

CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2016-30

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL
CODE CHAPTER 4.09 "SALES TAX" SECTION 4.09.100 "EXEMPTIONS" BY INCLUDING
AN EXEMPTION FOR SALES TAX ON GROCERIES AND AMENDING SECTION 4.09.420
"DEFINITIONS" BY ADDING A DEFINITION FOR GROCERIES

- 1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.
- 2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.
- 3. **PURPOSE.** The purpose of this ordinance is to add sales tax on groceries to the list of sales types that are exempt from taxation. This exemption would become effective July 1, 2017 but only if the amendment to the Charter set forth in Ordinance 2016-26 is approved by voters at the regular election held on October 4, 2016.
- 4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that Sitka General Code Chapter 4.04.100 is amended by adding a sales tax exemption for groceries and amending Section 4.09.420 to add a definition for (new language underlined; deleted language stricken):

**Chapter 4.09
Sales Tax**

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4.09.100 Exemptions

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R. ~~Reserved.~~ Sale of groceries, as defined elsewhere within this Chapter, are exempt.

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4.09.420 Definitions.

In this chapter:

A. "Consideration" means a valuable inducement and includes, without limitation, money, property, and services;

B. "Engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

43 C. "Groceries" means breads, cereals, fruits, vegetables, meats, fish, poultry and dairy
44 products as well as those foods and items that have been determined to be eligible for
45 the USDA Supplemental Nutrition Assistance Program (SNAP) benefits. Groceries
46 does not include beer, wine, liquor, cigarettes, tobacco products, any nonfood items
47 such as pet foods, soaps, paper products, household supplies, vitamins and medicines,
48 foods that will be eaten in the store and hot foods.

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50 CD. "Lease," "leasing," or "rental," regardless of whether a transaction is characterized
51 as a lease or rental under generally accepted accounting principles, 26 U.S.C. (Internal
52 Revenue Code), AS 45.01 through AS 45.08, AS 45.12, AS 45.14, and AS 45.29
53 (Uniform Commercial Code), or other provisions of federal, state, or local law:

54 1. Means a transfer of possession or control of tangible personal property of a
55 fixed or indeterminate term for consideration; a lease or rental may include future
56 options to purchase or extend;

57 2. Does not include:

58 a. A transfer of possession or control of property under a security
59 agreement or deferred payment plan that requires the transfer of title upon
60 completion of the required payments;

61 b. A transfer of possession or control of property under an agreement
62 that requires the transfer of title upon completion of required payments if
63 payment of an option price does not exceed the greater of one hundred
64 dollars or one percent of the total required payments; or

65 c. Providing tangible personal property along with an operator for a fixed
66 or indeterminate period of time; a condition of this exclusion is that the
67 operator is necessary for the equipment to perform as designed; for the
68 purpose of this subsection, an operator must do more than maintain,
69 inspect, or set up the tangible personal property;

70 3. Includes agreements covering motor vehicles and trailers if the amount of
71 consideration may be increased or decreased by reference to the amount
72 realized upon sale or disposition of the property as defined in 26 U.S.C.
73 7701(h)(1);

74 DE. "Maintaining an office or other place of business" means:

75 1. A person's having or maintaining in the city and borough of Sitka, directly or
76 by an affiliate, an office, distribution house, sales house, warehouse, or place of
77 business; or

78 2. An agent's operating within the city and borough of Sitka under the authority
79 of the person or its affiliate, whether the place of business or agent is located in
80 the city and borough of Sitka permanently or temporarily or whether the person
81 or affiliate is authorized to do business in the city and borough of Sitka;

82 ~~EE~~. "Manufacturing" means combining or processing components or materials,
83 including the processing of ores in a mill, smelter, refinery, or reduction facility, to
84 increase the value of the components or materials for sale in the ordinary course of
85 business; "manufacturing" does not include construction;

86 ~~EG~~. "Person" means an individual, estate, trust, receiver, cooperative association,
87 club, corporation, company, firm, partnership, joint venture, syndicate, or other entity,
88 including a gas, water, or electric utility owned or operated by a borough, municipality,
89 or other political subdivision of the state;

90 ~~GH~~. "Purchase price" means "sales price" and applies to the measure subject to sales
91 tax;

92 ~~HJ~~. Residential Rent. Rent paid for residential housing for thirty or more consecutive
93 days or an entire calendar month by a person or persons for a room, set of rooms,
94 structure, or suite is exempt from sales taxes. This exemption does not apply to any
95 transaction taxable under Chapter 4.24 regarding the hotel, motel, and bed and
96 breakfast transient room tax;

97 ~~IJ~~. "Sale," "selling," or "purchasing" means the transfer of property for consideration or
98 the performance of a service for consideration;

99 ~~JK~~. "Sales price":

100 1. Means the total amount of consideration, including cash, credit, property,
101 and services, for which personal property or services are sold, leased, or rented,
102 valued in money, whether received in money or otherwise, without any deduction
103 for the following:

104 a. The seller's cost of the property sold;

105 b. The cost of materials used, labor or service cost, interest, losses, all
106 costs of transportation to the seller, all taxes imposed on the seller, and
107 any other expense of the seller;

- 108 c. Charges by the seller for any services necessary to complete the sale,
109 other than delivery and installation charges;
- 110 d. Delivery charges;
- 111 e. Installation charges;
- 112 f. The value of exempt personal property given to the purchaser where
113 taxable and exempt personal property have been bundled together and
114 sold by the seller as a single product or piece of merchandise;
- 115 g. Credit for a trade-in, as determined by state law;
- 116 2. Does not include:
- 117 a. Discounts, including cash, term, or coupons that are not reimbursed
118 by a third party that are allowed by a seller and taken by a purchaser on a
119 sale;
- 120 b. Interest, financing, and carrying charges from credit extended on the
121 sale of personal property or services if the amount is separately stated on
122 the invoice, bill of sale, or similar document given to the purchaser;
- 123 ~~K~~L. "Sales tax" means the applicable tax imposed by Section 4.09.010;
- 124 ~~L~~M. "Service" means an activity that is engaged in for another person for
125 consideration and that is distinguished from the sale or lease of property; in determining
126 what a service is, the intended use, principal objective, or ultimate objective of the
127 contracting parties is irrelevant; "service" includes:
- 128 1. Activities performed by a person for its members or shareholders;
- 129 2. Construction activities and all tangible personal property that will become an
130 ingredient or component part of a construction project; and
- 131 3. Labor; professional services; transportation; telephone or other
132 communications service; entertainment, including cable, subscription, or pay
133 television or other telecommunications service; the supplying of food, lodging, or
134 other accommodations in hotels, restaurants, or elsewhere; admission to
135 exhibitions; the use of a computer, computer time, a computer system, a
136 computer program, a computer network, or any part of a computer system or
137 network; and the supplying of equipment for use;

138 4. Travel and adventure services means tours and charters on land and water,
139 guide services, admissions, lectures, transportation services (excluding air
140 transportation), and the rental of lodging, aircraft, vehicles, watercraft, and
141 equipment, including fishing, boating, camping and other tour or adventure
142 related goods. Travel and adventure services also include sales of goods
143 incidental or related to such services.

144 MN. "Tangible personal property" means personal property that can be seen,
145 weighed, measured, felt, or touched, or that is in any other manner perceptible to the
146 senses; "tangible personal property" includes electricity, water, gas, steam, and
147 prewritten computer software;

148 NO. "Tax" means the tax levied by Section 4.09.010.

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150 5. **EFFECTIVE DATE.** Ordinance 2016-30 shall become effective on July 1, 2017 but only
151 if the amendment to the Charter set forth in Ordinance 2016-26 is approved by voters at the
152 regular election held on October 4, 2016.

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154 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka,
155 Alaska this 13th day of September, 2016.

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Mim McConnell, Mayor

160 ATTEST:

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Sara Peterson, CMC

164 Municipal Clerk