

1st Reading: February 17, 2020
2nd Reading: March 9, 2020

Presented By:
City Clerk

Action Taken:
Yes 5
No 0
Abstain 0

CITY OF NOME, ALASKA

ORDINANCE NO. O-20-02-01

AN ORDINANCE AMENDING NOME CODE OF ORDINANCES TITLE 17 TO ADOPT BY REFERENCE THE ALASKA REMOTE SELLERS SALES TAX CODE AND TO AMEND CHAPTER 17.10 TO ADD AND AMEND DEFINITIONS, REPEAL SECTIONS 17.10.080, 17.10.170(E), AND 17.10.170(F), ELIMINATE THE ANNUAL SALES TAX LICENSE FEE, PROVIDE FOR EXTENSIONS OF TIME FOR FILING RETURNS AND REPAYMENT PLANS AND AMEND PENALTY PROVISIONS

WHEREAS, retail sellers making deliveries to buyers in the City of Nome benefit from municipal services provided by the City; and

WHEREAS, exempting out-of-town retailers from the obligation to collect and remit sales taxes provides these retailers an unfair competitive advantage over local retailers; and

WHEREAS, compelling collection and remittance of sales taxes by out-of-town retailers who regularly sell to buyers in the City and State of Alaska does not unconstitutionally intrude upon Congress's authority to regulate commerce; and

WHEREAS, marketplace facilitator rely upon a reputation as a retailer or marketplace and bring to bear resources and branding to facilitate sales by third-party sellers, with such sales sometimes so seamlessly integrated into the buyer's experience that the buyer is unaware the marketplace facilitator is not the seller; and

WHEREAS, marketplace facilitators are capable of and should be responsible for ensuring that sales brokered by the marketplace facilitator comply with applicable laws, including the collection and remittance of sales taxes;

WHEREAS, historically the Constitution of the United States prohibited the City from levying sales tax on mail order or internet purchases from businesses located outside the State of Alaska who did not have a physical presence within city boundaries; and

WHEREAS, the United States Supreme Court decided on June 21, 2018 in the case South Dakota v. Wayfair that the United States Constitution no longer prohibited the City from levying sales tax on mail order or internet purchases from businesses located outside the State of Alaska; and

WHEREAS, in response to the Wayfair decision, several Alaskan municipalities formed the Alaska Remote Sellers Sales Tax Commission (“the Commission”); and

WHEREAS, on January 6, 2020, the Commission adopted the Alaska Remote Sellers Sales Tax Code and Supplemental Definitions (“Uniform Code”); and

WHEREAS, on November 25, 2019, the Nome City Council adopted Resolution R-19-11-02 authorizing the City of Nome to become a member of the Commission and authorizing the City Manager to sign the Alaska Intergovernmental Remote Seller Sales Tax Agreement (“the Agreement”) and to obtain and maintain membership in the Commission; and

WHEREAS, the Agreement requires Commission members to adopt the Uniform Code by reference or otherwise in its entirety by May 5, 2020; and

WHEREAS, some provisions of the Uniform Code differ from existing requirements of Chapter 17.10 of the Nome Code of Ordinances Code; and

WHEREAS, it is preferable to harmonize definitions and administrative provisions of Chapter 17.10 with the Uniform Code;

NOW, THEREFORE, be it ordained by the Nome Common Council that Title 17 of the Nome Code of Ordinances be amended as follows:

Section 1. Classification. Sections 3 through 14 of this ordinance are of a permanent nature and shall be included in the Nome Code of Ordinances.

Section 2. Legislative Findings.

(1) The inability to effectively collect city sales tax from remote sellers who deliver tangible personal property, any products transferred electronically, or services directly to the citizens of Nome is seriously eroding the sales tax base of Nome, causing revenue losses and imminent harm to this city through the loss of critical funding for services;

(2) The harms from the revenue losses are especially serious in Nome because sales tax revenues are essential in funding local services;

(3) The structural advantages of remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that further erosion of this city’s sales tax base is likely soon;

(4) Remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from this state’s market, including the economy generally, as well as state and city infrastructure;

(5) In contrast with the expanding harms caused to the city from this exemption of sales tax collection duties for remote sellers, the costs of that collection have fallen. Given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska generally and Nome specifically.

(6) The failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities;

(7) Delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services;

Section 3. Amendment of Subsection 17.10.060. Title 17, Chapter 10, Section 060 of the Nome Code of Ordinances is hereby amended to read as follows [deleted text is overstruck; added text is underlined]:

(a) No person other than a remote seller subject to Chapter 17.15, may engage in any retail sales transaction as a seller within the city without first procuring either:

(1) An annual sales tax license from the office of the city clerk; or

(2) A transient merchant license under Chapter 3.15 NCO; or

(3) An annual motor bus, chauffeur's, or taxicab license under Chapter 3.10 NCO.

(b) An application for a sales tax license shall include the name of the applicant; the mailing, residential, and business addresses of the applicant; certification by the applicant that he or she has not had any business license or tax license suspended or revoked within six months prior to the date of the application; proof of compliance with all state and federal licensing and registration requirements; and such other information as the city clerk may deem reasonably necessary for the proper administration of this chapter. The information contained in the application shall be submitted under oath or affirmation of the applicant.

(c) No sales tax license shall be issued to or renewed for a person who is required to have a state business license registration or permit, until that applicant submits evidence (1) that he or she has in his or her possession, or has applied for, the state business license, registration or permit; and (2) that all license, registration and permit fees have been paid current. A licensee, registrant or permittee whose fee falls due annually shall have thirty days after the due date in which to submit proof that the state license, registration or permit has been obtained. No sales tax license may be

issued to or renewed for a person owing a judgment, delinquent taxes, or a utility bill to the city, except by terms and conditions established in each such case by the city manager.

(d) ~~There shall be a fee of twenty five dollars with the original application for the sales tax license. The license shall be renewed annually by February 1st upon payment of a fee of twenty five dollars and completion of a renewal form as provided by the city clerk. The sales tax license shall be nontransferable.~~

Section 4. Repeal of Section 17.10.075. Section 17.10.075 of the Nome Code of Ordinances is hereby repealed in its entirety.

Section 5. Amendment of Subsection 17.10.080. Title 17, Chapter 10, Section 080 of the Nome Code of Ordinances is hereby amended to read as follows [deleted text is overstruck]:

(a) A full remittance of all sales tax levied shall be due and owing from the seller to the city on the twentieth day of the month succeeding the end of the calendar month of the taxable transaction, whether or not the same tax has been collected from the buyer. ~~Upon receipt of sufficient proof that the seller has made a diligent effort to collect delinquent sales tax due and owing from a buyer, the city clerk may deduct from the sales tax due to the city for the first or fourth calendar quarter that amount of sales tax paid to the city on uncollectible accounts during the preceding calendar year.~~

(b) A person doing business within the city who has obtained or is required to obtain a daily transient merchant license under NCO Section 3.15.030(a) shall file a sales tax return and remit in full the tax due within twenty-four hours following the expiration of the license.

~~(c) If a marketplace facilitator demonstrates to the clerk's reasonable satisfaction that the marketplace facilitator made a reasonable effort to obtain accurate information from the marketplace seller about a sale and that the marketplace facilitator's failure to collect and remit the correct tax was due to the marketplace seller providing incorrect information to the marketplace facilitator, the marketplace facilitator shall be relieved of liability for that sale.~~

Section 6. Amendment of Chapter 17.10. Title 17, Chapter 10, of the Nome Code of Ordinances is hereby amended by enactment of a new section 17.10.018 to read as follows:

17.10.018 – Extension of Time to File Tax Return

Upon written application of a seller other than a remote seller or marketplace facilitator, stating the reasons therefor, the city clerk may extend the time to file a sales tax return but only if the city clerk 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 or otherwise in violation of this chapter;
5. No such extension shall be made retroactively to cover existing delinquencies.

Section 7. Amendment of Section 17.10.100. Title 17, Chapter 10, Section 100 of the Nome Code of Ordinances is hereby amended to read as follows [deleted text is overstruck; added text is underlined]:

(a) A penalty of five percent of the sales tax due and owing shall be added to the tax for the first month or fraction thereof of delinquency or failure to file a sales tax return with the information required under NCO Section 17.10.015, and an additional five percent of the sales tax due and owing shall be added to the tax for subsequent months until a maximum penalty of ~~fifteen~~ twenty percent has been accrued. Any surcharge required by AS 12.55.039 shall also be imposed. The filing of an incomplete return shall be treated as the filing of no return.

(b) In addition to penalties, interest shall accrue on the principal amount of the delinquent tax at the rate of fifteen percent per annum from the date of the delinquency until paid.

(c) ~~If no tax is owed~~, Regardless of whether any taxes were due, the penalty for late filing of the sales tax return shall be ~~fifty~~ twenty-five dollars.

(d) Penalties and interest shall be assessed and collected in the same manner as the sales tax is assessed and collected.

(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 city clerk, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed, within forty-five (45) calendar days after the date of delinquency. A seller may not be granted more than one (1) waiver of penalty under this subsection in any one calendar year.

Section 8. Amendment of Chapter 17.10. Title 17, Chapter 10, of the Nome Code of Ordinances is hereby amended by enactment of a new section 17.10.082 to read as follows:

17.10.082 – 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:

i. The seller agrees to pay a minimum of ten percent (10%) 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.

ii. 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.

iii. Interest at a rate of fifteen percent (15%) 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.

iv. 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.

v. The seller agrees to pay all future tax bills in accordance with the provisions of this chapter.

vi. 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 clerk 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.

Section 9. Amendment of Section 17.10.120. Title 17, Chapter 10, Section 17.10.120 of the Nome Code of Ordinances is hereby amended to read as follows [deleted text is ~~overstruck~~; added text is underlined]:

Any person who fails to file a statement required by this chapter or chapter 17.15, or who makes a false affidavit of the amount, location, kind or value of property subject to sales taxation, with intent to evade the taxation, is guilty of a misdemeanor. Upon conviction, he or she is punishable by a fine of not more than one thousand dollars plus any surcharge required to be imposed by AS 12.55.039, or by imprisonment for not more than ninety days, or by both, together with the costs of prosecution.

Section 10. Amendment of Section 17.10.130. Title 17, Chapter 10, Section 17.10.130 of the Nome Code of Ordinances is hereby amended to read as follows [deleted text is ~~overstruck~~; added text is underlined]:

(a) The assessor is not bound to accept a sales tax return as correct. He or she may make an independent investigation of all retail sales transactions. In such case, the assessor may make his or her own valuation of the taxable property, which shall be prima facie evidence in a court of law.

(b) For the conduct of an investigation, the assessor or his or her agent may enter any premises during reasonable hours, and may examine all books, records and other documents and property that may reasonably lead to the discovery of evidence of retail sales transactions. A person shall, upon request, furnish to the assessor or his or her agent every facility and assistance for the purposes of the investigation.

(c) An assessor may examine a person on oath. Upon request during reasonable hours, the person shall present himself or herself for examination by the assessor.

(d) Each seller liable to collect and pay sales tax shall maintain for a period of ~~three~~ six years all books, records and other documents containing evidence of retail sales transactions, and shall produce any and all said books, records and other documents for examination and inspection at any reasonable time by the assessor.

(e) In the event the assessor, upon completion of an audit, discovers more than ~~one thousand~~ five-hundred dollars in additional sales taxes due from a merchant resulting from a merchant's failure to accurately report sales and taxes due thereupon, the merchant will bear responsibility for the cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by assessor at the time of the conclusion of the audit but shall not exceed one thousand dollars.

(f) A merchant may appeal audit assessments and penalties. The appeal will be conducted in a manner that is consistent with the appeal procedures set forth in NCO Sections 17.10.110(d) and (e).

Section 11. Repeal of Subsections 17.10.170(e) and (f). Section 17.10.170(e) of the Nome Code of Ordinances is hereby repealed in its entirety. Section 17.10.170(f) of the Nome Code of Ordinances is hereby repealed in its entirety.

Section 12. Amendment of Subsection 17.10.175(a). Title 17, Chapter 10, Section 175(a) of the Nome Code of Ordinances is hereby amended to read as follows [deleted text is ~~overstruck~~; added text is underlined]:

(a) No sale will be considered a "sale for resale without alteration" for purposes of taxation under this chapter and chapter 17.15 unless, at the time of sale, the buyer presents the seller with a valid city resale certificate applicable to the good or service purchased.

Section 13. Amendment of Section 17.10.180. Title 17, Chapter 10, Section 180 of the Nome Code of Ordinances is hereby amended to read as follows [deleted text is ~~overstruck~~; added text is underlined]:

For purposes of this chapter, ~~and chapter 17.15,~~ the following words and phrases shall have the meanings respectively ascribed to them in this section:

“ATV” or “off-highway vehicle” or “all-terrain 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 of Motor Vehicles to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided by state law; it does not include implements of husbandry and special mobile equipment.

“Buyer” means ~~the~~ a person to whom a sale of property or product is made or to whom a service is furnished, who in the ordinary meaning of the term takes title to, takes possession of, or buys property or receives services for valuable consideration.

“Charitable” means an entity eligible under the Internal Revenue Code to receive tax-deductible donations (e.g., 501(c)(3) and volunteer fire company or veteran organization 501(c)(4)).

“Child care” means a regular service of care and education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

“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. ~~a person or entity engaged in transporting passengers or goods or both for valuable consideration in the normal course of the business of that person or entity, or a seller engaged in transporting directly to a common carrier goods sold by him or her in a retail sales transaction directly to a buyer residing outside the city.~~

“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.

“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.

“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.

“Gaming” means any game defined in AS 05.15.690, as amended or renumbered.

“In-state” means in the state of Alaska, and as applied to sale means any sale where the buyer receives custody, control, access to, or use of the goods in the state and where the buyer receives a service, or the benefit of a service, in the state.

“Loan” means an extension of credit resulting from direct or indirect negotiations between a lender and a debtor.

“Marketplace” is a physical or electronic setting, including, but not limited to, a store, a booth, an Internet website or exchange, catalog, or software application, where goods or services are offered for sale. A marketplace does not include the digital network, as defined by AS 28.23.180, of a transportation network company.

“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:

(a) Directly or indirectly, through one or more affiliated persons in any of the following:

(i) Transmitting or otherwise communicating the offer or acceptance between the buyer and remote seller;

(ii) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;

(iii) Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or

(iv) Software development or research and development activities related to any of the activities described in (b) of this subsection (3), if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

(b) In any of the following activities with respect to the seller’s products:

(i) Payment processing services;

(ii) Fulfillment or storage services;

(iii) Listing products for sale;

(iv) Setting prices;

(v) Branding sales as those of the marketplace facilitator;

(vi) Order taking;

(vii) Advertising or promotion; or

(viii) Providing customer service or accepting or assisting with returns or exchanges.

who owns or maintains a marketplace and who, with respect to a marketplace seller's goods or services, transmits or otherwise communicates the offer or acceptance, and:

- ~~(1) Provides payment processing services;~~
- ~~(2) Provides fulfillment or storage services;~~
- ~~(3) Sets prices;~~
- ~~(4) Brands sales as those of the marketplace facilitator;~~
- ~~(5) Takes orders; or~~
- ~~(6) Provides customer service or assists with returns or exchanges.~~

"Marketplace seller" means a seller who uses a marketplace to facilitate a sale.

"Medical prescriptions" or "Prescription medicines" means all medicines, 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.

"Merchandise" means tangible personal property offered for consideration by a seller.

"Merchandise acquired for resale" means merchandise purchased for the purpose of selling in an unaltered form to another buyer on a retail basis.

"Merchant" means an individual or organization engaged in the sale of tangible personal property.

"Monthly" means occurring once per calendar month.

"Motor vehicle" or "Automobile" 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 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.

“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 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 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 receiving 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.

“Property” and “product” means 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).

“Quarter” means trimonthly periods of a calendar year: January-March, April-June, July-September, and October-December.

“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.

“Rental” means allowing the use of tangible personal or real property for a specified length of time.

“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 sales transaction” or “Sale” or “Retail Sale” means any transfer of property for consideration for any purpose other than for resale and includes the sale, lease, rental transfer or assignment of any right, title or interest in any goods, personal property or real property and any provision of labor or services, for valuable consideration, for any purpose except resale without alteration by a buyer presenting a resale certificate issued pursuant to NCO Section 17.10.175 applicable to the sales or service transaction. In determining whether an item or service is being purchased for resale without alteration in the regular course of the business of the buyer, the vendor shall be responsible to: (1) require the buyer to present the valid resale certificate and (2) verify that the resale certificate applies to the good or service being purchased [make a diligent inquiry into the purpose of the purchase by the buyer], and shall be held to the standard of inquiry expected of a reasonable and prudent person under similar circumstances acting in good faith toward the taxing authority.

~~“Sale” is meant to include each of the following categories of commercial activities:~~

~~(1) The transference of ownership of tangible or intangible personal or real property for valuable consideration.~~

~~(2) The rental or lease of tangible or intangible personal or real property for a specified length of time in exchange for valuable consideration.~~

~~(3) The provision of services exclusive of those provided pursuant to an employer-employee relationship for valuable consideration.~~

“Seller” means every person making sales of property, products, or services, or a marketplace facilitator facilitating sales on behalf of a seller, a retail sale transaction to a buyer or consumer,

every person renting real or personal property, and every person performing services, for valuable 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, and also shall include every employee, agent and other person in a position of control and authority to collect and remit said sales taxes to the city. Except for sales where the clerk has been provided satisfactory evidence that the marketplace seller collected and remitted the tax levied by this chapter, a marketplace facilitator shall be considered a seller for all sales facilitated by the marketplace facilitator, brokered by the marketplace facilitator, or otherwise conducted through the marketplace facilitator's marketplace.

"Selling price" "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:

- A. The seller's cost of the property or product sold;
- B. 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;
- C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges; and
- F. Credit for any trade-in, as determined by state law.

fair market value of all detriment incurred by the buyer on the retail sale, including cash payments, debt obligations, and the value of exchanged items or services.

"Services" means all services of every manner and description that are performed or furnished for valuable consideration whether in conjunction with the sale of goods or not, but does not include services rendered by an employee to an employer.

"Taxable sale" means:

- (1) All sales for which an exception has not been established pursuant to NCO Section 17.10.020.
- (2) All sales for which an exemption has not been granted pursuant to NCO Section 17.10.030.

"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.

Used Exclusively for Religious Purposes. Retail sales and rentals of goods and services "used exclusively for religious purposes" means only goods, services or rentals which are used for,

consumed in, or rendered only for the construction, alteration, maintenance, repair or outfitting of the following described property legally possessed by and used exclusively by a religious organization: the residence of a bishop, pastor, priest, rabbi, minister or religious order of a recognized religious organization; a structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education or a nonprofit hospital; lots supporting and adjacent to a structure or residence mentioned above in this subsection, which are necessary to convenient use of said structure or residence; and lots required by city ordinance for parking near a structure used solely for public worship, charitable purposes, religious administrative offices, religious education or a nonprofit hospital.

Section 14. Adoption by Reference of Alaska Remote Sellers Sales Tax Code. The Nome Code of Ordinances is hereby amended by adopting a new Chapter 17.15 to read as follows:

**Chapter 17.15
TAX ON SALES MADE BY REMOTE SELLERS**

Sections

17.15.010	Scope
17.15.020	Definitions
17.15.030	Adoption of Alaska Remote Sellers Sales Tax Code
17.15.040	Delegation of Authority

17.15.010 Scope

This chapter applies only to sales made by remote sellers as defined herein.

17.15.020 Definitions

A. When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meanings:

“Commission” means the Alaska Intergovernmental Remote Sales Tax Commission established by Agreement between local government taxing jurisdictions within Alaska, and delegated tax collection authority.

“Delivered electronically” means delivered to the purchaser by means other than tangible storage media.

“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.

“Goods for resale” means:

A. 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.

B. 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.

C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

“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.

“Point of delivery” means the location at which property or a product is delivered or service rendered.

A. 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.

B. 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.

C. 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 the sale to the billing address of the buyer.

“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.

“Remote sales” means sales of goods or services by a remote seller or marketplace facilitator.

“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:

- A. Professional services;
- B. Services in which a sale of property or product may be involved, including property or products made to order;
- C. 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;
- D. The sale of transportation services;
- E. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;
- F. Advertising, maintenance, recreation, amusement, and craftsman services.

“Transferred electronically” means obtained by the purchaser by means other than tangible storage media.

17.15.030 Adoption of Alaska Remote Sellers Sales Tax Code

The City adopts by reference the January 6, 2020 edition of all provisions of the Alaska Remote Sellers Sales Tax Code (including the definitional section included in section 17.15.020 above and definitions included in section 17.10.180) and that portion of the Supplemental Definitions thereto not included in section 17.10.180.

17.15.040 Delegation of Authority

The City hereby delegates the authority to administer and collect tax on sales made by remote sellers to the Commission including remote seller sales tax registration, exemption certification, collection, remittance, and audit authority. This delegation of authority does not include administration of applications for exemption or resale certificates which shall be administered by the City as provided in sections 17.10.050 and 17.10.175.

Section 15. Effective Date. This ordinance shall be effective on the first day of the first calendar month following the date the ordinance is passed.

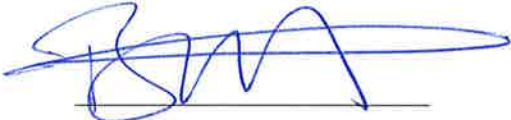
APPROVED and SIGNED this 9th day of March, 2020.



RICHARD BENEVILLE

Mayor

ATTEST:



BRYANT HAMMOND

Clerk