

Key:

Redline language indicates addition

~~Strikeout language indicates deletion~~

Highlighted language indicates that draft language is being reviewed by city attorney.

CHAPTER 3.24 - PUBLIC ACCOMMODATION TAX**§ 3.24.010. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Guest" means an individual, corporation, partnership or association paying or agreeing to pay monetary consideration for the use of a public accommodation.

"Hosting platform" means a person or entity that provides a means through which an operator may offer a public accommodation for rent, usually through an online platform that provides a means for the guest to pay rent for a public accommodation.

"Operator" means a person who furnishes or offers for rent a public accommodation in the city for monetary consideration, whether acting directly or through an agent or employee.

"Person" means an individual and entities recognized by law.

"Public accommodation" means "hotel, motel, inn or lodge," "rental cabin" or "short-term rental" as defined in Title 17.

"Quarter" means computed by use of the calendar year beginning with January and consisting of a three-month period.

"Rents" means the amount paid as monetary consideration for the use of a public accommodation by a guest.

(prior code § 25-126; Ord. 94-02 § 1 (part); Ord. 24-05 § 1; Ord. 94-06 § 1)

§ 3.24.020. Levied—Responsibility for payment—Collection.

A. The city levies a tax on public accommodation rentals within the city equal to six percent of the rental. The tax shall be applicable to all rentals, unless the rental is specifically exempt from taxation, as follows:

1. Rent paid directly by the United States or state of Alaska insofar as they are immune from taxation;
2. An employee of the public accommodation collecting the tax.

B. Each guest is responsible for the tax imposed by this chapter, and the tax shall be due and payable at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due when the guest ceases to occupy or use space in the public accommodation.

C. Every operator renting a public accommodation subject to taxation under this chapter shall collect the taxes imposed by this chapter from the guest at the time of collection

of the rental and shall transmit the same quarterly to the city unless taxes imposed by this chapter are collected by a hosting platform. The tax imposed shall be shown on the billing to the guest as a separate and distinct item.

- D. Every hosting platform accepting public accommodation rental payment from a guest on behalf of an operator as defined in this chapter shall collect the taxes imposed by this chapter from the guest at the time of collection of the rental payment and shall remit all public accommodation taxes collected to the city on a quarterly basis.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-127)

§ 3.24.030. Registration for operators.

- A. Operators shall register with the city by providing the approved business registration for the public accommodation and, if required, the short-term rental permit prior to commencing business.
- B. The city finance department shall maintain a record of all registered operators authorized to collect and remit public accommodation taxes.
- C. Operators shall provide the city finance department written notice in the event of a change of business type, change of address or closing of a public accommodation business.
- D. For a registration to be valid the operator must comply with Valdez business registration requirements as well as the provisions of the zoning, building, plumbing, electrical, and fire codes, and other applicable ordinances of the city.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 28-128)

§ 3.24.035. Registration for hosting platforms.

- A. Every hosting platform accepting payment for public accommodation rentals as defined by this chapter shall register with the city upon a form provided by the city. There is no requirement for a hosting platform to hold a city business registration or have a physical presence within the city.
- B. The city finance department shall maintain a record of registered hosting platforms authorized to collect and remit public accommodation taxes.

(Ord. 24-05 § 1)

§ 3.24.040. Receipts—Segregation.

Title to the taxes collected pursuant to this chapter shall vest to the city upon collection. Such taxes shall be segregated by the operator or hosting platform from the funds of the operator or hosting platform and safeguarded until transmitted to the city as hereinafter provided.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-129)

§ 3.24.050. Receipts—Transmittal—Due date—Penalty.

- A. On or before the last day of the month following each calendar quarter, each operator shall prepare and submit to the city a return for the preceding quarter upon forms furnished by the city setting forth the amount received for:

1. Rentals within the city;
2. Taxes collected.

In addition, the operator shall submit such other information and supporting papers as may be required by the city.

- B. The operator shall sign the return and transmit it together with the taxes collected to the city on or before the due date. A return shall be filed even if the public accommodation has no rental for the quarter.
- C. Taxes collected by an operator as provided by this chapter shall be due the last day of the month following each calendar quarter. If taxes collected by an operator have not been received by the city on or before the due date, the operator shall incur a penalty equal to ten and one-half percent of the taxes which are due or a minimum of one hundred dollars and shall be charged interest at the rate of ten and one-half percent per annum for each day the tax is delinquent. ~~A one-time-only waiver of penalty will be given for any late filed tax return after April 30, 1994.~~
- D. Where the city has reasonable grounds to believe that taxes due were not collected or taxes collected were not transmitted on or before the due date, or if the operator of a public accommodation has failed to file a return as required by this chapter, the city shall prepare a notice of delinquency and shall deliver such notice to the operator. Payment of delinquent tax under a notice of delinquency shall include penalty and interest which shall be calculated as provided above.
- E. A registered hosting platform shall submit tax returns and remit tax payments in accordance with this section. The tax return shall set forth or include the aggregate amounts of all rents earned by and taxes due from the operators who use the hosting platform to rent or offer to rent public accommodations through the hosting platform. To the extent a hosting platform collects taxes on behalf of an operator, the operator's liability for those taxes shall be deemed satisfied.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-130)

§ 3.24.060. Returns to be confidential.

~~All returns filed with the city pursuant to the provisions of this chapter and all data obtained from such returns are confidential and may not be released for inspection by the public, except upon court order.~~

Except as otherwise provided in this section, all data obtained from returns are confidential and shall be kept from inspection of all persons except officers, agents, and employees of the city and may not be disclosed by the city except in:

- A. Connection with efforts by the city to collect the tax or enforce provisions of this chapter;
- B. Response to a subpoena issued by a court;
- C. When furnishing of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws;
- D. In compilation of statistics and studies by the city for public distribution, so long as information from individual businesses is not identifiable as to source.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-131)

§ 3.24.070. Records—Maintenance, and inspection and investigation.

- A. Regardless of whether a hosting platform is used, every operator of a public accommodation engaged in business within the city shall keep and preserve suitable records of all rentals made and such other books and accounts as may be necessary to determine the amount of tax required to be collected. All books, invoices and other necessary records shall be maintained by the operator for a period of two years and shall be available for examination at reasonable times by the city for the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or levied.
- B. A registered hosting platform shall keep and preserve suitable records of all rental transactions subject to this chapter and all claimed exemptions from payment, collection, or remittance of the public accommodation taxes under this chapter. To the extent a hosting platform may assign anonymous account numbers to operators using the hosting platform, when inspecting records, the city shall inspect the required records in an anonymized fashion, unless the city has obtained a release of information from the operator or an order to produce identifiable operator information issued through a binding legal process.

C. 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, the city manager, or his or her duly authorized agent, may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records or memoranda of any operator or hosting platform, and may require the attendance of any operator or hosting platform representative, officer or employee. The city council shall have the power to issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-132)

§ 3.24.080. Records—Investigation by city.

~~The city may conduct investigations and hearings concerning any matters covered by this chapter, may examine relevant books, papers, records or memoranda of any operator and may require the attendance of the operator, his officers or employees. The city shall have the power to administer oaths to persons testifying, and may issue formal subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. All subpoenas issued under the terms of this chapter may be served on any person of legal age. The fees paid to witnesses for attendance at the hearings shall be the same as the fees paid to witnesses before the Superior Court, and such fees shall be paid when the witness is excused from further attendance. When a witness is subpoenaed at the insistence of any party to the proceeding, the cost of service of the subpoena and the fee of the witness shall be borne by the party at whose request the witness is summoned. A subpoena shall be served in the same manner as a subpoena issued by a Superior Court. The city or any party to an investigation or hearing before the city may cause the deposition of witnesses residing within or without the state to be taken in a manner prescribed by law for depositions in civil actions in the courts of this state and to that end may compel the attendance of witnesses and production of relevant books, papers, records or memoranda.~~

~~(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-133)~~

§ 3.24.090. Suits for collection.

Taxes due but not paid or taxes collected but not transmitted may be recovered in an action at law against ~~the guest or the public accommodation operator~~ or hosting platform.
Tax returns shall be prima facie proof of taxes collected but not transmitted.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-134)

§ 3.24.100. Prohibited acts.

No person may fail or refuse to pay the tax imposed by this chapter when it is due and payable to an operator authorized to collect the tax.

An operator or hosting platform may not advertise or state to the public or to any guest directly or indirectly that the tax or any part of it will be assumed or absorbed by the operator or hosting platform, or that the tax will not be added to the rental or that it will be refunded. An operator or hosting platform may not absorb or fail to add the tax or any part of it or refund any tax or fail to state the tax separately to the guest.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-135)

§ 3.24.110. Civil penalties for violations.

An operator who rents accommodations in the city and who thereafter fails to file a tax return as required by this chapter shall incur civil penalty equal to ten percent of the taxes due to the city for each quarter for which a return was not filed as required by this chapter. An operator who, in the course of business, rents accommodations upon which a tax is levied hereunder and who fails to collect such a tax shall incur a civil penalty of double the tax which should have been collected. A hosting platform that collects public accommodation taxes on behalf of an operator is subject to the penalties set forth herein. In addition, a violator of this chapter is subject to criminal penalties as set forth in Section 1.08.010.

(Ord. 24-05 § 1; Ord. 94-02 § 1 (part); prior code § 25-136)

3.24.120. Distribution of funds.

~~A. Funds received under this chapter including penalties and interest for each calendar year may be available for use, as follows:~~

- ~~1. Up to one hundred percent of the gross funds may be made available for distribution. The cost of administration and collection of the public accommodation tax shall come from the gross funds prior to distribution.~~
- ~~2. Funds available for distribution shall be those public accommodation tax funds received by the city during the prior fiscal year.~~
- ~~3. All public accommodation tax funds received under this chapter will be placed in an utilized for economic development fund purposes and will be distributed at the discretion of the city council.~~
- ~~4. Each applicant for funds shall submit a program description including, but not limited to, the following:~~
 - ~~a. Program objectives;~~

- ~~_____ b. _____ Economic development benefit or opportunities;~~
- ~~_____ c. _____ Annual operating budget; and~~
- ~~_____ d. _____ Financial statement including revenues, expenditures and reserve account balances.~~

~~The submission date will be determined on an annual basis by the city manager.~~

(Ord. 94-02 § 1 (part); Ord. 99-13 § 1; Ord. 02-07 § 1; Ord. 24-05 § 1; Ord. 04-10; prior code § 25-137)

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