

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2014-03

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING CHAPTER 4.20 OF THE DILLINGHAM MUNICIPAL CODE TO EXEMPT FROM SALES TAX SALES OF ELECTRICITY AND TELEPHONE SERVICES TO USERS OUTSIDE THE CITY, PROFESSIONAL SERVICES PROVIDED OUTSIDE THE CITY, AND NON-COMMERCIAL PERSONAL PROPERTY ORDERED FOR DELIVERY FROM OUTSIDE AND DELIVERED TO A PERSON WITHIN THE CITY

WHEREAS, the City has become aware of ambiguities in its sales tax code regarding the taxability of certain transactions; and

WHEREAS, the City Council wishes to clarify that certain transactions, identified herein, are not taxable transactions because they occur primarily or entirely outside of the City of Dillingham; and

WHEREAS, the exemptions identified herein codify existing practice and are not intended to relieve any taxpayer of responsibility for taxes previously paid or owed, nor to suggest that similar transactions that have occurred in the past should have been taxed under then-existing law;

NOW, THEREFORE, BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a code ordinance.

Section 2. Amendment of Section 4.20.050. Section 4.20.050 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and emboldened and deletions are shown as strikethrough.)

4.20.050 Exemptions.

The tax levied shall not apply to the following:

... (subsections A – P omitted)

Q. Charges for long distance telephone conversations; provided, however, that the furnishing of telephone service to subscribers within the city is taxable. **Telephone service furnished to subscribers whose primary residence or business is located outside the city is not taxable;** ~~and also to subscribers outside the city who are furnished such service from within the city;...~~

... (subsections R – Z omitted)

AA. Sales of goods and services made by persons not required to obtain a business license under Chapter 4.16;

BB. Sales of electricity if the customer's physical location of service is not within the city;

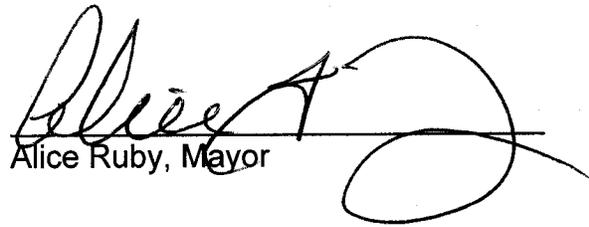
CC. Professional services provided to a customer or client whose principal residence or place of business is not within the city of Dillingham if the services are provided or performed primarily or entirely outside the city;

DD. Personal property, food products, and other household goods not intended for resale or commercial use that are shipped by a seller located outside the city of Dillingham for delivery within the city.

Section 3. Effective Date. This ordinance shall be made effective upon passage.

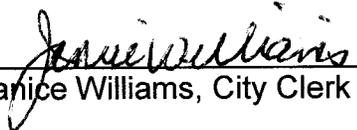
PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on

March 13, 2014.


Alice Ruby, Mayor

ATTEST:

[SEAL]


Janice Williams, City Clerk

Subject: An ordinance of the Dillingham City Council amending Chapter 4.20 of the Dillingham Municipal Code to exempt from sales tax sales of electricity and telephone service to users outside the City, professional services provided outside the city, and non-commercial personal property ordered for delivery from outside and delivered to a person Within the City

Agenda of: March 13, 2014

Council Action: This ordinance was introduced at the February 6, 2014 Regular Council meeting.

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance / Carol Shade	CS	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

- Public Hearing is scheduled to be advertised in the March 6, 2014 edition of Bristol Bay Times as required to be advertised in a local newspaper five days in advance of the public hearing

Summary Statement.

This ordinance was vetted through the Code Review Committee and is being recommended to the Council for adoption.

The City conducted a sales tax audit in 2011 which resulted in several issues of noncompliance. Staff was asked to seek legal opinion to clarify Point of Sale for the purpose of assessing City sales tax, that the code was not clear. One example noted a consultant whose primary place of business was Dillingham was not applying sales tax to services physically conducted outside Dillingham. During this time another example surfaced where a person receiving electric service who lived outside City limits had questioned why they were assessed sales tax on electric sales. Although allowed in Code, sales tax was not being applied to other electric users outside city limits.

The Code Committee met with Nushagak Electric who asked for reconsideration on collecting sales tax on telephone service, noting the communities of Manokotak and Clarks Point already have a sales tax in place and provided an analysis of electric sales to Aleknagik. The Committee also sought advisement from its attorney who commented that the services that Nushagak Cooperative provided go outside of Dillingham, and as a matter

of public policy, the City should not want to subject nonresidents to a double tax, if they are being taxed by their own village, and could change the code to accommodate that. The Committee also addressed personal property, food products, and other household goods not intended for resale or commercial use that are shipped by a seller located o/s City of Dillingham and the State of Alaska for delivery to residents within City limits.

An analysis of the loss in revenues from not enforcing its code was conducted to exclude electric and telephone sales and professional services conducted outside of Dillingham. The Committee felt the projected loss of \$25,000 was not considerable at this time. Ordinance No. 2014-03 was drafted to clarify that the City was willing to accept the position that its code was not clear previously and had taken this opportunity to clear it.