

ORDINANCE NO. 6172, AS AMENDED

**AN ORDINANCE TO REPEAL AND REENACT FAIRBANKS GENERAL CODE
CHAPTER 74, TAXATION**

WHEREAS, Fairbanks General Code, Chapter 74, Taxation, sets the procedures for taxation within the City of Fairbanks; and

WHEREAS, Chapter 74 has not been thoroughly reviewed since its adoption; and

WHEREAS, the Administration, with input from the Finance Department staff, the City Clerk, and the City Attorney, is proposing revisions to this Chapter; and

WHEREAS, the City Finance Committee conducted an in-depth review of Chapter 74 at eight Finance Committee meetings and recommends the proposed revisions.

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

Section 1. The Fairbanks General Code, Chapter 74, Taxation, is hereby repealed and reenacted as follows:

Chapter 74
TAXATION

Article I. In General

Secs. 74-1—74-30. Reserved.

Article II. Property Tax

Sec. 74-31. Definitions.

Unless the context requires otherwise, all terms used in this article have the same meanings as they are given in Title 8, Division 1 of the Fairbanks North Star Borough Code of Ordinances.

Sec. 74-32. Property subject to general taxation.

All real property within the city not expressly exempted by ordinance of the city council is subject to annual taxation. The grant of an optional exemption or exclusion by the borough under AS. 29.45.050, or any other statute, will not apply to real property within

the city unless the city council concurs by ordinance. The tax must be used for municipal purposes and for such other purposes as are or may be authorized.

Sec. 74-33. Tax levy and collection.

(a) The city council shall annually determine the rate of levy by resolution adopted before June 15th. The city council by June 15th of each year shall present to the borough assembly a statement of the city's rate of levy.

(b) The real property tax levied by the city will be enforced and collected by the borough in the same manner, at the same time, and under the same procedures as provided by borough ordinance, resolution, and regulation for collection of real property taxes levied by the borough.

(c) The penalties, interest, and costs provided by borough ordinances for failure to file real property tax returns or pay real property taxes levied by the borough are adopted by reference as the penalties, interest, and cost for failure to file real property tax returns or pay property taxes levied by the city.

Sec. 74-34. Residential property tax exemption.

(a) Residential real property within the city is exempt from property tax as set forth in AS 29.45.050(a), provided that:

- (1) The property is owned and occupied as a residence by the owners of record.
- (2) The owners of record must sign a real property exemption statement and file the statement with the borough assessor prior to April 1 of the tax year. The owners of record need not file such a statement for successive tax years if there is no change in ownership and no change in occupation as a residence by the owners of record.

(b) The maximum amount of the real property tax exemption provided for under AS 29.45.050(a) and this section shall be 20 percent of the assessed value, up to a maximum of \$20,000.

Sec. 74-35. Tax revenue surpluses.

Any tax surplus arising under Charter section 6.5 lapses to the city general fund where the amount of the annually audited surplus does not exceed two percent of total tax revenues. A surplus which exceeds two percent of total tax revenues will, to the extent of the excess, be carried forward to the next fiscal year and credited to the maximum allowable estimated tax revenues established in accordance with Charter section 6.5.

Sec. 74-36. Economic development property tax exemption or deferral.

(a) The council may grant a partial or total exemption and/or deferral for economic development property only if the granting of such exemption and/or deferral will provide economic benefit to the City, and

- (1) The exemption and/or deferral will provide measurable public benefits commensurate with the level of incentive granted;
- (2) The property owner is in compliance with all state and local tax obligations;
- (3) The location of the trade, industry, or business is compatible with land use and development plans of the borough; and
- (4) The exemption and/or deferral is necessary to allow adequate time for improvements to be completed and revenue to be generated by the property.

(b) Economic development property means real property that:

- (1) Has not previously been taxed as real or personal property by the city; however, improvements on properties may be partially or wholly tax exempted or deferred under this section.
- (2) Is used in trade or city business in a way that:
 - a. creates employment in the city directly related to the use of the property that does not supplant jobs in another similar industry; or
 - b. generates sales outside of the city of goods or services produced in the city; or
 - c. materially reduces the importation of goods or services from outside the city.
- (3) Has not been used in the same trade or business in another city for at least six months before the application for deferral or exemption is filed; this limitation does not apply if the property was used in the same trade or business in an area that has been annexed to the city within six months before the application for deferral or exemption is filed; this subsection does not apply to inventories.

(c) An ordinance by the Fairbanks City Council must precede any action to authorize a tax exemption or deferral under this section.

Secs. 74-37 – 74-39. Reserved.

Article III. Sales & Excise Tax Requirements

Sec. 74-40. Definitions.

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

Buyer means, without limiting the scope thereof, any person or entity that purchases or contracts to purchase any product.

Certification of registration means the certificate issued by the chief financial officer under section 74-41.

Chief Financial Officer (CFO) means the chief financial officer of the City of Fairbanks or designee.

City means City of Fairbanks.

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

Direct-buying retailer means a person who is engaged in the sale of products at retail in the city, and who brings products into the city or causes products to be brought into the city.

Discount means a two percent reduction of taxes due to the city if the seller submits a sales tax return and pays the tax due pursuant to the deadline set forth in section 74-44(e).

Distributor means any person or entity that:

- (1) brings products, has products brought, or causes products to be brought into the city and who sells or distributes products to others for resale in the city; or
- (2) ships or transports products to a retailer in the city for sale by the retailer.

Estimated tax means the tax determined under section 74-45.

Nontaxable sales mean any sale made within the city that is exempt from levied taxes.

Person includes an individual, company, partnership, limited liability partnership, joint venture, joint agreement, limited liability company, association (mutual or otherwise), corporation, estate, trust, business trust, receiver, trustee, syndicate, direct-buying retailer, distributor, or any combination acting as a unit.

Qualified dealer means a person who refines, imports, manufactures, produces, compounds, or wholesales a product.

Received means date stamped by the city clerk's office. Postmarked is not considered received.

Resale means the act of selling to any person or entity for reselling.

Retail sales mean the transfer of any product to any consumer for any consideration.

Retailer means a person in the city who is engaged in the business of selling products at retail.

Sale made within the city means any retail sale where:

- (1) the buyer takes possession of, or title to, the purchased product within the city; and/or
- (2) the seller receives consideration for the purchased product within the city.

Sales tax return means the monthly filing form provided to sellers by the city, signed and dated by the seller or their designee, detailing any gross sales, exemptions, discounts, penalties, credits, and taxes due.

Seller means any person, distributor, or any other entity that sells, rents, or contracts to sell to a buyer.

State of Alaska license means:

- (1) Alcoholic Beverage – state license or permit as required by AS 43.70 and AS 04.11
- (2) Room Rental – state license as required by AS 43.70
- (3) Tobacco Products – state license as required by AS 43.70 and AS 43.50
- (4) Marijuana – state license as required by AS 43.70 and AS 17.38
- (5) Gasoline – state license as required by AS 43.70, AS 43.40.100(3) and 15 AAC 40.600.

Tax means amount levied for alcoholic beverage, room rental, tobacco, marijuana, and gasoline sales as set forth in this chapter.

Taxable sales mean any sale made within the city that is not exempt from levied taxes.

Unremitted tax means:

- (1) Any tax not remitted to the city that a seller is required by this chapter 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 price means the established price for which a distributor sells products to a retailer.

Sec. 74-41. Seller registration and certification.

(a) All sellers subject to this article must possess a current certificate of registration for the purpose of collecting and remitting tax prior to engaging in any sales, commencing business, or opening additional places of business within the city.

(b) All sellers requiring a certificate of registration under subsection (a) of this section must possess a current State of Alaska license(s) as defined in section 74-40 and a current City of Fairbanks business license. All sellers must provide the city with the respective business license numbers.

(c) Upon receipt of a properly executed application for the certificate of registration, on a form prescribed by the CFO, the CFO will issue, without charge to the seller, a certificate of registration. The certificate of registration must 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 all business licenses.

(d) The certificate of registration is neither assignable nor transferable. The seller must immediately surrender the certificate to the CFO if the seller ceases to do business at the location named on the certificate, or if the seller otherwise sells, assigns, transfers, conveys, or abandons the seller's business to any person or 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 an updated application as prescribed by the CFO upon any change in form of ownership, business name, or contact information. The CFO, after receipt of the updated application, will 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 CFO before taking possession of the new certificate.

(f) The CFO 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 taxable 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 sales until the seller complies with the requirements of this section.

(h) Any entity acquiring an ownership interest in an ongoing business or the accounts receivable of a business, whether by purchase, assignment, foreclosure, relinquishment, or otherwise, is liable for the payment of taxes, penalties, and interest

accruing and unpaid to the city on account of the operation of the business by the former owner.

(i) A person or entity issued a temporary certificate of registration is subject to this article for the month of issuance.

Sec. 74-42. Retailer not to assume tax.

No retailer may advertise, hold out, or state to the public or to any buyer, directly or indirectly, that the tax or any part of the tax imposed by this chapter will be assumed or absorbed by the retailer, that the tax will not be added to the sale, or that the tax will be refunded. No retailer may assume, absorb, or fail to add the tax or any part of the tax to a taxable sale, or refund any pretended tax to the buyer, or fail to separately state the tax to the buyer.

Sec. 74-43. Segregation of taxes collected.

Upon collection by the retailer of the taxes imposed in this chapter, title to the collected taxes vests in the city. Pending transmittal to the city, the retailer must hold the tax funds in trust for the benefit of the city.

Sec. 74-44. Sales tax returns; transmittal; and payment of taxes due.

(a) Every seller possessing a current certificate of registration must, on or before the last business day of each month, file a properly completed sales tax return for the preceding month upon forms furnished by the CFO and remit payment for taxes due. The form must provide the following:

- (1) The amount of sales made within the city as defined in section 74-40.
- (2) The amount received from nontaxable sales.
- (3) The amount received from all taxable sales.
- (4) The amount of tax.
- (5) Other information and supporting papers as the CFO may require.

(b) Every seller holding a certificate of registration in the city must sign and transmit the return together with taxes collected to the city on or before the proper date.

(c) A report must 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 last business day of the month following tax collection. Postmarks will not be considered as the receipt date.

(e) A two percent reduction in the taxes due will be applied if the sales tax return and payment in full is received by 4:00 p.m. on the 15th day of the month following tax

collection. If the 15th day of the month falls on a city-observed holiday or a weekend, the sales tax return and payment must be received by 4:00 p.m. on the last business day immediately preceding the 15th to be eligible for the two percent reduction.

Sec. 74-45. 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 due based on any available evidence. Notice of the city's estimate of taxes due must 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 becomes final for the purpose of determining the seller's tax liability.

Sec. 74-46. Administrative appeals.

(a) A seller or buyer may appeal to the mayor any estimated tax, penalties, costs, fees, or other decision under this article made by the CFO. 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 CFO 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 mayor will conduct a hearing. At the hearing, the parties have the right to present testimony and cross-examine witnesses. The mayor will then issue a written or recorded decision that includes findings of fact.

(c) An administrative appeal decision by the mayor will be enforced under this article unless stayed by court order or by agreement of the city and appellant. The mayor's final decision may be appealed to the superior court pursuant to the Alaska Rules of Appellate Procedure.

Sec. 74-47. Presumption; credit.

(a) Every sale made within the city, unless explicitly exempted, is presumed to be subject to the tax imposed under this chapter in any action to enforce the provisions of this article.

(b) A credit will be allowed for taxes erroneously collected. Such credit will be made by the CFO after receipt and review of documentation and amended return supporting such request. Upon receipt of such documentation, the CFO will examine the documentation and submit a written decision within 15 days.

Sec. 74-48. 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 confidential, and such returns and data obtained from such returns will be kept from inspection of all persons except the CFO, the city clerk, and the city attorney. Upon the advice of the city attorney, the CFO 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 any financial information obtained from any return filed with the city or from any data obtained from any such returns unless authorized by the seller or unless the person receiving such information is permitted to view such returns under the terms of this article.

(c) It is the duty of the CFO to safely keep the returns referred to in this article and all data taken from such returns secure from public and private inspection as provided in the article. The CFO may, after three 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 chapter against any person is not a violation of this article. The city in the prosecution of any such action may allege, prove, and produce any return filed by and on behalf of the defendant, including any data obtained from such return.

(e) Nothing in this article will be construed to prohibit a seller or their duly authorized representative from receiving a copy of any return or report filed by the seller, or to prohibit the publication by the city of statistics classified to prevent the identification of particular reports or returns.

Sec. 74-49. Recordkeeping duty; investigation.

(a) A seller must keep complete and accurate books, records, and accounts showing all inventory purchases and 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 record keeping requirements under this article, a seller must maintain all written and electronic records relating to any sale for a period of three years after such 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.

(b) Upon reasonable notice, a seller must make all records and materials specified in subsection (a) of this section available for inspection by the CFO or authorized representative during customary business hours.

(c) The CFO may conduct random audits of a 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 CFO 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 has the power to administer oaths to such persons. The mayor will 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 will 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 will be served in the same manner as a subpoena issued by 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 duly authorized representative 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, includes 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.

Sec. 74-50. Additional recordkeeping duty; distributor.

(a) In addition to the requirements in section 74-49, a distributor must keep a complete and accurate record of all products manufactured, purchased, or acquired. The records, except in the case of a manufacturer, must include:

- (1) A written statement containing the name and address of the seller and the purchaser;

- (2) The date of delivery;
- (3) The quantity and type of products;
- (4) The trade name and brand; and
- (5) The price paid for each brand of product purchased. The distributor must keep such other records as the CFO prescribes. All statements and records required by this section must be preserved for three years and must be offered for inspection upon demand by the city.

(b) A distributor may not issue or accept a written statement that falsely indicates the name of the customer, the type of merchandise, the price, the discounts, or the terms of sale.

(c) Where an invoice is given or accepted by a distributor:

- (1) A statement that makes the invoice a false record of the transaction may not be inserted in the invoice; and
- (2) A statement that should be included in the invoice may not be omitted from the invoice if the invoice does not reflect the transaction involved without the statement.

Sec. 74-51. Recovery of taxes.

(a) Taxes due but not paid may be recovered by the city by legal action against the buyer or distributor. Taxes collected or owed but not transmitted may be recovered by an action against the seller, and sales tax returns will be prima facie proof of taxes collected but not transmitted.

(b) The city may file a civil action against any seller 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 person who is an agent of the seller, is personally liable for all taxes, penalties, and interest due from such seller.

Sec. 74-52. Tax lien.

(a) Any tax, unremitted tax, penalties, interest, costs, and fees that this chapter requires a seller or buyer to pay, or remit constitutes a lien in favor of the city upon all assets, earnings, revenue, and property of the seller, other persons liable under subsection 74-51(c), or the 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 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.

Sec. 74-53. Foreclosure.

(a) Delinquent sales tax liens on real property may be enforced by quarterly foreclosures on March 31, June 30, September 30, and December 31.

(b) Tax liens will be foreclosed in the manner provided for in sections 58-49 through 58-61.

Sec. 74-54. Interest rate; administrative costs.

(a) A simple interest rate of 1.25 percent per month, or a lesser rate if required by state law, will 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 penalties imposed under this article, a seller must 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, 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.

Sec. 74-55. Penalty for violations.

(a) 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 will incur a civil penalty of \$100.00 if the return or the tax payment is received later than the due date set forth in subsection 74-44(d) and will incur a civil penalty of \$1,000.00 if the return or the tax payment is received later than the last business day of the month following the month in which it was due.

(b) A seller who does not provide required records upon request as listed in section 74-49 and 74-50 will incur a civil penalty of \$1,000.00.

(c) A seller who fails to collect taxes as required by this chapter will incur a civil penalty of double the tax which should have been collected.

(d) Any person who makes any false statement to a seller or to the CFO or mayor which is material in determining whether a sale is taxable under this chapter is guilty of a misdemeanor and will be punished as provided in section 1-15.

(e) 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 is guilty of a misdemeanor and will be punished as provided in section 1-15.

(f) Any person who violates any provisions of this article other than those contained in subsections (a) through (c) of this section is punishable as provided in section 1-15. A separate offense will be deemed committed upon each day of a continuing violation.

Sec. 74-56. Collection policy.

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

Sec. 74-57. Rules and regulations.

(a) The mayor is empowered to enact rules and regulations to implement the sales tax levied under this chapter.

(b) The CFO will take all lawful and necessary actions to administer this chapter including, but not limited to, adopting, and revising procedures, fees, and written guidelines for the determination of the taxability of sales.

(c) The CFO may also take other lawful actions to administer this chapter 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 CFO, the finance department staff will prepare, implement, and revise forms for the administration of this chapter.

Secs. 74-58 – 74-65. Reserved.

Article IV. Alcoholic Beverage Sales Tax

Sec. 74-66. Definitions.

The following words, terms, and phrases, when used in this article, 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 entity that purchases or contracts to purchase any alcoholic beverage for consumption and not for resale.

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

Resale (wholesale sales) means the act of selling any alcoholic beverage to any person or entity for reselling such alcoholic beverage in its original form.

Retail sales mean 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 all component parts. Any other fees added must be itemized on the sales slip, a copy of which must be given to the customer upon request. All fees must be conspicuously posted. These additional fees cannot be used to circumvent the normal price of the beverage.

Seller means any person or entity that sells or contracts to sell any alcoholic beverage to a buyer.

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

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

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

Sec. 74-68. Exemptions from alcoholic beverage tax collection.

Sales covered under a permit issued to a nonprofit entity by the Alcohol & Marijuana Control Office (AMCO) for a special event or wine auction are exempt from alcoholic beverage tax collection.

Sec. 74-69. Obligation of payment by buyer.

The obligation for the payment of the tax is upon the buyer. All taxes imposed by this article are 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.

Sec. 74-70. Obligation of seller to collect.

Every seller making sales taxable under this article must 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 must deliver the same to the City of Fairbanks in accordance with the requirements in Article III (Sales & Excise Tax Requirements).

Secs. 74-71 – 74-115. Reserved.

Article V. Room Rental Tax

Sec. 74-116. Definitions.

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

Chief Financial Officer (CFO) means the chief financial officer of the City of Fairbanks or designee.

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

Guest or renter means an individual, firm, partnership, joint venture, club, fraternal organization, association, corporation, estate, trust, receiver, or any other entity or group who pays rent for a room for 30 consecutive days or less.

Permanent resident means any natural person who has or will have the right of occupancy of any room or rooms for more than 30 consecutive days.

Rent means the consideration charged for occupancy of a room, including all receipts, cash, credits, and property or services of any kind, and includes charges for any equipment such as rollaway beds and cribs.

Room means any structure or portion of a structure, permanent or temporary, fixed, or mobile, in which a person, for money or other consideration, may obtain lodging, dwelling, or sleeping accommodations. This term includes hotels, apartment hotels, motels, tourist homes, houses, courts, lodging houses, inns, rooming-houses, hostels, trailers, bed and breakfasts, dormitories, third party rentals, and any other facility, structure, or room of whatever name where space for lodging, dwelling, or sleeping may

be secured for consideration. "Room" does not include any hospital, self-contained and powered motor home, tent or tent space, medical clinic, sanitarium, nursing home, any student dormitory operated by the University of Alaska, or any temporary lodging within a military installation when that lodging is operated by the United States.

Seller means any person or entity that furnishes, offers for rent, or otherwise makes available a room, whether acting directly or through an agent or employee.

Tax means the room tax as levied under this article.

Sec. 74-117. Room rental tax purpose and limitation.

(a) The tax on the daily rental of rooms levied by this article is for the primary purpose of funding services for the promotion of the tourist industry and other economic development, and for the funding of services for the general public.

(b) Subject to annual appropriation, revenues collected under this article will be allocated as follows:

(1) The City of Fairbanks will receive 22.5 percent for fund collection, administration, and tourism impact.

(2) \$400,000.00 will be distributed annually as follows:

Fairbanks Economic Development Corporation	\$100,000.00
Golden Heart Plaza and Barnette Landing Maintenance	\$ 30,000.00
Discretionary Grants	\$270,000.00

(3) All remaining room rental tax revenues will be distributed to the Fairbanks Convention and Visitors Bureau dba Explore Fairbanks (hereinafter "Explore Fairbanks").

(c) Revenue collected under this article will be made available to Explore Fairbanks, the Fairbanks Economic Development Corporation, and Golden Heart Plaza and Barnette Landing Maintenance no later than the last day of the month directly following the month in which the revenues are collected by the city.

(d) Any organization, public or private, or any person may submit a discretionary grant application and proposal to the city no later than October 31st for distribution in the next calendar year. The city council will establish standards and criteria for selection and publish them for a reasonable period before the applications are to be submitted. The mayor will appoint a committee, with city council concurrence, to review the proposals and make recommendations to the city council no later than the first regular meeting in January.

(e) Any recipient of funding under this article must execute a contract with the city setting forth terms and conditions deemed necessary to enable the city to assure compliance with the purposes and limitations under this section. In addition, Explore Fairbanks and the Fairbanks Economic Development Corporation board of directors and/or director must remit complete and fully detailed budget documents and a plan outlining projected goals and objectives directly to the city council before November 1st of each year for presentation and review as a condition of funding. At the same time each of these agencies must submit a complete and detailed report of current year's progress and accomplishments.

(f) Discretionary grant recipients will be required to report to the CFO that funds were used exclusively for the purposes stated in the grant application. Ten percent of these appropriations will be withheld until the complete report is filed with the CFO. Prior to receiving any funding under this section, applicants must agree to reimburse the city the full amount of any grant funds not used for the purposes stated on the application. Certification that funds were used as approved is due by October 31 of the year of grant funding; funds not spent or encumbered for approved purposes must be returned by that date. An organization that fails to comply with the October 31 deadline is ineligible to seek funding for the following year, but if complete reporting and repayment is made by October 31 of the following year, the organization may reapply for future funding. An organization that does not comply within one year of the deadline is ineligible to receive funding for three additional years.

(g) The city council establishes the following criteria and process for discretionary grants.

- (1) The primary purpose of discretionary grants is the promotion of the tourism industry and other economic development in the City of Fairbanks. Discretionary grants cannot support the following:
 - a. Loans, deficits, or debt reduction.
 - b. Endowments.
 - c. Scholarships.
 - d. Health and social services activities.
- (2) A discretionary fund committee will be composed of five community members and a council person, who will function as the chair, all appointed by the mayor. The members of the committee will serve three-year terms with a limit of two consecutive full terms. Unless appointed to fill a vacancy, terms begin July 1 and expire June 30.
- (3) Grant guidelines:
 - a. The applicant must complete the application in its entirety and may submit financial information in their format including:
 1. Balance sheet for the last fiscal year.

2. Income and expense statement for the last fiscal year.
 3. Applicant's projected budget for the upcoming year.
 4. Wage and salary information for employees for current and upcoming year.
- b. If an applicant has the disbursement responsibility for other organizations, they must list all organizations that they represent.
 - c. The applicant must explain how use of the funds will contribute significantly to the growth and promotion of Fairbanks.
 - d. The applicant must explain how the funds will be used to supplement a successful ongoing program of activities or a new program that will need initial support to accomplish its stated goals.
 - e. The applicant must answer questions in the order provided but need not have the questions and answers appear on specific pages.
- (4) Grant applications approved by the discretionary fund committee will be available from the office of the city clerk and must be submitted or postmarked no later than October 31 of each year.
 - (5) Procedures for scoring proposals from applicants will be decided by the committee during its first organizational meeting. Members at this meeting will be made aware of procedures in place in case of conflicts of interest.
 - (6) A distribution meeting will be held for members to present their award for each eligible grant application. Prior to the distribution meeting, committee members must submit their award amounts to the CFO. Members will disclose their award amounts by reading them into the record during the distribution meeting. An award will be made for each eligible grant applicant by averaging the award amounts. Awards are subject to city council approval.
 - (7) Successful applicants are required to report to the CFO as stated in section 74-117 (f). Ten percent of these appropriations will be withheld until a report is filed with the CFO.

Sec. 74-118. Room rental tax levy and collection.

(a) There is levied and imposed upon the use and privilege of renting a room within the city a tax equal to eight percent on the daily rate charged for each such room rented for each 24-hour period or any portion of such period. This tax is imposed upon all room rentals unless the rental is specifically exempted herein or by other applicable law. The tax will not be levied and imposed upon a permanent resident of a room.

(b) The ultimate incident of and liability for payment of the tax will be borne by the person who occupies the room, and such person is referred to as a guest or renter.

(c) The tax levied in this section is paid in addition to any and all other taxes and charges. It is the duty of the seller providing rentals taxable under this article to act as trustee for and on account of the city and to secure the tax from the guest or renter of the room and remit the tax as provided in this article.

(d) Every seller required to collect the tax levied by this article must secure the tax from the guest or renter at the time of rental payment for the room. Upon the invoice, receipt, or other statement or memorandum of the rent given to the guest or renter at the time of payment, the amount due under the tax provided in this article must be stated separately on the documents.

(e) Accurate records of all taxes levied and collected must be maintained by the person required to collect the tax levied by this article.

(f) Any seller seeking an exemption under section 74-119(4) or 74-119(5) must keep on file, available for inspection, a lease, contract, or other document detailing the terms of the occupancy.

Sec. 74-119. Exemptions from room rental tax collection.

A seller who is exempt from federal income taxation under 26 USC 501(c)(3) and whose income from room rentals is not an unrelated business taxable income under 26 USC 512, is exempt from collecting the tax levied by this article. This exemption, however, is not effective until the seller registers with the Fairbanks North Star Borough under FNSBC 8.48.030. The following rents are exempt from the room tax levied in this article and may require an exemption form approved by the CFO:

- (1) Rent paid directly to the seller using a purchase order or other means of direct payment by a federal, state, or local government. Government employees traveling on a reimbursement basis are not exempt from taxation and will be charged the eight percent tax.
- (2) Rent paid by a foreign government which is exempt from taxation by law or by treaty on behalf of a guest or renter who is an officer or employee of the foreign government.
- (3) Rentals by religious or charitable organizations as defined in subsections 501(c)(1), (3) or (4) of the Internal Revenue Code that are rented for the conduct of regular religious or charitable functions and activities and not for the support or maintenance of the general membership or for communal living. Applications for this exemption must include an exemption certificate issued by the Internal Revenue Service.
- (4) Rent paid by a permanent resident as defined in section 74-116.

- (5) Rent paid directly by an employer for a room to be used or occupied by its employee or employees on a rotating basis for 90 consecutive days or more.

Sec. 74-120. Obligation of payment by guest or renter.

The obligation for the payment of the tax is upon the guest or renter. All taxes imposed by this article are due and payable by the guest or renter at the time of rental and are delinquent if not paid when due.

Sec. 74-121. Obligation of seller to collect.

Every seller providing rentals that are taxable under this article must collect the taxes from the guest at the time of rental and must deliver the same to the City of Fairbanks in accordance with the requirements in Article III (Sales & Excise Tax Requirements).

Secs. 74-122 – 74-150. Reserved.

Article VI. Tobacco Products Distribution and Excise Tax

Sec. 74-151. Definitions.

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

Direct-buying retailer means a person who is engaged in the sale of tobacco products at retail in the city, and who brings tobacco products into the city or causes tobacco products to be brought into the city.

Distributor means a person or entity that:

- (1) Brings tobacco products into the city, or has tobacco products brought into the city, or causes tobacco products to be brought into the city, and who sells or distributes tobacco products to others for resale in the city; or
- (2) Ships or transports a tobacco product to a retailer in the city for sale by the retailer.

Person includes an individual, company, partnership, limited liability partnership, joint venture, joint agreement, association (mutual or otherwise), corporation, estate, trust, business trust, receiver, trustee, syndicate, a direct-buying retailer, or distributor, or any combination acting as a unit.

Retailer means a person in the city who is engaged in the business of selling tobacco products at retail.

Sale includes a sale, barter, exchange, and every other manner of transferring the ownership of tobacco products for any consideration.

Tax means the tobacco products distribution and excise tax as levied under this article.

Tobacco product means:

- (1) A cigarette, which is a roll for smoking of any size or shape, made wholly or partly of tobacco, whether the tobacco is flavored, adulterated or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco;
- (2) A cigar;
- (3) A cheroot;
- (4) A stogie;
- (5) A perique;
- (6) Snuff and snuff flour;
- (7) Smoking tobacco, including granulated, plug-out, crimp-out, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette;
- (8) Chewing tobacco, including Cavendish, twist, plug, scrap, and tobacco suitable for chewing;
- (9) An article or product made wholly or in part of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute, prescribed by a licensed physician or a product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or
- (10) ~~An electronic smoking device which can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e cigarette, e cigar, e pipe, vape pen or e hookah. An electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any nicotine substance intended to be aerosolized or vaporized during the use of the device, whether or not it contains nicotine. An electronic smoking device does not include any battery or battery charger when sold separately or smoking cessation products.~~ **Any nonrefillable closed system device that is either disposable and contains nicotine, or any closed pod system that contains nicotine when sold, or any nicotine containing liquid intended to be used in a refillable open system device.**

Wholesale price means the established price for which a distributor sells a tobacco product to a retailer.

Sec. 74-152. Tobacco products excise tax and collection.

(a) The city hereby levies an excise tax on the distribution of tobacco products brought into the city, measured at the rate of eight percent times the wholesale price of such tobacco products.

(b) It is the intent and purpose of this article to provide for the collection of the excise tax from the person who brings tobacco products into the city or causes tobacco products to be brought into the city.

(c) The excise tax is levied when:

- (1) A person brings tobacco products into the city or causes tobacco products to be brought into the city from outside the city for sale; or
- (2) A person ships or transports tobacco products to a retailer in the city for sale by a retailer.

Sec. 74-153. Exemptions from tobacco products excise tax.

The tax imposed under this article does not apply to:

- (1) Tobacco products brought into the city by an exchange, commissary, or ship's stores operated by one of the uniformed services of the United States, as defined in § 5 USC 2101, if the tobacco products are sold to and for the sole use of authorized personnel according to current military regulations.
- (2) Tobacco products that the city is prohibited from taxing under the United States Constitution or other federal or state laws.
- (3) Tobacco products brought into the city for sale outside the city.

Sec. 74-154. Obligation of payment by distributor.

The obligation for the payment of the tax is upon the distributor. All taxes imposed by this article become a liability to the distributor at the time of sale and are delinquent if not paid when due. Payments are made to the City of Fairbanks in accordance with the requirements in Article III (Sales & Excise Tax Requirements).

Sec. 74-155. Unlawful possession or sale.

A person who offers to sell or dispose of tobacco products to others for the purpose of resale without being registered to do so is considered to have possession of the tobacco products as a distributor and is personally liable for the tax, plus a penalty of 25 percent.

Secs. 74-156 – 74-199. Reserved.

Article VII. Marijuana Sales Tax

Sec. 74-200. Definitions.

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

Buyer means, without limiting the scope thereof, any person or entity that purchases or contracts to purchase marijuana.

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

Marijuana means all parts of the plant (genus) Cannabis, whether growing or not, the seed thereof, the resin extracted from any part of the plant, and any compound, manufacture, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; marijuana does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

Retail sale means the transfer of any marijuana from a marijuana retail establishment to any person or entity, for any consideration. If state law is amended to allow other marijuana establishments to conduct sales of marijuana directly to buyers who are not licensed marijuana establishments, such sales will also be considered retail sales subject to taxation under this article.

Sale made within the city means any retail sale where:

- (1) The buyer takes possession of or title to the purchased marijuana within the city; and/or
- (2) The seller receives consideration for the purchased marijuana within the city.

Sales price means the price of any marijuana.

Seller means any person or any other entity that sells or contracts to sell any marijuana to a buyer.

Tax means the marijuana sales tax as levied under this article.

Sec. 74-201. Marijuana sales tax levy.

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

Sec. 74-202. Obligation of payment by buyer.

The obligation for the payment of the tax is upon the buyer. All taxes imposed by this article are 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.

Sec. 74-203. Obligation of seller to collect.

Every seller making sales taxable under this article must 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 must deliver the same to the City of Fairbanks in accordance with the requirements in Article III (Sales & Excise Tax Requirements).

Secs. 74-204 – 74-299. Reserved.

Article VIII. Gasoline Excise Tax

Sec. 74-300. Definitions.

The following words, terms, and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any words, terms, and phrases not defined in this section will have the meaning given in AS 43.40.100 or regulations adopted by the state to implement its motor fuel tax pursuant to AS 43.40:

Certificate of use means the certificate provided to the State of Alaska Department of Revenue, Tax Division, that is obtained by the dealer from a gasoline purchaser at the time of the first sale or transfer of the gasoline to that purchaser stating the gasoline that has been or will be purchased or received is not intended for use as taxable gasoline.

Common storage tank means a storage tank serving taxable and exempt uses, or multiple taxable uses to which various tax rates apply.

Direct-buying retailer means a person who is engaged in the sale of gasoline at retail in the city and who brings or causes gasoline to be brought into the city.

Distributor means a person who:

- (1) Brings gasoline, or has gasoline brought, or causes gasoline to be brought, into the city and who sells or distributes gasoline to others for resale in the city; or
- (2) Ships or transports gasoline to a retailer in the city for sale by the retailer; and
- (3) Includes qualified dealers.

Export means the transport of gasoline as cargo out of the city by or for the seller or purchaser and intended for use or resale outside city limits.

Gasoline means a liquid substance refined, compounded, or produced primarily for the purpose of use in an engine. This does not include aviation fuel or diesel fuel.

Official use means use by a federal, state, or local government agency but does not include: (1) consumption by a contractor who purchases gasoline either for its own account or as the agent of a governmental agency for use in the performance of a contract with that agency; (2) use in a private vehicle; or (3) sales of gasoline.

Person includes an individual, company, partnership, limited liability partnership, joint venture, joint agreement, limited liability company, association (mutual or otherwise), corporation, estate, trust, business trust, receiver, trustee, syndicate, a direct buying retailer, distributor, or any combination acting as a unit.

Qualified dealer means a person who refines, imports, manufactures, produces, compounds, or wholesales gasoline.

Retailer means a person in the city who is engaged in the business of selling gasoline at retail.

Tax means the gasoline excise tax as levied under this article.

Wholesale price means the established price for which a distributor sells gasoline to a retailer.

Sec. 74-301. Gasoline excise tax and collection.

(a) The city hereby levies an excise tax on the distribution of gasoline brought into the city in the amount of five cents per gallon.

(b) It is the intent and purpose of this article to provide for the collection of the excise tax from the person who brings or causes gasoline to be brought into the city.

(c) The excise tax is levied when:

- (1) A person brings, or causes gasoline to be brought into the city from outside the city for sale; or
- (2) A person ships or transports gasoline to a retailer in the city for sale by a retailer.

Sec. 74-302. Exemptions from gasoline excise tax.

(a) The following transactions are exempt from the tax levied by section 74-301:

- (1) Gasoline that is sold or transferred between distributors;
- (2) Gasoline that is sold or transferred to a person obtaining gasoline with a valid certificate of use;
- (3) Gasoline that is exported outside city limits;
- (4) Gasoline that is purchased for use by federal, state, or local government agencies, unless the gasoline is purchased for the purpose of resale; and
- (5) Loss of volume of gasoline that occurs during handling, transportation, and storage, including loss of volume due to temperature changes of gasoline.

(b) The election to defer payment of gasoline tax provided by the state to certain persons pursuant to 15 AAC 40.320 for sales or transfers for mixed uses is not provided by the city. A sale or transfer of gasoline for mixed use purposes to a common storage tank will be fully taxed, and after resale or use for an exempt purpose the purchaser may apply for a credit with appropriate documentation in accordance with sections 74-47.

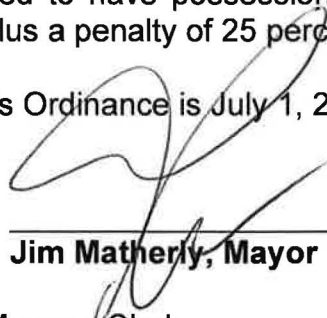
Sec. 74-303. Obligation of payment by distributor.

The obligation for the payment of the tax is upon the distributor. All taxes imposed by this article become a liability to the distributor at the time of sale and are delinquent if not paid when due. Payments are made to the City of Fairbanks in accordance with the requirements in Article III (Sales & Excise Tax Requirements).

Sec. 74-304. Unlawful possession or sale.

A person who offers to sell or dispose of gasoline to others for the purpose of resale without being registered to do so is considered to have possession of gasoline as a distributor and is personally liable for the tax, plus a penalty of 25 percent.

Section 2. That the effective date of this Ordinance is July 1, 2021.



Jim Matherly, Mayor


AYES: Therrien, Rogers, Gibson, Kun, Marney, Clark
NAYS: None
ABSENT: None
ADOPTED: June 28, 2021

ATTEST:



D. Danyielle Snider, MMC, City Clerk

APPROVED AS TO FORM:



Paul J. Ewers, City Attorney