

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2012-03 (SUBSTITUTE)

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING SECTION 4.20.050 OF THE DILLINGHAM MUNICIPAL CODE TO PROVIDE AN EXEMPTION FOR SALES MADE WITHIN THAT PORTION OF THE CITY ANNEXED TO EXISTING CITY BOUNDARIES AFTER JANUARY 1, 2012 AND TO PROVIDE AN EXEMPTION FOR SALES OF FISH SUBJECT TO RAW FISH TAX

WHEREAS, the City of Dillingham filed a petition to annex territory adjacent to existing city boundaries with the State of Alaska Local Boundary Commission ("LBC"); and

WHEREAS, the LBC approved the City's annexation petition on December 14, 2011; and

WHEREAS, the annexation will not become effective unless it is approved by a majority of city voters; and

WHEREAS, the City Council by Resolution 2012-07 has authorized a special election to be held April 10, 2012 at which both approval of annexation and approval of an ordinance levying a tax on sales of raw fish will be determined by city voters; and

WHEREAS, the proposed tax on raw fish will be levied upon sellers of raw fish thereby increasing their tax payments to the City of Dillingham; and

WHEREAS, the City Council wishes to reduce the overall City tax burden on those taxpayers subject to tax on their sales of raw fish; and

WHEREAS, exempting purchases made within that portion of the City described in the annexation petition from city tax sales levied under Chapter 4.20 will reduce the overall city tax burden on those taxpayers subject to raw fish tax;

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

Section 1. Amendment of Section 4.20.050. Section 4.20.050 of the Dillingham Municipal Code is hereby amended by amending subsection O and adding a new subsection Y to read as follows (additions are underlined and deletions are in [brackets]):

[SECTION 4.21.010] **4.20.050 Exemptions.**

The tax levied shall not apply to the following:

A. The sale of insurance policies, bonds of guaranty and fidelity, and banking services rendered;

(Substitute Ordinance – **Bold** and underlined is added language.
[Brackets] and CAPS are deleted language.)

B. Funeral charges and services, the sale of medical, dental, optometric or other practices of the healing arts as defined by law, the sale of hospital or assisted living services, the sale of hearing aids, and the sale of prescriptions. This exemption shall not apply to services rendered by veterinarians, barbers, cosmeticians, or masseurs;

C. Except as provided in Section 4.20.020 under "Sale", subsection (3)(n), the sale of property, goods, or services by churches, except where such religious organizations are engaged in business for profit or savings, or competing with other persons engaged in the same or similar business; provided, however, that the tax shall not apply to the sale, of religious publications, Bibles, hymn books, prayer books, vestments and ceremonial raiments, altar and other religious paraphernalia, sacramental chalices, icons and similar church service equipment;

D. Except as provided in Section 4.20.020 under "Sale," subsection (3)(n), sales to churches and bona fide religious and charitable organizations, but not to the individual members or employees thereof for their own personal consumption, use or accommodation;

E. The transportation of students to and from elementary, junior high and high schools in motor or other vehicles;

F. The sale of food and beverages in public, high school or college cafeterias and lunchrooms operated primarily for teachers and students, and not operated primarily for the public or for profit;

G. Carrier sales made directly to consumers or users of newspapers and periodicals;

H. Sales, which the municipality is prohibited from taxing under the respective constitutions and laws of the United States and of the state;

I. Sales to the United States Government, the state and its political subdivisions, the city or any department thereof; provided, however, that the exemption shall not be applicable to the sale of materials and supplies to contractors for the construction or manufacture of property for government agencies on a contract bid award, in which the contractor shall be deemed the buyer or consumer or user subject to payment of the tax;

J. Dues, fees, or tuition paid to clubs, labor unions and fraternal or religious organizations;

K. An isolated sale not made in the regular course of business of the seller;

L. Commissions or fees charged by brokers or agents in the sales of real and personal property which exceed two thousand dollars per transaction;

M. Sales of property at temporary venues for annual civic events which serve to promote Dillingham to residents of Bristol Bay villages or to tourists;

N. Sale of Native arts and crafts by the artist; except that this exemption shall not apply to businesses with a fixed location which sell Native arts and crafts as dealer, broker or agent;

O. Sales of fish subject to tax under [CHAPTER 4.22] Chapter 4.21 of this title [and other marine products to buyers who are not consumers];

P. Steamship and air transportation services;

Q. Charges for long distance telephone conversations, provided, however, that the furnishing of telephone service to subscribers within the city is taxable, and also to subscribers outside the city who are furnished such service from within the city;

R. Sales to public or private charitable institutions operating primarily as bona fide homes for homeless, delinquent, or dependent children of others;

(Substitute Ordinance – **Bold and underlined** is added language.
[Brackets] and CAPS are deleted language.)

S. The selling price amount of any sale (other than the rental or lease of real or personal property or any provision of services) in excess of two thousand dollars. For purposes of this exemption the following rules apply:

1. For purposes of computing the sales price of multiple items purchased at the same time, which are delivered to the consumer on one date, shall be combined. If the consumer is purchasing a number of items for a construction, improvement, or renovation package the sales price of the multiple items purchased at the same time as a package shall be combined even though delivery or payment for some of the items may be made at different times. A "package" is defined as an arrangement where the buyer or seller have obtained all required permits, (i.e., city land use permit or other building permit), and there is a written agreement with seller identifying the total price being paid.

2. Each payment for a single item paid for on an installment basis shall be considered a separate sale with the exception that installment payments for snow machines, ATVs, boats, boat motors, and vehicles that are seller financed by a business operating within the city or by a financial institution are subject to the sales tax cap on the total amount of the sale.

3. For purposes of computing the amount of any sale or transaction, items purchased on account or on credit on different days shall not be combined and treated as a single sale or transaction;

T. Dump fees;

U. Wharfage and handling at the city dock;

V. Fees earned for child care services;

W. The sale from a business recognized by the city, to another recognized business within the city, of an item to be used as an ingredient or component part of an end product may be tax exempt provided the buyer has a valid certificate of exemption;

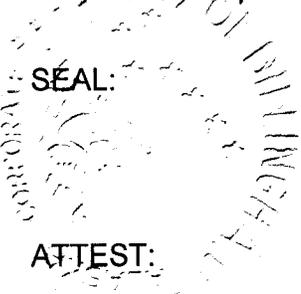
X. The sale of boat harbor fees

Y. Sales of goods and services made within that portion of the City annexed to the city after January 1, 2012.

Section 2. Effective Date. This ordinance shall be effective as of June 1, 2012, but only if a ballot proposition ratifying Ordinance No. 2012-01 is approved by the voters of Dillingham in a special election to be held on or about April 10, 2012.

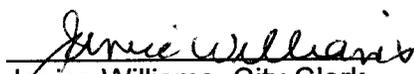
PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on

March 1, 2012





Alice Ruby, Mayor
City of Dillingham



Janice Williams, City Clerk

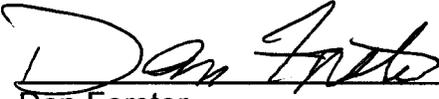
City of Dillingham Information Memorandum No. O2012-03 (Substitute)

Subject: An ordinance of the Dillingham City Council amending Section 4.20.050 of the DMC to provide an exemption for sales made within the portion of the City annexed to existing city boundaries after January 1, 2012 and to provide an exemption for sales of fish subject to raw fish tax

Agenda of: March 1, 2012

Council Action:

Manager: Recommend approval.

City Manager: 
Dan Forster

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

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

Other Attachment(s):

Summary Statement.

This ordinance was introduced at the February 2, 2012 Regular City Council meeting. It is being brought back as a substitute version with two minor changes: 1) to correct the section number on page 1 at the bottom from 4.21.010 to 4.20.050; and 2) to correct the chapter reference on page 2, item letter O. from 4.22 to 4.21. The Code Review Committee discussed the revised changes at their February 23 meeting, and is recommending the Council adopt the substitute ordinance.

The sales tax amendment ordinance would:

1. Exempts all sales made in the newly annexed territory from sales tax under Chapter 4.20; and
2. Modifies the existing "raw fish" exemption to apply only to sales subject to tax under the proposed raw fish tax.

The effective date of the ordinance depends on passage of the raw fish tax (but not annexation). This means that if annexation passes but the fish tax does not, the ordinance is NOT effective, and sales made within the annexed area will be subject to sales tax. This effective date was chosen because the underlying rationale for the new exemption is that those paying raw fish tax will have a larger tax burden. If the raw fish tax is not approved, that rationale for the sales tax exemption will not exist. The City Council could make the effective date subject to approval of annexation instead of or in addition to approval of the raw fish tax.