska Rules of Appellate Procedure. The final decision shall state that it is a final decision and contain any notice of the limitations on, and the right to appeal, contained in Alaska Rule of Appellate Procedure 602(a)(2) and/or any other applicable rule. [Ord. 01-03 § 2.]

5.04.030 Required – Application.

For the privilege of engaging in business in the city, a person shall first (1st) apply upon forms prescribed by the director of finance and obtain a license to do so, and pay the license fee provided in BMC 5.04.040. [Ord. 98-29 § 2.]

5.04.040 Fee.

The biennial license fee for businesses that have less than two hundred fifty thousand dollars ($250,000) in taxable sales in a calendar year is one hundred dollars ($100). The fee for a license issued to a new business that commences after the beginning of the biennial period applicable to the applicant, shall be twenty-five (25) percent of the biennial fee times the number of full and partial semesters remaining in the biennial period. No proration may be given for seasonal or other part-year operations. [Ord. 20-21 § 2, 2020; Ord. 01-28 § 11; Ord. 98-29 § 2.]

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 four (4) 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.

B. Operators of games of skill and chance licensed by the state pursuant to AS 5.15.010, et seq., shall pay the fee on a monthly basis on or before the last day of the following month. The fee shall be accompanied by a copy of the report submitted to the authorized permittee pursuant to AS 5.15.087 or any successor statute or regulation.

C. Qualified organizations authorized to conduct games of skill and chance by the state pursuant to AS 5.15.010, et seq., who do not make use of a licensed operator shall pay the fee on a quarterly basis not later than the last day of the month following the quarter a tax return is required to be submitted. A copy of the quarterly report filed with the state pursuant to AS 5.15.080 or any successor statute or regulation shall accompany payment of the fee.

D. The finance director shall have the same right to examine and audit the records of operators and qualified organizations as are given to the finance director under Chapter 4.16 BMC to examine and audit the records of persons required to collect the city sales tax. The penalties, interest and charges applicable under Chapter 4.16 BMC to late or incomplete filing of reports or returns or payment of sales tax and the failure to keep or produce records, as well as the right to protest or appeal a decision of the finance director, shall apply to the late or incomplete filing of reports or returns, the late or incomplete payment of the additional fee under this chapter and the failure to keep or produce adequate records. [Ord. 17-41 § 2; Ord. 09-17 § 2; Ord. 01-28 § 12; Ord. 98-29 § 2.]

5.04.060 Insurance required.

A. For purposes of this section, “transient lodging business” means and includes, but is not limited to, hotels, motels, bed-and-breakfast operations, and any other facility or operation that provides one (1) or more rooms on an hourly, daily, weekly, or other period that is less than monthly in exchange for direct or indirect compensation.

B. No person may operate a transient lodging business unless there is in effect during the period of such operation a commercial general liability insurance policy in an amount of not less than one million dollars ($1,000,000) per person and a combined aggregate amount of not less than two million dollars ($2,000,000) per occurrence. The deductible or self-retained coverage may not exceed ten thousand dollars ($10,000). Such insurance must include coverage for the business for liability arising out of the negligence of the business, its owners, employees and agents.

C. Each application for a business license by a transient lodging business must be accompanied by a copy of the insurance policy required by this section. No business license may be granted to a transient lodging business that does not provide a copy of a current policy required by this section; provided, the clerk may, in the exercise of discretion, accept a certificate of insurance provided to the finance director by an insurance agent or broker licensed to do business in the state in lieu of the policy itself.

D. The transient lodging business shall provide the finance director with a copy of each confirmation provided by the insurer of renewal of the required policy. Such confirmation must be provided to the city before the date of expiration of the policy that is provided to meet the requirements of this section.

E. Within seven (7) days of the receipt of the written demand from the city, a transient lodging business shall provide to the city for inspection, copying and review the policy of insurance meeting the requirements of this section. The failure of a transient lodging business to provide the policy as required by this subsection invalidates the transient lodging business license issued to such business under this chapter. A license invalidated under this subsection may be renewed by filing a complete application and payment of the late license fee under BMC 5.04.080.

F. A transient lodging business may not operate if it has failed or refused to produce the policy of insurance as required under subsection E of this section or has failed to provide confirmation of renewal prior to the expiration date, including any grace period allowed for the policy. [Ord. 98-29 § 2.]

5.04.070 Term and classification.

Licenses issued to one-half of the businesses shall expire on December thirty-first (31st) of the even-numbered years and the licenses issued to the other half of the businesses shall expire on December thirty-first (31st) of the odd-numbered years. The finance director shall establish the method of allocating businesses to the odd and even years and may establish and implement such classifications of businesses as may be useful in administering the sales tax or other city programs. [Ord. 98-29 § 2.]

5.04.080 Renewal of business license and termination of business.

A. Application for renewal of a license and payment of the biennial fee shall be made or postmarked by the United States Postal Service or private delivery service before December thirty-first (31st) of the license expiration year. Any renewal application made or postmarked after December thirty-first (31st) of the license expiration year shall be subject to a fee for the business license of twice the fee set out in BMC 5.04.040. By December tenth (10th) of each year, the finance department shall mail a written notice of renewal to each licensed business whose license will expire that year; provided, neither the failure of the city to mail the notice or the failure of a business to receive the notice shall have the effect of extending the December thirty-first (31st) renewal deadline nor of waiving any penalty or additional or increased fee for the late filing of a renewal application.

B. When a business license holder ceases to do business that the holder has been authorized to conduct under a business license issued by the city, the license holder shall notify the city in writing of the termination of the business within fourteen (14) days of such termination. Notice is not required where the business license holder transfers the business license to a successor assignee or purchaser. [Ord. 20-22 § 2, 2020; Ord. 00-14 § 2; Ord. 98-29 § 2.]

5.04.090 Regulations.

The finance director, with the approval of the city council, may promulgate regulations necessary to determine and collect fees imposed and to otherwise enforce the provisions of this chapter. The regulations become effective, with such changes as may be made by the city council, on the day following the city council meeting at which the proposed regulations are submitted to the council for review unless the regulations are rejected by the council. [Ord. 00-26 § 4; Ord. 98-29 § 2.]

5.04.100 Failure to obtain and failure to give notice of termination.

A person who engages in business before filing a business license application, or who fails to file any report or to pay the fee as prescribed by this chapter, or who fails to file a license renewal application or postmark a license renewal application by the United States Postal Service or private delivery service before February first (1st), shall, in addition to payment of the required fee, be subject to a penalty of one hundred dollars ($100) that shall be paid before the license may be issued. A business license holder who fails to give notice of termination of business shall also be subject to a penalty of one hundred dollars ($100). [Ord. 20-20 § 2, 2020; Ord. 00-14 § 3; Ord. 98-29 § 2.]

5.04.110 Offenses.

It is unlawful for a person to:

A. Wilfully evade the licensing provisions of this chapter;

B. Fail to make an application for license or fail to keep or produce any records required hereunder or by regulation;

C. Make a false or fraudulent return or false statement with intent to defraud the city or evade payment of the fee;

D. Aid or abet another in an attempt to evade payment of the fee;

E. Fail to pay the required licensing fee, sales taxes, port fees, and any and all other payments, fees, taxes, charges, penalties, interest, and/or other amounts that are due and owing to the city;

F. Engage in or operate a business without a license issued pursuant to this chapter;

G. Engage in or operate a business for which insurance is required under this chapter without a policy of such insurance in effect;

H. Fail or refuse to produce a policy of insurance required by this chapter within seven (7) days of the delivery by the clerk of a written request to produce such a policy;

I. Fail to give written notice of termination of business as required by BMC 5.04.080(B). [Ord. 00-26 § 5; Ord. 00-14 § 2; Ord. 98-29 § 2.]

5.04.120 False statements.

It is unlawful for an executive officer, manager or agent of a corporation or agent of a person to provide false information or documents or to make or permit to be made for their principal or employer a false statement in connection with an application for a business license or in answer to an inquiry from the city clerk with an intent or purpose to evade the payment of the fee or to obtain, continue, or renew a license without fully complying with the requirements of this chapter. [Ord. 98-29 § 2.]

5.04.130 Violation – Penalty.

A person who is found guilty of a violation of any provision of this chapter, or any regulation adopted pursuant thereto, is subject to a fine of up to two hundred dollars ($200); provided, the person is subject to a fine of up to five hundred dollars ($500) for a violation that occurs within three (3) years of a conviction of a prior violation of any provision of this chapter. [Ord. 98-29 § 2.]

The Bethel Municipal Code is current through Ordinance 22-37, passed November 8, 2022.

City Website: www.cityofbethel.org
Code Publishing Company

City of Bethel
Hauled Water Rates
07/01/2022
Zone 1

Capacity	1 Time/Month	2 Times/Month	1 Time/Week	2 Times/Week	3 Times/Week	4 Times/Week	Extra Haul
100	$21.15	$36.86	$73.47	$141.45	$209.45	$277.46	$58.36
150	$22.67	$39.90	$80.06	$154.59	$229.19	$307.13	$71.77
200	$24.19	$42.91	$87.58	$172.13	$263.72	$358.62	$90.47
250	$25.73	$46.46	$95.11	$194.66	$298.66	$410.39	$93.82
300	$27.23	$51.28	$105.10	$215.36	$330.77	$451.88	$97.13
350	$28.74	$55.67	$114.23	$234.21	$360.08	$491.71	$100.42
400	$30.26	$59.63	$122.45	$251.26	$386.51	$528.13	$103.75
450	$31.78	$63.18	$129.75	$266.49	$410.11	$560.68	$107.04
500	$33.30	$44.56	$136.21	$279.83	$430.88	$589.33	$113.68
550	$36.00	$74.14	$152.56	$313.67	$483.34	$661.51	$115.34
600	$37.23	$76.57	$157.52	$323.78	$498.76	$686.06	$117.01
650	$42.15	$86.86	$178.93	$368.22	$545.20	$778.02	$120.31
700	$43.52	$89.67	$184.68	$379.95	$566.88	$802.37	$123.62
750	$44.94	$92.57	$190.60	$392.04	$604.34	$827.47	$126.95
800	$51.71	$106.77	$220.14	$453.58	$700.25	$949.19	$130.26
850	$53.38	$110.21	$227.13	$467.79	$722.04	$989.85	$133.59
900	$55.09	$113.71	$234.28	$482.40	$744.40	$1,020.20	$136.90
1,000	$58.67	$121.00	$249.16	$512.74	$790.74	$1,083.14	$143.51
1,200	$70.24	$145.10	$299.32	$616.97	$951.87	$1,286.47	$156.78
1,400	$81.82	$169.18	$349.48	$721.21	$1,113.02	$1,489.78	$170.03
1,500	$99.47	$198.93	$397.87	$795.72	$1,193.59	$1,591.43	$176.66
1,750	$113.80	$227.61	$455.21	$910.41	$1,365.61	$1,820.82	$193.21
2,000	$128.15	$256.28	$512.56	$1,025.11	$1,537.66	$2,050.19	$209.80
2,500	$156.82	$313.63	$627.24	$1,256.60	$1,881.72	$2,508.95	$267.12
3,000	$185.48	$370.96	$741.94	$1,483.87	$2,225.79	$2,967.71	$276.12

City of Bethel
Hauled Water Rates
07/01/2022
Zone 1

Capacity	1 Time/Month	2 Times/Month	1 Time/Week	2 Times/Week	3 Times/Week	4 Times/Week	Extra Haul
3,500	$214.16	$428.31	$856.62	$1,713.24	$2,569.87	$3,426.47	$309.56
4,000	$246.43	$494.53	$992.83	$1,993.09	$3,00.75	$4,015.80	$419.72
4,500	$246.43	$494.53	$992.83	$1,993.09	$3,00.75	$4,015.80	$452.73
5,000	$313.63	$627.24	$1,254.49	$2,508.96	$3,667.99	$5,017.92	$485.91
6,000							$515.00
7,000							

City of Bethel
Hauled Water Rates
07/01/2022
Zone 2

Capacity	1 Time/Month	2 Times/Month	1 Time/Week	2 Times/Week	3 Times/Week	4 Times/Week	Extra Haul
100	$33.82	$62.17	$128.29	$251.13	$373.99	$496.80	$131.12
150	$35.34	$65.20	$134.88	$264.30	$393.71	$523.12	$132.59
200	$36.86	$68.22	$141.45	$277.46	$413.44	$549.42	$138.09
250	$38.36	$71.27	$148.04	$290.61	$433.17	$575.76	$139.60
300	$39.90	$74.31	$154.59	$303.76	$452.90	$602.06	$141.12
350	$41.40	$77.33	$161.20	$316.92	$472.64	$628.37	$142.64
400	$42.91	$80.37	$167.78	$330.08	$492.38	$654.67	$144.16
450	$44.44	$83.42	$174.35	$343.22	$512.12	$681.01	$145.67
500	$45.95	$86.44	$180.95	$356.38	$531.85	$707.31	$147.19
550	$47.46	$89.49	$187.50	$369.54	$551.59	$733.62	$148.72
600	$49.00	$92.52	$194.09	$382.71	$571.31	$759.92	$150.21
650	$50.51	$95.54	$200.66	$395.86	$591.05	$786.24	$151.75
700	$52.03	$98.60	$207.25	$409.02	$610.79	$812.56	$153.26
750	$51.98	$101.63	$213.81	$422.19	$630.51	$838.87	$154.79
800	$55.06	$106.77	$220.14	$454.64	$700.25	$949.19	$156.30
850	$56.58	$110.21	$227.13	$467.79	$722.04	$989.85	$157.82
900	$58.10	$113.71	$234.28	$482.40	$744.40	$1,020.20	$159.34
1,000	$61.14	$121.00	$249.16	$512.74	$790.74	$1,083.14	$162.37
1,200	$70.24	$145.10	$299.32	$616.97	$951.87	$1,286.74	$168.44
1,400	$81.82	$169.18	$349.48	$721.21	$1,113.02	$1,489.78	$174.52
1,500	$99.47	$198.93	$397.87	$795.72	$1,193.59	$1,591.43	$177.55
1,750	$113.80	$27.61	$455.21	$910.41	$1,365.61	$1,820.82	$193.21
2,000	$128.15	$256.28	$512.56	$1,025.11	$1,537.66	$2,050.19	$209.80
2,500	$156.82	$313.63	$627.24	$1,256.60	$1,881.72	$2,508.95	$267.12
3,000	$185.48	$370.96	$741.94	$1,483.87	$2,225.79	$2,967.71	$276.12

City of Bethel
Hauled Water Rates
07/01/2022
Zone 2

Capacity	1 Time/Month	2 Times/Month	1 Time/Week	2 Times/Week	3 Times/Week	4 Times/Week	Extra Haul
3,500	$214.16	$428.31	$856.62	$1,713.24	$2,569.87	$3,426.47	$309.25
4,000	$246.43	$494.53	$992.83	$1,993.09	$3,000.75	$4,015.80	$419.62
4,500	$246.43	$494.53	$992.83	$1,993.09	$3,00.75	$4,015.80	$452.77
5,000	$313.63	$627.24	$1,254.49	$2,508.96	$3,667.99	$5,017.92	$485.91
6,000	$295.63	$591.23	$1,182.48	$2,364.95	$3,547.43	$4,729.87	$515
7,000	$295.63	$591.23	$1,182.48	$2,364.95	$3,547.43	$4,729.87	$552.21

City of Bethel
Hauled Sewer Rates
07/01/2022

Capacity	1 Time/Month	2 Times/Month	1 Time/Week	2 Times/Week	3 Times/Week	4 Times/Week	Extra Haul
100	$27.05	$48.19	$96.75	$189.05	$280.60	$372.16	$77.65
150	$28.20	$50.48	$102.43	$198.95	$295.48	$392.00	$78.80
200	$29.35	$52.77	$107.41	$208.87	$310.36	$411.85	$83.54
250	$30.50	$55.05	$112.35	$218.80	$325.24	$431.67	$85.13
300	$31.63	$57.33	$117.31	$228.73	$340.12	$451.51	$86.72
350	$32.77	$59.63	$122.28	$238.64	$355.00	$471.34	$88.29
400	$33.92	$61.92	$127.23	$248.55	$355.00	$491.15	$89.87
450	$35.06	$64.20	$132.20	$258.47	$384.74	$511.00	$91.45
500	$36.20	$66.50	$137.16	$268.38	$399.61	$530.84	$93.04
550	$37.36	$68.79	$142.12	$278.30	$414.48	$550.68	$94.61
600	$38.50	$71.07	$147.08	$288.21	$429.37	$570.50	$96.19
650	$39.65	$73.35	$152.03	$298.12	$444.24	$590.34	$97.78
700	$40.78	$75.65	$156.99	$308.05	$459.12	$610.17	$99.35
750	$41.94	$77.93	$161.96	$317.97	$473.99	$630.02	$100.93
800	$43.06	$80.23	$166.90	$327.87	$488.85	$649.84	$102.51
850	$44.22	$82.52	$171.87	$337.80	$503.74	$669.68	$104.10
900	$45.95	$85.95	$176.81	$347.73	$518.62	$689.50	$105.68
1,000	$47.66	$89.39	$186.74	$367.55	$548.36	$729.19	$108.8
1,200	$52.22	$98.55	$206.57	$407.22	$607.85	$808.50	$115.15
1,400	$56.80	$107.70	$226.41	$446.89	$667.36	$887.85	$121.52
1,500	$59.08	$112.96	$236.34	$466.72	$697.11	$927.50	$124.65
1,750	$64.83	$123.71	$261.12	$516.29	$771.49	$1,026.68	$132.53
2,000	$70.54	$135.16	$285.91	$565.91	$845.88	$1,125.84	$140.46
2,500	$81.99	$158.03	$335.49	$665.06	$994.63	$1,324.17	$156.26
3,000	$93.43	$180.93	$385.06	$764.23	$1,143.38	$1,522.52	$172.06

City of Bethel
Hauled Sewer Rates
07/01/2022

Capacity	1 Time/Month	2 Times/Month	1 Time/Week	2 Times/Week	3 Times/Week	4 Times/Week	Extra Haul
3,500	$104.86	$205.13	$434.65	$863.39	$1,292.12	$1,720.85	$186.72
4,000	$135.16	$264.38	$565.91	$1,125.84	$1,685.81	$2,245.78	$276.07
4,500	$135.16	$264.38	$565.91	$1,125.84	$1,685.81	$2,245.78	$293.72
5,000	$158.03	$310.13	$665.06	$1,324.17	$1,983.32	$2,642.46	$311.37
6,000	$175.64	$345.55	$741.97	$1,478.17	$2,214.40	$2,950.60	$320.19
7,000	$197.87	$389.98	$838.25	$1,670.74	$2,503.23	$3,335.71	$346.68
12,000	$317.72	$629.81	$1,358.16	$2,710.75	$4,063.32	$5,415.89	$364.33

City of Bethel
Extra Call Rates
07/01/2022

Gallons	Water (Zone 1)	Water (Zone 2)	Sewer
100	$58.36	$131.12	$77.65
150	$71.77	$132.59	$78.80
200	$90.47	$138.09	$83.54
250	$93.82	$139.60	$85.13
300	$97.13	$141.12	$86.72
350	$100.42	$142.64	$88.29
400	$103.75	$144.16	$89.87
450	$107.04	$145.67	$91.45
500	$113.68	$147.19	$93.04
550	$115.34	$148.72	$94.61
600	$117.01	$150.21	$96.19
650	$120.31	$151.75	$97.78
700	$123.62	$153.26	$99.35
750	$126.95	$154.79	$100.93
800	$130.26	$156.30	$102.51
850	$133.59	$157.82	$104.10
900	$136.90	$159.34	$105.68
1000	$143.51	$162.37	$108.83
1200	$156.78	$168.44	$115.15
1400	$170.03	$174.52	$121.52
1500	$176.66	$177.55	$124.65
1750	$193.21	$193.21	$132.53
2000	$209.80	$209.80	$140.46
2500	$267.12	$267.12	$156.26
3000	$276.12	$276.12	$172.06
3500	$309.56	$309.25	$186.72
4000	$419.72	$419.62	$276.07
4500	$452.73	$452.77	$293.72
5000	$485.91	$485.91	$311.37
6000	$515.00	$515.00	$320.19

City of Bethel
Finance Department
Monthly Manager's Report for December 2022

Date:	December 1st – December 31st, 2022
To:	Peter Williams, City Manager
From:	Xavier Mason, Deputy Finance Director
Subject:	Management Report, December 31st, 2022

The Finance Department's Monthly Managerial Report details the progress, challenges, and activities of the Finance Department for December 2022.

Current Events within the Finance Department

- The Finance Department has hit a standstill with the FY21 audit
- The Finance Department has begun the FY24 budgeting cycle
- The Finance Department has begun the FY24 Capital Improvement Plan
- The Finance Department is preparing to begin the FY22 auditing cycle
- The Finance Department has begun various state and federal year-end reports

Staffing/Recruitment

- Finance Director
- Front Desk/Utility Billing (one vacancy)
- Accounting Specialist II (one vacancy)
- Temporary Position (two vacancies)

Training

The goal of the Finance Department is for our staff to be continuously and incrementally improving in our capacity to fulfill our duties. One of our objectives is to provide staff with opportunities for growth and exposure within all our sub-departments. The following is a list of group and independent trainings that were taken by members of the Finance Department during the month of November.

Group Training Sessions:

- The Finance Department had a team training session focused on increasing effective communication skills within a diverse team
- The Finance Department had a team training session focused on the importance of cultivating a positive workplace culture

Independent Training(s):

- The Accounting Specialist II and Deputy Finance Director attended the Alaska Government Finance Officers Association Conference from 12/6/22 – 12/9/22.
- The Accounting Specialist II attended the AML Clerk Conference
- The new Utility Billing personnel has continued their orientation.

<u>Select Tasks & Statuses by Sub-Department</u>

Utility Billing

Tasks	**Frequency**	**Status**
Collections	Monthly	Slightly behind.
ORS'	Daily	Current.

Payroll/AP

Tasks	**Frequency**	**Status**
Personnel Action Requests	As Needed	Current.
Deferred Compensation	Bi-weekly	Current.
Payroll	Bi-weekly	Current.
Accounts Payable	Weekly	Current.

Sales Tax

Tasks	**Frequency**	**Status**
Applying Business License Payments	Daily	Current.
Mailing Delinquency Notices	Monthly	Slightly Behind.
Constructing Aging Reports	Monthly	Slightly Behind.

Applying Business License Renewals	As needed	Current.
Drafting Payment Plans	As needed	Slightly Behind.
Applying Payments	Daily	Current.
Reviewing & Processing Exemption Cards	As needed	Current.

General Ledger

Tasks	**Frequency**	**Status**
Journal Entries	Monthly Recurring	Current (October).
Budget Amendments (from budget ordinances)	As needed	Current (December).
Cash Reconciliations	Monthly	Current (October).
Investment Reconciliations	Monthly	Current (October).
Create Allocations & Run Checkout	Monthly	Current (October).
DOJ Grants	Quarterly	Current (October).

Internal Improvements

The following are a list of internal tasks, actions, projects, or changes that we have made within the Finance Department for the purpose of improving operations:

- The Finance Department implemented its Employee of the Quarter Program, after over a year of delays

Small & Big Wins

Sales Tax (2 people)

- Published a list of delinquent sellers according to BMC 4.16.400 (for the first time in years) for late filers, non-filers, and delinquent sellers
- Improving the workflow of renewing business licenses, such as scanning in applications as they're received rather than waiting until the time of creating the renewal
- Improved analyzation process of exemption forms

- Setting daily goals to increase productivity, while simultaneously creating a greater feeling of accomplishment
- Cleaned up dozens of accounts
- Renewing approximately half of all business licenses and sales tax collection certificates
- Contacted approximately 80 account holders
- Renewed 52 business licenses
- Identified 20 problem accounts (regarding business license renewal)
- 36 accounts are pending renewal
- Sent out approximately 40 late filing fee notices
- Updated and reformatted the business license and sales tax renewal form
- Created a process for handling the amnesty requests for delinquent sales tax
- Closed approximately 4 business accounts
- Assisted the Grant Manager with the administrative duties for the Community Action Grant
- Assisted approximately 20 business owners apply for the amnesty program

Utility Billing (1 person)

- Processed 24 new applications
- Processed 29 change requests
- Processed 18 account closures
- Processed 60 Temporary Service Holds
- Processed approximately 30 – 40 Extra Calls
- Corrected approximately 28 accounts
- Issued over 1,200 utility bills
- Assistance for rent and utility payments can be found at:
    - https://www.ahfc.us/blog/posts/ahfc-invites-new-rent-relief-applications
    - Low Income Household Water Assistance Program
        - This is a program from the State of Alaska that assists individuals in making payments for their water and sewer services.

Payroll/AP/AR Dock (2 people)

- Updated vendors after auditing and compiling their accounts, and then filed their W-9s into a shared folder

- After City Council amended BMC 4.20.190, we reviewed the amended policy and adjusted out processes and procedures to reflect those modifications
- Began utilizing the attachment files to provide a secondary point of access to vendor MOA's, contracts, and quotes
- Coordinated with the City of Bethel Employees Association and the Human Resources Department regarding the distribution process for the PTO Disbursement and Option Election Form
- Preparing for year-end tasks
- Reviewed and approved approximately 140 check requests
- Logged over 70 AP related correspondences through December
- Began filing three fiscal years' worth of payroll documentation into individual employee files (this will help tremendously with pulling samples for the audit)
- In discussions with the Police Department on when to conduct a training for Timesheets
- Entered over 200 timesheets

Accounting Specialist II

- Reviewed several boxes of documents with the City Clerk Department that were then approved to be destroyed according to the retention schedule.
- Assisted with payroll and AP duties to cover for a staff member on leave
- Continued the transition of undertaking P-Card Duties from the General Ledger Accountant

General Ledger (1 person)

- Reclassed all Transit related expenditures from 07.22 – 12.22 to the CARES ACT Transit expenditures
- Posted 14 budget modifications within the month of December
- Generated 55 Journal entries

Interdepartmental Assistance

- City Clerk's Office
    - Processed 3 passport payments

- Grants Department

- Filing quarterly reports for various grants
- Journal Entry adjustments
- The Finance Department has been tasked with the Community Action Grant Exit Reports. Our tasks include:
  - Looking through each exit report and see if it is missing receipts, documentation, return of money unspent
  - Draft and send letters to applicants owing more information or owing money that has not been spent
  - Sending emails to applicants owing exit reports
  - Draft and send letters to applicants owing exit reports
  - Follow up on every account

- Human Resources
  - Assisting with new employee paperwork
  - Assisting with communications regarding the CBA PTO Cashout

- Planning Department
  - Processed two permits, licenses, or fees

- Police Department
  - Uploaded the November PC Slips to Core FTP LE.
  - Processed 45 taxi permit payments
  - Processed 2 chauffer payments

Customer Appreciation

A customer emailed the Finance Department Staff saying:

"You all do a great job there at the City and as far as responding and solving any issue I've ever had you are all better at it than most anyone else I deal with from my Rental Businesses or my Warehouse Business. I hope you all had a nice Christmas and Happy New Year."

Challenges

- The Finance Department needs to continue training so that we may become more proficient at completing our daily tasks and duties.
- The Finance Department is severely short-staffed; however, we are really pulling together as a team to complete our objectives and satisfying customers.
- The Finance Department deals with very rude and irate customers regularly, so we posted signs saying: "*We Reserve the Right to Refuse Service to Anyone*". Additionally, we have developed a list of customers that are only allowed to communicate to us via email due to their abusive behavior in-person or over the phone.
- Finding uninterrupted time during regular business hours to tend to focus intensive tasks

Goals for the near Future

- Utilizing data analytics to identify challenges and opportunities that can spur economic development.
- At least three stronger internal processes, such as:
    - Guidelines for overtime approval. (Completed)
    - Guidelines for PTO requests. (Completed)
    - Scripts for answering phones
- At least one Zoom workshop instructing small business owners how to file their sales tax returns.

Report Criteria:
- Accounts to include: With balances
- Include Funds: 100
- Print Fund Titles
- Page and Total by Fund
- Include Sources: None
- Print Source Titles
- Total by Source
- Include Revenues: None
- Include Departments: 53
- Print Department Titles
- Total by Department
- All Segments Tested for Total Breaks

Account Number	Account Title	2022-23 Current year Budget	2022-23 Current year Actual	2023-23 Current year
GENERAL FUND				
FINANCE				
100-53-6000	SALARIES	699,921.00	338,336.89	361,584.11
100-53-6010	OVERTIME	16,000.00	16,595.86	595.86-
100-53-6022	HOLIDAY PAY	.00	11,820.82	11,820.82-
100-53-6023	LEAVE CASHOUT	40,064.00	20,268.41	19,795.59
100-53-6030	SOCIAL SECURITY EXPENSE	1,300.00	134.57	1,165.43
100-53-6031	PAYABLE MEDICARE FICA	10,381.00	5,752.34	4,628.66
100-53-6032	UNEMPLOYMENT	12,743.00	.00	12,743.00
100-53-6033	WORKERS' COMPENSATION	1,849.00	658.21	1,190.79
100-53-6034	PERS	157,503.00	84,449.97	73,053.03
100-53-6040	EMPLOYEE GROUP BENEFITS	228,852.00	88,631.40	140,220.60
100-53-6041	UTILITY BENEFIT	41,040.00	16,073.71	24,966.29
100-53-6060	TRAVEL/TRAINING	20,000.00	10,327.43	9,672.57
100-53-6100	SUPPLIES	11,000.00	11,267.14	267.14-
100-53-6150	GASOLINE/DIESEL/OIL	1,200.00	767.57	432.43
100-53-6170	TELEPHONE	250.00	55.15	194.85
100-53-6171	STAFF CELLULAR PHONES	2,000.00	1,353.06	646.94
100-53-6200	MINOR EQUIPMENT	11,000.00	4,799.83	6,200.17
100-53-6230	VEHICLE MAINT/REPAIR	1,266.00	795.01	470.99
100-53-6310	Admin-Outsourced Services	95,000.00	53,198.27	41,801.73
100-53-6311	AUDITING EXPENSE	100,000.00	37,670.50	62,329.50
100-53-6331	HARDWARE/SOFTWARE SUPPORT	19,000.00	5,191.18	13,808.82
100-53-6335	OTHER PROFESSIONAL FEES	290,000.00	120,736.54	169,263.46
100-53-6400	INSURANCE	33,901.00	3,946.95	29,954.05
100-53-6502	ADVERTISING	2,500.00	.00	2,500.00
100-53-6503	DUES & SUBSCRIPTIONS	5,000.00	350.94	4,649.06
100-53-6506	POSTAGE	1,300.00	302.58	997.42
100-53-6530	FINANCE CHARGES/PENALTIES	300.00	43.15-	343.15
100-53-6531	BANK CHARGES	52,000.00	30,368.78	21,631.22
100-53-6532	CASH OVER/SHORT	500.00	19.82-	519.82
100-53-6533	IRS PENALTIES AND INTEREST	4,000.00	898.86	3,101.14
100-53-6539	MISCELLANEOUS EXPENSES	4,000.00	1,548.99	2,451.01
100-53-6700	INDIRECT COST RECOVERY	907,855.00	418,411.06	489,443.94
100-53-6711	ADMIN OVERHEAD-IT SVCS	33,260.00	16,497.07	16,762.93
100-53-9693	KiosK+Annual Fees&NewCopier	20,000.00	.00	20,000.00
	Total FINANCE:	2,824,985.00	1,301,146.12	1,523,838.88
	GENERAL FUND Revenue Total:	.00	.00	.00
	GENERAL FUND Expenditure Total:	2,824,985.00	1,301,146.12	1,523,838.88

Account Number	Account Title	2022-23 Current year Budget	2022-23 Current year Actual	2023-23 Current year
Net Total GENERAL FUND:		2,824,985.00-	1,301,146.12-	1,523,838.88-
Net Grand Totals:		2,824,985.00-	1,301,146.12-	1,523,838.88-

Report Criteria:

- Accounts to include: With balances
- Include Funds: 100
- Print Fund Titles
- Page and Total by Fund
- Include Sources: None
- Print Source Titles
- Total by Source
- Include Revenues: None
- Include Departments: 53
- Print Department Titles
- Total by Department
- All Segments Tested for Total Breaks

Committee Name 2023 Attendance

Regular Meetings

Member Name	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Rose Henderson (Mayor)	E											
CarolAnn Willard (Chair)	E											
Robert Rey (Vice Chair)	P											
John Hamilton	E											
Farah Sears	P											
Xavier Mason - Ex Officio	E											
Alexandra Batchelor Ex Officio	E											

Special Meetings

Member Name	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.

Vacancy shall be declared by the body when a member:
Fails to attend 3 regular meetings without being excused by the body
Fails to attend 3 special meetings without being excused by the body
Fails to attned 65% of regular meetings

P=Present
E=Excused
U=Unexcused

Chair determines excused/unexcused during roll call. If a member disagrees with the the chair, a motion to overule the decision of the chair can be made.