

1 By: Bryce J. Ward, Mayor
2 Introduced: 06/11/2020
3 Advanced: 06/11/2020
4 Adopted: 06/30/2020
5

6 FAIRBANKS NORTH STAR BOROUGH

7
8 ORDINANCE NO. 2020 – 25
9

10 AN ORDINANCE AMENDING CHAPTERS 8.44, 8.48, 8.52 AND 8.54 FNSBC REGARDING
11 PENALTIES AND AMENDING CHAPTER 8.48 REGARDING REFUND OF ROOM TAX
12

13 WHEREAS, Alaska case law expressly allows municipalities to impose civil
14 penalties for failing to remit sales taxes; and
15

16 WHEREAS, Operators renting rooms, tobacco product distributors, and
17 sellers of alcoholic beverages, marijuana, and marijuana products are currently assessed
18 a penalty of 10% of taxes due for taxes that are up to 30 days late, a penalty of 25% of
19 taxes due for taxes that are up to 60 days late, and an additional \$1,000 penalty each
20 month their taxes are more than 60 days late or if they have failed to remit required
21 reports; and
22

23 WHEREAS, The imposition of the additional \$1,000 penalty each month that
24 an operator, distributor, or seller fails to remit hotel-motel, tobacco, alcohol, or marijuana
25 taxes has in certain circumstances led to penalties that are disproportionate to the total
26 taxes due; and
27

28 WHEREAS, Amending the refund provision of the hotel-motel tax section to
29 provide for a 60 day period in which an operator may submit an amended report and a
30 claim for a refund will bring the hotel-motel tax section in line with the tobacco, alcohol,
31 and marijuana tax refund provisions which all provide for a 60 day filing period.
32

33 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
34 North Star Borough:
35

36 Section 1. This ordinance is of a general and permanent nature and shall
37 be codified.
38

39 Section 2. FNSBC 8.44.080(C), Penalties and interest, regarding the tobacco
40 distribution excise tax, is hereby repealed as follows: *[Note: The Clerk shall reletter*
41 *accordingly.]*

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

42 [C. IF A DISTRIBUTOR IS REQUIRED UNDER THIS CHAPTER TO SUBMIT A REPORT
43 OR PAY TAXES TO THE BOROUGH, SUCH DISTRIBUTOR SHALL PAY AN ADDITIONAL
44 \$1,000 PENALTY IF THE DISTRIBUTOR'S REPORT OR PAYMENT IS NOT RECEIVED BY
45 THE BOROUGH WITHIN 60 DAYS OF THE ORIGINAL DUE DATE PROVIDED UNDER THIS
46 SECTION.]

47
48 Section 3. FNSBC 8.48.100(C), Penalties, estimated taxes, administrative
49 fees and interest, regarding the hotel-motel room tax, is hereby repealed as follows:
50 *[Note: The Clerk shall reletter accordingly.]*

51 [C. AN OPERATOR IS SUBJECT TO AN ADDITIONAL \$1,000 PENALTY EACH MONTH
52 IF THE OPERATOR FAILS TO FILE A REPORT OR RETURN FOR 90 DAYS OR MORE, FAILS
53 TO REMIT TAXES FOR 90 DAYS OR MORE, OPERATES WITHOUT A VALID CERTIFICATE
54 OF REGISTRATION, OR IN ANY OTHER WAY DOES NOT COMPLY WITH THE
55 REQUIREMENTS OF THIS CHAPTER IF OPERATING WITH A CERTIFICATE OF
56 REGISTRATION AND THE OPERATOR DOES NOT TIMELY FILE A REPORT OR RETURN
57 OR FAILS TO REMIT TAXES, OR UPON NOTIFICATION BY CERTIFIED MAIL OF THE
58 REQUIREMENT TO OBTAIN A CERTIFICATE OF REGISTRATION IF ONE HAS NOT BEEN
59 OBTAINED.]

60
61 Section 4. FNSBC 8.48.130, Refund of room tax, is hereby amended as
62 follows:

63 A. [RIGHT TO APPLICATION FOR REFUND. IF, THROUGH ERROR OR OTHERWISE,
64 AN OPERATOR PAYS THE BOROUGH ROOM TAXES TO WHICH THE BOROUGH IS NOT
65 ENTITLED BY LAW, THE OPERATOR MAY, WITHIN ONE YEAR FROM THE DATE THE TAX
66 WAS DUE, APPLY TO THE DIRECTOR FOR A REFUND.] An operator may within 60 days
67 of filing a monthly report form submit an amended monthly report form along with a
68 written claim for a refund. The operator claiming the refund bears the burden of proving,
69 by clear and convincing evidence, any [THE] overpayment [MADE] to the borough [IS
70 ON THE OPERATOR CLAIMING OR REQUESTING A REFUND].

71
72 B. [EXCLUSIVE PROCEDURE. THE PROCEDURE SET FORTH IN THIS SECTION IS THE
73 SOLE AND EXCLUSIVE PROCEDURE WHEREBY A REFUND MAY BE MADE, AND IS A
74 PREREQUISITE TO BRINGING A SUIT TO RECOVER ANY TAXES PAID. ANY PERSON WHO
75 HAS NOT TIMELY FILED AN APPLICATION FOR A REFUND AS PROVIDED HEREIN SHALL
76 BE DEEMED TO HAVE WAIVED ANY RIGHT TO SUCH REFUND.] The hotel-motel tax
77 administrator shall investigate all refund claims and shall present findings and
78 recommendations to the director within 60 days of an operator's filing of a written claim
79 for refund. If the director determines that clear and convincing evidence supports the
80 operator's refund claim, the director shall issue a refund to the operator. Within 120 days
81 of operator's filing of a written claim for refund, the director shall issue a refund, or notify
82 the operator that no refund shall issue. The borough shall not pay, and shall not otherwise
83 be held liable for, any interest on any refund.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

84
85 Section 5. FNSBC 8.52.110(B), Penalties, interest, fees and tax remittance,
86 regarding the alcoholic beverage tax, is hereby repealed as follows: *[Note: The Clerk shall*
87 *reletter accordingly.]*

88 [B. IF A SELLER IS REQUIRED UNDER THIS CHAPTER TO SUBMIT A MONTHLY
89 REPORT OR REMIT COLLECTED TAXES TO THE BOROUGH, SUCH SELLER SHALL PAY AN
90 ADDITIONAL \$1,000 PENALTY IF THE SELLER'S REPORT OR REMITTANCE IS NOT
91 RECEIVED BY THE BOROUGH WITHIN 60 DAYS OF THE ORIGINAL DUE DATE PROVIDED
92 UNDER THIS SECTION.]

93
94 Section 6. FNSBC 8.54.110(B), Penalties, interest, fees and tax remittance,
95 regarding the marijuana and marijuana product tax, is hereby repealed as follows: *[Note:*
96 *The Clerk shall reletter accordingly.]*

97 [B. IF A SELLER IS REQUIRED UNDER THIS CHAPTER TO SUBMIT A MONTHLY
98 REPORT OR REMIT COLLECTED TAXES TO THE BOROUGH, SUCH SELLER SHALL PAY AN
99 ADDITIONAL \$1,000 PENALTY IF THE SELLER'S REPORT OR REMITTANCE IS NOT
100 RECEIVED BY THE BOROUGH WITHIN 60 DAYS OF THE ORIGINAL DUE DATE PROVIDED
101 UNDER THIS SECTION.]

102
103 Section 7. Effective date. This ordinance is effective at 5:00 p.m. on the
104 first Borough business day following its adoption.

105
106 ADOPTED THE 30TH DAY OF JUNE 2020.

107
108
109
110 

111 Christopher Quist
112 Presiding Officer

113 ATTEST:

114 
115
116 April Trickey, CMC
117 Borough Clerk

118
119 Yeses: Cash, Lyke, Lojewski, Sanford, Williams, Tomaszewski, Cooper, O'Neall, Quist
120 Noes: None

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED, CAPITALIZED]