

ARTICLE III. - ALCOHOL BEVERAGE SALES TAX ^[94]

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Sec. 74-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage includes but is not limited to whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spirituous, vinous, malt and other fermented or distilled liquors intended for human consumption as a beverage and containing more than one-half of one percent alcohol by volume, whether produced commercially or privately.

Buyer means without limiting the scope thereof, any person or other entity that purchases and/or contracts to purchase any alcoholic beverage for consumption and not resale.

Certification of registration means the certificate issued by the chief financial officer under [section 74-70](#).

Consideration means anything of value, including but not limited to money, credit, rights, goods, services, and property, received by a seller from a buyer.

Estimated tax means the tax determined under [section 74-74](#).

Retail sale means the transfer of any alcoholic beverage to any consumer, for any consideration.

Sale made within the city means any retail sale where: (1) the buyer takes possession of, or title to, the purchased alcoholic beverage within the city; and/or (2) the seller receives consideration for the purchased alcoholic beverage(s) within the city.

Sales price means the price of any alcoholic beverage including component parts. Any other fees added must be itemized on the sales slip and a copy given to the customer upon request and fees must be conspicuously posted. These additional fees can not be used to circumvent the normal price of the beverage.

Seller means any person or any other entity that sells and/or contracts to sell any alcoholic beverage to a buyer and includes persons who are vendors of and lessors of property and persons furnishing services.

Tax means the alcoholic beverage tax as levied under this article.

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Taxable retail sale means any sale made within the city that is not entirely exempt from the tax levied under this article.

Unremitted tax means

- (1) Any tax not remitted to the city that a seller is required by this article to collect from a buyer, notwithstanding whether the seller actually collects such tax from a buyer; and
- (2) Any estimated tax not remitted to the city.

Wholesale sales (sale for resale) means the act of selling any alcoholic beverage to any person or to any other entity for reselling such alcoholic beverage in its original form.

(Ord. No. 5651, § 1, 7-1-2006; Ord. No. 5798, § 1, 3-13-2010)

Sec. 74-67. - Alcoholic beverage sales tax levy.

There is levied within the corporate limits of the city a tax equal to five percent of the sales price upon all retail sales of alcoholic beverages made within the corporate limits of the city.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-68. - Due date; delinquency, maximum tax.

The obligation for the payment of the tax is upon the buyer. All taxes imposed by this article shall be due and payable by the buyer at the time of sale, or with respect to credit transactions at the time of collection, and are delinquent if not paid when due.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-69. - Obligation of seller to collect.

Every seller making sales taxable under this article shall collect the taxes from the buyer at the time of sale, or with respect to credit transactions at the time of collection of sales price, and shall deliver the same to the City of Fairbanks in accordance with the requirements in this article. The seller shall be compensated the amount of two percent of the taxes transmitted to the city for the use of seller's resources in collecting the taxes. This compensation shall only occur when the seller submits reports and pays the taxes on time.

(Ord. No. 5651, § 1, 7-1-2006; Ord. No. 5900, § 1, 1-1-2013)

Sec. 74-70. - Seller registration and certification.

- (a) All sellers of alcoholic beverages within the City of Fairbanks must possess a current certificate of registration, for the purpose of collecting and remitting the tax under this article, prior to engaging in any retail sales or opening additional places of business.
- (b) All sellers requiring a certificate of registration under subsection (a) of this section must first possess a current business license as required by AS 43.70 and a current state liquor license as required by AS 04.11. Copies of both the business license and the state liquor license must be provided to the city before a certificate of registration will be issued.
- (c) Upon receipt of a properly executed application for the certificate of registration, on a form prescribed by the chief financial officer, the chief financial officer will issue without charge to the seller a certificate of registration. The certificate of registration shall bear the name of the seller and the address of the registered place of business. The certificate must be prominently displayed at the place of business with the business and liquor licenses. A seller who has no regular place of business shall attach such certificate to his stand, truck or other merchandising device.
- (d) The certificate of registration is neither assignable nor transferable. The seller shall immediately surrender the certificate to the chief financial officer if the seller ceases to do business at the location named on the certificate, or if

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the seller otherwise sells, assigns, transfers, conveys, or abandons the seller's business to any person or any other entity. When there is a change of address for the seller's place of business, a new certificate of registration is required bearing the same registration number, but showing the new location address.

- (e) A seller must submit a new updated application as prescribed by the chief financial officer upon any change in form of ownership, business name, or contact information. The chief financial officer, after receipt of the updated application, shall then determine whether a new certificate of registration should be issued. If a new certificate of registration is issued, the seller must first surrender the prior certificate of registration to the chief financial officer before taking possession of the new certificate.
- (f) The chief financial officer may revoke a certificate of registration if a seller fails to comply with any of the provisions of this article. A seller may not engage in retail sales while the certificate of registration is revoked.
- (g) Any seller who violates any requirement of this section is subject to the penalties provided under this article. The city is also entitled to injunctive relief to prevent the seller from engaging in retail sales until the seller complies with the requirements of this section.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-71. - Reserved.

Sec. 74-72. - Segregation of taxes collected; title.

Upon collection by the seller of the taxes imposed in this article, title to the collected taxes shall vest in the city. Pending transmittal to the city, the seller shall hold the tax funds in trust for the benefit of the city.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-73. - Sales tax returns; transmittal; and payment of taxes due.

- (a) Every seller possessing a current certificate of registration shall, on or before the 15th day of the month, file a properly completed return for the preceding month upon forms furnished by the city and remit payment for the amount received from the following:
 - (1) All sales, retail or otherwise, rentals and services made within the city.
 - (2) The amount received from nontaxable sales, rentals and services.
 - (3) The amount received from all taxable sales, rentals and services.
 - (4) The amount of tax.
 - (5) The taxes collected.
 - (6) Such other information and supporting papers as the chief financial officer may require.
- (b) Every seller holding a certificate of registration in the city shall sign and transmit the return together with taxes collected to the city on or before the proper date.
- (c) A report shall be filed by every seller possessing a current certificate of registration even if the seller has not engaged in taxable retail sales during the reporting period.
- (d) All returns must be received by the city clerk's office no later than 4:00 p.m. on the 15th day of the month following tax collection. Postmarks will not be considered.

(Ord. No. 5651, § 1, 7-1-2006; Ord. No. 5674, § 1, 11-20-2006; Ord. No. 5900, § 1, 1-1-2013)

Sec. 74-74. - Estimated tax.

If the city is unable to ascertain the tax due to be remitted by a seller by reason of the failure of the seller to keep accurate books, allow inspection, failure to file a return or falsification of records, the city may make an estimate of the tax

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due based on any available evidence. Notice of the city's estimate of taxes due shall be mailed to the seller. Unless the seller files an accurate monthly report covering the time period subject to the city's estimate or files a written appeal within 30 days of the mailing of the city's estimate, the city's estimate shall become final for the purpose of determining the seller's tax liability.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-74.1. - Administrative appeals.

- (a) A seller or buyer may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. Any appeal must be filed within 30 days after the notice of any decision is mailed to the seller or buyer. The failure to appeal a decision of the chief financial officer renders the decision final.
- (b) The appeal must state the legal and factual basis for the appeal and include all written evidence relevant to the appeal within the appellant's possession. If the appeal raises relevant questions of fact, the city mayor shall conduct a hearing. At the hearing, the parties shall have the right to present testimony and cross-examine witnesses. The hearing officer shall then issue a written or recorded decision that includes findings of fact.
- (c) An administrative appeal decision by the city mayor is a final decision that shall be enforced under this article unless stayed by court order or by agreement of the city and appellant. The city mayor's final decision may be appealed to superior court in the fourth judicial district as provided by state law.

(Ord. No. 5651, § 1, 7-1-2006; Ord. No. 5900, § 1, 1-1-2013)

Sec. 74-75. - Presumption; credit.

- (a) Every sale which is made within the city, unless explicitly exempted by this article or a subsequent ordinance, shall be presumed to be subject to the tax imposed under this article in any action to enforce the provisions of this article.
- (b) A credit shall be allowed for taxes erroneously collected and paid under protest. Such credit shall be made by the chief financial officer after receipt and review of documentation and amended return supporting such request. Upon receipt of such documentation, the chief financial officer shall examine the documentation and shall in writing submit the decision within 15 days.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-76. - Sales tax returns; confidential information.

- (a) All returns filed with the city for the purpose of complying with the terms of this article and all data obtained from such returns are declared to be confidential, and such returns and data obtained from such returns shall be kept from inspection of all persons except the chief financial officer, and the city attorney; nevertheless, upon the advice of the city attorney, the chief financial officer may present to the finance committee or city council in private sessions assembled, any return or data obtained from such returns.
- (b) It is unlawful for any city employee to publicly divulge to another any financial information obtained from any return filed with the city or from any data obtained from any such returns unless authorized by seller or other person receiving such information is permitted to view such returns under the terms of this article.
- (c) It shall be the duty of the chief financial officer to safely keep the returns referred to in this article and all data taken from such returns secure from public inspection and secure from all private inspection except as provided in the article; and the chief financial officer may, after six years from the date any such return has been filed, destroy the return.
- (d) The use of such returns in a criminal or civil action brought to enforce the terms of this article against any person shall not be deemed a violation of this article; and the city in the prosecution of any such action may allege, prove and produce any return theretofore filed by and in behalf of the defendant, including any data obtained from such return, other provisions of this article to the contrary notwithstanding.

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- (e) Nothing contained in this article shall be construed to prohibit the delivery to a person or his duly authorized representative a copy of any return or report filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and their items.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-77. - Recordkeeping duty; investigation.

- (a) A seller shall keep complete and accurate books, records, and accounts, showing all inventory purchases and the gross receipts for all sales made within the city, for a period of three years from the date of each sale. In addition to all their record keeping requirements under this article, a seller shall maintain all written and electronic records relating to any alcoholic beverage sale, for a period of three years after such alcoholic beverage sale, including but not limited to:
1. All local, state, and federal tax reports and forms;
 2. All accounting records;
 3. All sales receipts; and
 4. All documentary evidence supporting any exemption provided under this article.
- (b) Upon reasonable notice, a seller shall make all records and materials specified in subsection (a) of this section available for the chief financial officer's or authorized representative's inspection during customary business hours.
- (c) The chief financial officer may conduct random audits of seller's monthly reports by examining any of the records and materials specified in subsection (a) of this section, and other data deemed necessary.
- (d) For the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or which should have been collected by any person, the chief financial officer or mayor may hold investigations and hearings concerning any matters covered by this article and may examine any relevant books, papers, records or memoranda of any such person, and may require the attendance of such person, or any officer or employee of such person. The mayor shall have the power to administer oaths to such persons. The mayor shall issue all formal subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda.
- (e) All subpoenas issued under the terms of this article may be served by any person. The fees of witnesses for attendance and trial shall be the same as the fees of witnesses before the superior court, such fees to be paid when the witness is excused from further attendance. When a witness is subpoenaed at the instance of any party to any such proceeding, the mayor may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case the mayor may, at his discretion, require a deposit to cover the cost of such service and witness fees. A subpoena issued shall be served in the same manner as a subpoena issued out of a court of record.
- (f) The superior court, upon the application of the mayor, is empowered to compel obedience to such subpoena and compel the attendance of witnesses, the production of relevant books, papers, records or memoranda, and the giving of testimony before the city attorney or any of his duly authorized representatives in the same manner and extent as witnesses may be compelled to obey the subpoenas and order of the court. For purposes of this section, the term "witness," in addition to any person covered under the terms of this article, shall include any person or entity with knowledge or information relevant to sales made under this article.
- (g) The mayor, or any party in an investigation or hearing before the mayor, may cause the deposition of witnesses residing within or outside the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this state, and to that end compel the attendance of witnesses and the production of relevant books, papers, records or memoranda.

(Ord. No. 5651, § 1, 7-1-2006)

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Sec. 74-78. - Recovery of taxes.

- (a) Taxes due but not paid may be recovered by the city by an action at law against the buyer. Taxes collected but not transmitted may be recovered by an action against the seller, and sales tax returns shall be prima facie proof of taxes collected but not transmitted.
- (b) In addition to any other remedies and administrative procedures provided under this article, the city may file a civil action against any seller and/or buyer for recovery of any tax, unremitted tax, penalties, interest, costs, and fees, that have not been paid or remitted when due.
- (c) Any person who holds an ownership interest in a seller, or any other person who is an agent of the seller, is personally liable for all taxes, penalties and interest due from such seller under this article.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-79. - Tax lien.

- (a) Any tax, unremitted tax, penalties, interest, costs and fees that this article requires a seller and/or buyer to pay or remit shall constitute a lien in favor of the city upon all assets, earnings, revenue and property of the seller, other persons liable under subsection [74-78\(c\)](#) (recovery of taxes), and and/or buyer. This lien arises when any such payment or remittance is not made when due and continues until the payment or remittance is fully satisfied through execution, foreclosure sale, or any other legal means. This lien is not valid as against a mortgagee, pledgee, purchaser, or judgment creditor until notice of the lien is recorded in the office of the district recorder for the fourth judicial district.
- (b) When recorded a lien authorized under this section has priority over all other liens except those for property taxes and special assessments and all liens perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien and mechanics' and materialmen's liens which have been recorded before the recording of the sales tax lien. Upon such filing, the lien is superior to all other liens except as otherwise provided by state or federal law.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-80. - Foreclosure.

- (a) Delinquent sales tax liens on real property shall be enforced by quarterly foreclosures on March 31, June 30, September 30 and December 31.
- (b) Tax liens shall be foreclosed in the manner provided for in sections [58-49](#) through [58-61](#)

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-81. - Interest rate; administrative costs.

- (a) A simple interest rate of 1.25 percent per month, or a lesser rate if required by state law shall accrue on all unremitted taxes, not including penalty and administrative fees, from the original due date provided under this section until remitted in full.
- (b) In addition to any other penalties imposed under this article, a seller shall pay any administrative fees, outside collection agency fees, attorney fees, and other costs and fees incurred by the city or its agent(s) in connection with any collection, or attempted collection, from the seller of any unremitted tax, unpaid interest, and/or unpaid penalties due under this article.
- (c) The city will apply a seller's payment in the following order: first to any unpaid administrative fees, outside collection agency fees, attorney fees, and other collection costs and fees; second to any unpaid penalties; third to any unpaid interest that has accrued on un-remitted taxes; and fourth, to the principal of any un-remitted taxes.

(Ord. No. 5651, § 1, 7-1-2006)

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Sec. 74-82. - Penalty for violations.

- (a) *Failure to file or remit.* A seller who has made sales in the city and who thereafter fails to file a sales tax return or remit the collected tax as required by this article shall incur a civil penalty of \$100.00 if the return or the tax is received later than the last day of the month in which it is due and shall incur a civil penalty of \$1,000.00 if the return or the tax is received later than the last day of the next month following the month in which it was due.
- (b) Reserved.
- (c) Reserved.
- (d) *Non-retention of records.* A seller who does not provide required records upon request as listed in [section 74-77](#) shall incur a civil penalty of \$1,000.00.
- (e) *[Collection of taxes.]* A seller who in the course of his business makes sales upon which a tax is levied under this article and who fails to collect such taxes shall incur a civil penalty of double the tax which should have been collected.
- (f) *[False statements.]* Any person who makes any false statement to a seller or to the chief financial officer or mayor which is material in determining whether a sale is taxable under this article is guilty of a misdemeanor and shall be punished as provided in [section 1-15](#)
- (g) *[Certificate of registration.]* Any seller and any officer of a corporate seller failing to file a certificate of registration or failing to furnish the data required in connection with such certificate or failing to display or surrender the certificate of registration as required by this article, or attempting to assign or transfer such certificate shall be guilty of a misdemeanor and shall be punished as provided in [section 1-15](#)
- (h) *[Penalty.]* Any person who violates any of the provisions of this article shall be punishable as provided in [section 1-15](#). A separate offense shall be deemed committed upon each day of a continuing violation.

(Ord. No. 5651, § 1, 7-1-2006; Ord. No. 5900, § 1, 1-1-2013)

Sec. 74-83. - Collection policy.

It shall be the policy of the city that delinquent taxes shall be promptly collected without offset, compromise or time extensions for payment.

(Ord. No. 5651, § 1, 7-1-2006)

Sec. 74-84. - Rules and regulations.

- (a) The mayor is empowered to enact rules and regulations to implement the sales tax levied under this article.
- (b) The chief financial officer shall take all lawful and necessary actions to administer this article including, but not limited to, adopting and revising procedures, fees, and written guidelines for the determination of the taxability of sales.
- (c) The chief financial officer may also take other lawful actions to administer this article including, but not limited to, issuing written determinations of the taxability of specific sales upon request and contracting services for collection of delinquent accounts.
- (d) With the approval of the chief financial officer, the finance department staff shall prepare, implement, and revise forms for the administration of this article.

(Ord. No. 5651, § 1, 7-1-2006)

Secs. 74-85—74-115. - Reserved.

FOOTNOTE(S):

⁽⁹⁴⁾ **Editor's note**— Ord. No. 5651, § 1, effective July 1, 2006, amended art. III in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter. ([Back](#))