

CITY OF DILLINGHAM, ALASKA

**ORDINANCE NO. 2022-04**

**AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING TITLE 4 OF THE DILLINGHAM MUNICIPAL CODE LEVYING AN EXCISE TAX ON SEAFOOD PRODUCTS IMPORTED FOR PROCESSING IN DILLINGHAM**

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WHEREAS, the City of Dillingham has historically devoted substantial public resources for construction, operation and maintenance of public infrastructure intended to support commercial fisheries catching and processing salmon landed in waters of Bristol Bay adjacent to Dillingham; and

WHEREAS, much of the infrastructure supporting Bristol Bay commercial fishing was constructed with federal and state grants which do not provide for ongoing maintenance or replacement funds; and

WHEREAS, it is anticipated that there will be a need to improve infrastructure related to commercial fishing and that state and federal grant funds will not be as available as they were in the past; and

WHEREAS, all other municipalities of similar size and with similar fishing related infrastructure needs in the general Bristol Bay area levy a tax on raw fish including, the Bristol Bay Borough, the Lake and Peninsula Borough and the cities of Togiak, Egegik and Pilot Point; and

WHEREAS, the estimated taxable value of commercial salmon harvested in or adjacent to Dillingham and imported into the City of Dillingham for processing is estimated to range between \$15,000,000 and \$25,000,000 annually; and

WHEREAS, the Dillingham City Council believes it to be in the best interests of the residents of Dillingham to adopt a seafood processing excise tax to raise revenue so the City may continue to adequately support the fishing industry and for other public purposes.

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

**Section 1. Classification.** This is a code ordinance.

**Section 2. Amendment of Title 4.** Title 4 of the Dillingham Municipal Code is hereby amended by adoption of a new Chapter 4.27, Seafood Processing Excise Tax, to read as follows:

## Chapter 4.27

### SEAFOOD PROCESSING EXCISE TAX

#### Sections:

<b>4.27.010</b>	<b>Definitions</b>
<b>4.27.020</b>	<b>Levy of Tax</b>
<b>4.27.030</b>	<b>Registration Required</b>
<b>4.27.040</b>	<b>Tax Rate</b>
<b>4.27.050</b>	<b>Exemptions</b>
<b>4.27.060</b>	<b>Collection and Administration</b>
<b>4.27.070</b>	<b>Enforcement and Penalties</b>
<b>4.27.080</b>	<b>Excise Tax Return Verification</b>
<b>4.27.090</b>	<b>Confidentiality</b>
<b>4.27.100</b>	<b>Liability for and Collection of Severance Tax</b>
<b>4.27.110</b>	<b>Penalties and Interest</b>

#### **4.27.010 Definitions.**

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

“City” means City of Dillingham.

“Harvester” means a person, company, corporation, or other entity engaged in the business of severing or harvesting natural resources. It includes persons who harvest seafood products outside the boundaries of the City and transfer those seafood products for delivery and processing at locations within the City provided that the sales made by such harvesters are not already subject to the City Raw Fish Tax. It does not include persons who harvest seafood products for subsistence or sport uses.

“Seafood Processing” or “Processed” means heading, gutting, cleaning, filleting, canning, freezing, glazing, packaging, or otherwise preserving a seafood product.

“Seafood Processor” means any person engaged in seafood processing within the City boundaries, except for personal or subsistence purposes.

“Seafood Products” means any raw finfish, groundfish, shellfish, mollusks and other commercial products of the sea.

#### **4.27.020 Levy of tax.**

There is levied, on any Seafood Processor engaged in Seafood Processing in the City, an excise tax on all Seafood Products for which no tax has been collected under the provisions of the City Raw Fish Tax. The tax rate shall be the applicable rate as set forth in subsection 4.27.040.

**4.27.030 Registration Required.**

All Seafood Processors, except those exempted under section 4.27.050, must register with the City and hold a valid City Business License as set forth in Section 4.16 of DMC.

**4.27.040 Tax rate.**

The tax levied by this Chapter shall be at the rate set forth in the following table for all Seafood Products processed within the corporate limits of the city.

Species	Tax per pound in dollars
Pink Salmon	\$0.004
Chum Salmon	\$0.012
Coho Salmon	\$0.032
Chinook Salmon	\$0.037
Sockeye Salmon	\$0.044
Halibut	\$0.24
Herring	\$0.0075
All other species	\$0.02

**4.27.050 Exemptions.**

- A. Seafood Processors who process less than ten thousand pounds of Seafood Products are exempt from taxation under this chapter.
- B. The first ten thousand pounds of Seafood Products subject to this tax purchased from a Harvester by a Seafood Processor not exempt under subsection A are exempt from taxation under this chapter.
- C. Any person who harvests Seafood Products strictly for personal or subsistence use, and does not sell any Seafood Products harvested are exempt from any provision of this chapter.

**4.27.060 Collection and Administration.**

- A. Every Seafood Processor who makes payments for a seafood product subject to excise tax shall submit to the City a City of Dillingham annual seafood processing excise tax return, under oath, containing the following information:
  - 1. The number of pounds of Seafood Product purchased from Harvesters during the preceding twelve (12) months;
  - 2. The number of pounds of Seafood Product exempt from tax; and
  - 3. The name and location of the Seafood Processor
- B. The return along with all taxes due the City for the year must be received by the City on or before November 1<sup>st</sup> for the preceding twelve (12) month period.
- C. This tax constitutes a lien chargeable against all property whether tangible or intangible owned by the Seafood Processor. The lien may be foreclosed by the City in the same manner as any other lien against real or personal property.

#### **4.27.070 Enforcement and Penalties.**

- A. The superior court, upon request of the City, shall issue an injunction requiring compliance with the provisions of this chapter.
- B. The City may determine the excise tax on parties who have not filed a return in an amount based on historical data or the best information reasonably available to the City.
- C. A person who fails, refuses, or neglects to file an excise tax return in compliance with this chapter shall, in addition to any other penalties provided by law, be liable for a penalty of ten (10) percent of the tax.

#### **4.27.080 Excise Tax Return Verification.**

The City Manager or his/her designee may:

- A. Require a Seafood Processor or harvester, or any agent or employee of this person, to furnish any additional information reasonably necessary to compute the amount of the tax or to determine if a tax is due;
- B. Examine the books, records, and files of any such person;
- C. Conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and
- D. Make an investigation or hold any inquiry reasonably necessary to a disclosure of facts as to:
  - 1. The amount of pounds of Seafood Product delivered or imported into the City for processing; and
  - 2. The purchaser of the Seafood Product

#### **4.27.090 Confidentiality.**

Information and materials in the possession of the City which disclose the particulars of the business or affairs of then payer of taxes under this chapter will be kept confidential by the City except in connection with an official investigation by the City or other agency enforcing the laws of the City or the State. The City may publish statistics in a manner which prevents identification of particular returns and may publish tax lists showing the names, taxes, penalties, and interest with respect to taxpayers who are delinquent to assist in the collection of taxes.

#### **4.27.100 Liability for and Collection of Excise tax.**

The Seafood Processor purchasing Seafood Product taxed under this chapter is liable for the amount of taxes, interest, and penalties due. The tax, together with penalties and interest, may be collected in a personal action brought in the name of the City.

#### **4.27.110 Penalties and Interest.**

All taxes due under this chapter but not timely paid as required are subject to a penalty of 10% of the tax due. Interest shall accrue on the tax due including penalties and interest at the rate of 6% per year from the date such taxes are due. Partial payments shall be applied first to accrued penalties, then to interest, and then to principal. A payment is timely paid when mailed to the City postage prepaid bearing a postmark date no later than the due date.

**Section 3. Amendment to Section 1.20.040**

That Dillingham Municipal Code Section 1.20.040 - Minor offense fine schedule is amended to by the addition of new language to read as follows:

<b>Code Section</b>	<b>Offense</b>	<b>Penalty/Fine</b>
4.27.030	Failure to register as a processor of seafood products.	\$500
4.27.060	Failure to file seafood processor excise tax return.	\$1000
4.27.060	Falsifying seafood processor excise tax records.	\$1000
4.27.080	Failure to allow inspection of records.	\$500

**Section 4. Effective Date.** This ordinance shall be effective as of XXX 1, 2022.

**Section 5. Repeal of Chapter 4.22.** Chapter 4.22 of the Dillingham Municipal Code is hereby repealed in its entirety.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on April 7, 2022.

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Alice Ruby, Mayor

[SEAL]

ATTEST:

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Lori Goodell, City Clerk