

**CITY OF CORDOVA, ALASKA
ORDINANCE 1188**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA, AMENDING CORDOVA MUNICIPAL CODE SECTION 5.40.030 TO UPDATE LANGUAGE REGARDING SALES TAX EXEMPTIONS AND ADDING CMC 5.40.025 TO IDENTIFY CLASSES OF BUYERS EXEMPT FROM CITY SALES TAX AND TO EXEMPT SALES, SERVICES, AND RENTALS TO FEDERALLY RECOGNIZED TRIBAL ENTITIES FROM CITY SALES TAX

WHEREAS, on April 1, 2020, the City Council passed and approved Ordinance 1183, which adopted Cordova Municipal Code Chapter 5.42 Alaska Remote Seller Sales Tax Code Including Common Definitions (the “Remote Seller Sales Tax Code”), and Amending CMC 5.40.030(F) to Repeal the Exemption for Interstate Sales Found in Cordova Municipal Code 5.40.030(F)(4); and

WHEREAS, following the adoption of Ordinance 1183, City staff communicated with the Alaska Remote Sellers Sales Tax Commission (the “Commission”) and now recommends the City adopt a sales tax exemption for federally recognized tribal entities; and

WHEREAS, Cordova Municipal Code 5.40.030 has not been substantially updated in approximately a decade and exemption language warrants review and revision for clarity; and

WHEREAS, Council finds that it is in the best interests of the City to have consistency and uniformity between the Remote Seller Sales Tax Code, the Uniform Code and the City’s Sales Tax Code with regard to the treatment of federally recognized Tribal entities, and to amend the City’s Sales Tax Code to add an express exemption for federally recognized Tribal entities where no such express exemption exists under the current Sales Tax Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cordova, Alaska that:

Section 1. Cordova Municipal Code Section 5.40.030 is amended to read as follows:

5.40.030 – Exemptions-**General.**

The following sales and services are exempt transactions and are not subject to taxation by the city:

- A. Proceeds from casual, occasional or isolated sales which are easily identified as the sale of personal goods or property at such private functions as moving, garage, yard, food and bake sales, sale of private vehicles when the seller is not a dealer in used vehicles, or services such as babysitting or house-sitting. A city license is not required under this subsection A;
- B. Sales of insurance and bonds of guaranty and fidelity;
- C. Fees for sales and services in excess of three thousand dollars per single purchase transaction. This exemption does not apply to accumulative purchases and billed as a lump sum in excess of three thousand dollars except as provided in subsection D relating to sales of construction

materials and services. In the event of an oil spill that requires mobilization of the oil spill response vessels, this exemption is automatically suspended for ninety days on all fees for sales and services commencing on the day of the oil spill;

- D. Sales of construction materials and services exceeding three thousand dollars for use in each construction project paid for by any one purchaser during any twelve consecutive month period; provided, that the purchaser has obtained a building permit from the city prior to the start of the project and all receipts for construction materials and services clearly show the building permit number. Construction materials are those items becoming a permanent part of the structure. Purchaser may pay all sales tax on such materials and services and may apply for a refund as set out in [Section 5.40.042] or may pre-pay applicable city sales tax in advance and receive an exemption card;
- E. Gross receipts or proceeds derived from servicing, freezing, storing, handling or wharfing of fisheries commodities awaiting shipment or in the process of being shipped;
- F. Gross receipts or proceeds derived from sales or services which the municipality 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:
 - 1. Sales by the U.S. Postal Service,
 - 2. Sales of any items purchased with food coupons, food stamps or other type of certificate issued under 7 U.S.C. Sections 2011-2025 (Food Stamp Act),
 - 3. Purchases made under the authority of or made with any type of certificate issued pursuant to 42 U.S.C. Sections 1771-1789 (Child Nutrition Act of 1966),
 - ~~5. Air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation;~~
 - ~~6. Gross receipts or proceeds derived from sales to the United States, state, city or any political department thereof;~~
- G. Gross receipts or proceeds from the transportation (including freight and shipping charges), loading, unloading or storing of cargo from marine vessels or aircraft in foreign, interstate or intrastate commerce;
- H. Services of a person licensed or certified by the state of Alaska as a doctor of medicine and surgery, a doctor of osteopathy and surgery, a doctor of veterinary medicine, a chiropractor, a dentist, a naturopath, an optometrist, an audiologist, a hospital, an occupational therapist, a physical therapist, a massage therapist or a licensed or practical nurse; provided, that the service is within the scope of the state license or certificate;
- I. Services of a person licensed or certified by the state of Alaska as a psychologist or psychological associate, a clinical social worker, an alcohol and drug counselor, or a marital and family therapist;

- J. Fees for supplies, equipment and services provided by a hospital, medical clinic or dental clinic for patient treatment including laboratory and x-ray services;
- K. Gross receipts or proceeds of the retail sale of prescription drugs;
- L. Sale of cemetery plots, caskets, funeral and burial related items and the services by a funeral home;
- M. Commissions received by travel agencies for their services that are not set by and billed by the travel agencies. Service charges set by and billed by the travel agencies are not exempt from taxation under this chapter;
- N. Dues or fees to clubs, labor unions or fraternal organizations;
- O. Fees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations;
- P. 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;
- Q. 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;
- R. Sales of food at educational and hospital cafeterias and 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;
- S. Sales, services and rentals by or to religious organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of religious activity; provided, the income from the exempt transaction is also exempt from federal income taxation;
- T. Sales, services and rentals by or to scouting, 4H or similar youth organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation;
- U. Sales, services and rentals by or to benevolent or civic organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation and the income is donated to a charity. Such organizations shall pay the sales taxes at the time of purchase and shall apply to the city for a refund as provided in Section 5.40.040;

- V. Proceeds from contract services provided by a state-licensed child care contractor;
- W. Proceeds from contract services provided by a person for the purpose of taking temporary care of minors for another person;
- X. Proceeds from products sold as wholesale sales to businesses designated by the state of Alaska as wholesalers. These include the 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 himself out as regularly engaged in the business of selling such products;
- Y. Proceeds from products sold for resale:
 1. 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. The product must be an item that is sold as part of the reseller's primary business and must be 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,
 2. Goods, wares or merchandise that can be purchased only as part of a package purchase of services, such as a bed-and-breakfast or a fishing or hunting charter and not by the general public as separate and individual items are not exempt under this chapter,
 3. Food products that are purchased for resale must be purchased and sold as is or prepared in a kitchen that is DEC-certified in order to qualify for sales tax exemption. Proof of certification must be available upon request;
- Z. Proceeds from services for resale: Services that are provided by a subcontractor to a contractor for a third party is considered services for resale and is exempt from taxation;
- AA. Sales of real property. Rentals of real property are not exempt from taxation by the city.
- AB. Commissions or fees in excess of three thousand dollars earned by brokers or agents in real estate sales transactions.
- AC. Home heating oil purchased for use in a dwelling, as defined in [Section 18.08.190], for use at that location conditioned on the following:
 1. That no more than fifty percent of the floorspace of the building(s) considered as dwellings be used as nonresidential use, including business activities.
 2. That the dwelling be operated in compliance with all other regulations and laws.

3. If a fuel tank is used to supply more than one structure or area then no more than fifty percent of the floorspace and area supplied shall be nondwelling and nonresidential including business activities.

AD. Proceeds from air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation.

Section 2. Cordova Municipal Code Title 5.40 is amended to add Section 5.40.025 entitled “Exemptions-Class of buyers,” to read as follows:

5.40.025-Exemptions-Class of buyers

The following classes of buyers are exempt from the provisions of this chapter:

- 1. The United States, the State of Alaska, or any instrumentality or political subdivision of either, including a city.**
- 2. Federally recognized tribal entities.**

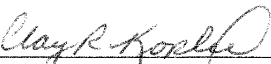
Section 3. This ordinance shall be effective thirty (30) days after its passage and publication. This ordinance shall be enacted in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska, within ten (10) days after its passage.

1st reading: June 3, 2020

2nd reading and public hearing: June 17, 2020

PASSED AND APPROVED THIS 17th DAY OF JUNE 2020.





Clay R. Koplín, Mayor

ATTEST:



Susan Bourgeois, CMC, City Clerk