

Introduced by: Mayor Pruhs
Councilmember Cleworth
Councilmember Sprinkle
Councilmember Marney
Councilmember Tidwell
Councilmember Rogers
Councilmember Ringstad
Introduced: April 8, 2024

RESOLUTION NO. 5115

A RESOLUTION REQUESTING THE FAIRBANKS NORTH STAR BOROUGH CONSIDER EXEMPTING ITS TAX OF TOBACCO PRODUCTS WITHIN THE CITY OF FAIRBANKS

WHEREAS, the State is allowed to delegate taxing powers to organized boroughs and municipalities under Section 2, Article X of the Alaska Constitution; and

WHEREAS, Alaska Statute § 29.35.010(6) provides all municipalities, including boroughs, a general power to levy a tax, and in 2008 the Alaska Supreme Court held that that general power included the power to levy and collect excise taxes; and

WHEREAS, Alaska Statute § 29.45.650(a) allows a borough to wholly or partially exempt a source from a borough sales tax that is taxed by a city in that borough; and

WHEREAS, Fairbanks North Star Borough Code at Section 8.52.040 explicitly exempts the collection of Borough alcoholic beverage tax from retail sales in the City of Fairbanks and North Pole up to a certain amount; and

WHEREAS, with the adoption of Fairbanks North Star Borough Ordinance No. 2024-10 on March 14, 2024, the Borough's excise tax on tobacco products will increase from 8% to 20% times the wholesale price, effective June 30, 2024; and

WHEREAS, the Fairbanks North Star Borough does not currently exempt the excise tax on tobacco products as it does with other sales taxes, such as the tax on alcoholic beverages, so the Borough's ordinance will effectively increase excise tax in the city of Fairbanks from 28% to 40%; and

WHEREAS, the overwhelming number of tobacco wholesalers that will be affected by the Borough's tax increase are located in the city of Fairbanks; and

WHEREAS, the Borough's ordinance creates a significant competitive advantage for the relatively few tobacco wholesalers located in the Borough over those located in the city; and

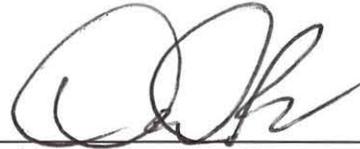
WHEREAS, Section 1, Article X of the Alaska Constitution states that one of the purposes of the article is to "prevent duplication of tax-levying jurisdictions," so providing exemptions for taxes levied by the Borough that are stacked on top of taxes levied by the

City of Fairbanks is not only the fair thing to do but is also in keeping with the Alaska Constitution's stated purpose.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fairbanks respectfully requests that the Fairbanks North Star Borough consider exempting tobacco excise tax levied within the city of Fairbanks.

BE IT FURTHER RESOLVED that the City Clerk is directed to provide the Borough Clerk an executed copy of this Resolution for distribution to members of the Borough Assembly.

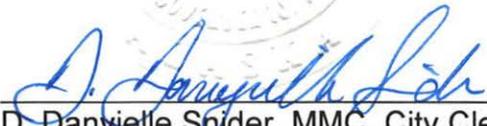
PASSED and APPROVED this 8th Day of April 2024.



David Pruhs, City Mayor

YEAS: Ringstad, Tidwell, Rogers, Sprinkle, Marney, Cleworth
NAYS: None
ABSENT: None
APPROVED: April 8, 2024

ATTEST:



D. Danyielle Solder, MMC, City Clerk

APPROVED AS TO FORM:



Thomas A. Chard II, City Attorney