

Introduced by: Borough Manager
Drafted by: Assessing and Finance Director
Introduced on: 09/07/2017
Public Hearing Date: 09/21/2017
Adopted on: 09/21/2017

KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2018-04B

AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH AMENDING TITLE 3 REVENUE AND FINANCE CHAPTER 3.80 EXCISE TAX ON CIGARETTES AND OTHER TOBACCO PRODUCTS BY MOVING LICENSING SECTIONS IN TITLE 5 BUSINESS LICENSES AND TO ALLOW ADDITIONAL LANGUAGE CLEAN UP IN THE ORDINANCE

WHEREAS, on September 3, 2017, the Kodiak Island Borough Assembly adopted Ordinance No. FY2018-04 which established Chapter 3.80 Excise Tax on Cigarettes and Other Tobacco Products; and

WHEREAS, Section 3.80.010C Authority was inadvertently left out from the ordinance is here by incorporated through this amendment; and

WHEREAS, upon further review of the ordinance, it is more appropriate to move the licensure sections under Title 5.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:

Section 1: Classification. This ordinance is of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances.

Section 2: Enactment. Title 3 of the Kodiak Island Borough Code of Ordinances is amended by moving sections 3.80.050 to 3.80.060 under Title 5 and thereby creating Chapter 5.03 Tobacco Licenses; and upon adoption, the subsequent sections will be renumbered accordingly:

Chapter 3.80

EXCISE TAX ON CIGARETTES AND OTHER TOBACCO PRODUCTS

Sections:

3.80.010 Applicability, purpose and authority

3.80.020 Definitions

3.80.030 Excise tax on cigarettes and other tobacco products.

3.80.040 Exemptions.

~~3.80.050 License required for dealers in cigarettes or tobacco products; issuance.~~

~~3.80.060 Display of license; suspension or revocation by borough; surrender.~~

3.80.070 Refund of tax ~~or license fee~~

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3.80.010 Applicability, purpose and intent.

A. Applicability. Unless otherwise expressly provided, this chapter shall apply areawide to all cigarettes and tobacco products brought into or acquired in the borough, including smokeless tobacco products and electronic cigarettes.

B. Purpose and intent. It is the purpose and intent of this chapter to provide for the levy, collection and enforcement of the excise tax from the distributor who brings cigarettes or other tobacco products into the Borough. The excise tax is levied when a distributor brings, or causes to be brought, cigarettes or other tobacco products into the Borough from outside the Borough for sale.

C. Authority. This chapter and the regulations related to tobacco herein are adopted pursuant to the authority granted by AS 29.35.10.

3.80.070 Refund of tax-~~or license fee~~.

A. The department shall not refund the ~~license fee~~ **taxes** paid pursuant to this chapter upon the surrender or revocation of a license after the beginning of the license year. Upon application, the department will refund a ~~license fee~~ **tax** that is paid or collected in error.

B. If a remittance by a licensee exceeds the amount due, and the department, on audit of the account in question, is satisfied that this is the case, the department shall, upon written request of the licensee, refund the excess to the licensee without interest.

C. Any claim for refund filed more than one year after the due date of the tax is forever barred.

Section 3: Enactment. Title 5 Business and Licenses and Regulations is hereby amended by creation of Chapter 5.03 Tobacco Licenses as reflected below:

~~5.03.010 License required for dealers in cigarettes or tobacco products; issuance Borough license for tobacco businesses – issuance, denial, renewal, and transfer.~~

A. License required. No person may sell, purchase, possess or acquire cigarettes or tobacco products in the borough as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer without a license issued under this chapter.

B. Issuance of license. The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator or buyer. A copy of the applicant's current State of Alaska business license is required and must accompany the application. The application must include the following information:

1. The applicant's name and address;

2. The name under which the cigarette or tobacco products business will be conducted;

3. The applicant's cigarette or tobacco products business categories as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer;

4. In the case of a vending machine operator, the number of vending machines which will be operated; and

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98 5. Other information required by the department's application form.
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100 C. Denial of license. The department may refuse to issue a license if there is reasonable
101 cause to believe that the applicant has willfully withheld information that the borough
102 has requested to determine the applicant's eligibility to receive a license, or if there is
103 reasonable cause to believe that information submitted in the application is false or
104 misleading, and has not been made in good faith.
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106 D. Other licensing requirements. A license required by this chapter is in addition to any
107 other license required by law.
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109 E. Contents of license. A license issued under this chapter shall include:
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111 1. The name and address of the licensee;
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113 2. The type of business to be conducted;
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115 3. The address at which the business is conducted; and
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117 4. The years for which the license is issued.
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119 F. Application fee. Each application for a license under this section must be
120 accompanied by a license fee in the amount of \$100.00.
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122 G. Expiration and renewal of license. A license issued under this chapter expires on
123 December 31st of each respective year. A licensee, on application to the department
124 accompanied by the renewal fee, may, before the expiration of the license, renew the
125 license for two years from the expiration date of the license. If the licensee moves the
126 business to another location within the borough, the licensee shall, upon application to
127 the department, be reissued a license for the new location for the balance of the
128 unexpired term. A person whose license is lost, stolen or defaced shall immediately file
129 an application with the department for reissuance of the license for the balance of the
130 unexpired term.
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132 H. Transfer of license. A license issued under this chapter is not assignable or
133 transferable. However, in the case of death, bankruptcy, receivership on incompetency of
134 the licensee, or if the business of the licensee is transferred to another person by
135 operation of law, the department may in its discretion extend the license for a limited
136 time to the executor, administrator, trustee or receiver, or the transferee of the licensee
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138 5.03.020 Display of license; suspension or revocation by borough; surrender.

139 A. A license issued under this chapter must be prominently displayed at the licensee's
140 place of business.
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142 B. The department may suspend or revoke a license issued under this chapter:
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144 1. For violation of this chapter or a regulation of the borough adopted pursuant to this
145 chapter; or
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147 2. If a licensee ceases to act in the capacity for which the license was issued.
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149 C. A licensee shall surrender a license to the borough within ten days after:

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1. A revocation of a license;

2. A cessation of business;

3. A change of ownership of; or

4. A change of a place of business.

D. No person whose license is suspended or revoked shall sell cigarettes or tobacco products or permit cigarettes or tobacco products to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person. No disciplinary proceeding or action is barred or abated by the expiration, transfer, surrender, renewal or extension of a license issued under this chapter.

5.03.030 Refund of license fee.

A. The department shall not refund the license fee paid pursuant to this chapter upon the surrender or revocation of a license after the beginning of the license year. Upon application, the department will refund a license fee that is paid or collected in error.

B. If a remittance by a licensee exceeds the amount due, and the department, on audit of the account in question, is satisfied that this is the case, the department shall, upon written request of the licensee, refund the excess to the licensee without interest.

C. Any claim for refund filed more than one year after the due date of the tax is forever barred.

Section 4: Effective Date. This ordinance shall take effect October 1, 2017.


ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS TWENTY FIRST DAY OF SEPTEMBER, 2017.

KODIAK ISLAND BOROUGH



Daniel A. Rohrer, Mayor

ATTEST:



Nova M. Javier, MMC, Clerk

VOTES:

Ayes: Crow, Skinner, Smiley, Symmons, Townsend, and Van Daele.
Absent LeDoux.