

Introduced by: Mayor Cleworth  
Finance Committee: October 16, 2012  
Date: October 22, 2012

**ORDINANCE NO. 5901, AS AMENDED**

**AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE IV, HOTEL/MOTEL TAX, SECTIONS 74-121, 74-125(a), 74-125(d)-(e), 74-127(a), AND 74-135(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE**

**WHEREAS**, City tax reports are to be filed and taxes remitted on or before the 15<sup>th</sup> day of the month for the preceding month; and

**WHEREAS**, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

**WHEREAS**, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

**WHEREAS**, it is the Mayor's mandate to remove all active programs from the AS400; and

**WHEREAS**, it is the desire of city staff to educate sales tax customers on these changes prior to the proposed implementation date of January 1, 2013.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA**, as follows:

Section 1. That FGC Sections 74-121, 74-125(a), 74-125(d)-(e), 74-127(a), and 74-135(a)-(c) are amended as follows [new text in **underline/bold** font; deleted text in ~~strike~~ font]:

**Sec. 74-121. - Obligation of operator to collect.**

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

**Sec. 74-125. - Sales tax returns; transmittal; and payment of taxes due.**

(a) Every operator 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 ~~setting forth~~ **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.

~~(d) If the 15th of the month is a Saturday, Sunday, or a federal, state or city holiday, the due date under this section shall be extended until the next business day~~ **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.**

~~(e) A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

**Sec. 74-127. - Administrative appeals.**

(a) An operator 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 operator. The failure to appeal a decision to the chief financial officer renders the decision final.

**Sec. 74-135. - Penalty for violations.**

~~(a) *Failure to file or remit.* An operator who has rented rooms 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~~ 50 percent of the sales tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be 500.00 for each tax return not submitted on time.

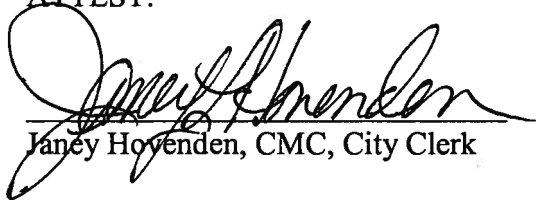
~~(b) *Failure to remit.* An operator who has collected sales tax and who thereafter fails to transmit the collected sales tax as required by this article shall incur a civil penalty of five percent of the collected taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent. In an action to recover the penalty if the failure of the operator to transmit the collected taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeal process outlined in section 74-127.~~


~~(c) *[Additional penalty.]* An operator shall pay an additional \$1,000.00 civil penalty if the operator's report or remittance is not received by the city within 60 days of the original due date provided under this section.~~

Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.

  
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JERRY CLEWORTH, MAYOR

AYES: Gatewood, Walley, Eberhart, Matherly, Staley, Hilling  
NAYS: None  
ABSENT: None  
ADOPTED: November 5, 2012

ATTEST:  
  
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Janey Hoyenden, CMC, City Clerk

APPROVED AS TO FORM:  
  
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Paul Ewers, City Attorney