



CITY OF BALLWIN

14811 Manchester Road, Ballwin, MO 63011

BILL NO. 3791

ORDINANCE NO. _____

INTRODUCED BY

ALDERMEN TERBROCK, FINLEY, HARDER, DOGAN, FLEMING, LEAHY, KERLAGON, BOLAND

AN ORDINANCE AMENDING SECTIONS 14-29, 14-150, 14-211, 14-235, 14-254 AND 14-274 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN WITH RESPECT TO VIOLATIONS AND PENALTIES FOR NON-PAYMENT OF TAXES AND FEES.

WHEREAS, the Board of Aldermen has determined that it is appropriate to amend certain guidelines establishing violations and penalties for non-payment of sales taxes and license fees.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 14-29 of the Code or Ordinances of the City of Ballwin shall be repealed and replaced with the following:

Section 14-29 – Violations; penalties.

All taxes and fees provided for in this chapter shall be deemed delinquent if not paid on the date due and payable and in addition to such payment, the following penalties shall be imposed:

(a) In case of failure to file any required return on or before the date prescribed therefor, determined with regard to any extension of time for making a return, unless it is shown that such failure is due to reasonable cause and not the result of willful neglect, evasion or fraudulent intent, there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is not for more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate, except that when the gross sales tax exceeds two hundred fifty dollars in any one month, requiring the taxpayer to file a monthly return, there shall be no late penalty assessed for the first month in which the return is due. For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax.

(b) In case of failure to pay the full amount of tax required by this Code on or before the date prescribed therefor, determined with regard to any extension of time for payment, unless it is shown that such failure is due to reasonable cause and not the result of willful neglect, evasion or fraudulent intent, there shall be added to the tax an amount equal to five percent of the deficiency. If additions to tax are assessed under authority of this subsection, additions to tax may not be assessed under authority of subsection (c) of this section.

(c) In the case of failure to pay the full amount of tax required by this Code on or before the date prescribed therefor, determined with regard to any extension of time for payment, due to negligence or intentional disregard of rules and regulations, but without intent to defraud, there shall be added to the tax an amount equal to five percent of the deficiency. The City shall, upon request by a taxpayer, apprise the taxpayer of the factual basis for the finding of negligence, or the specific rules or regulations disregarded if the City assesses a penalty under this subsection. Rules or regulations which have been determined to be inconsistent with the laws of this state, by either the courts of this state or the administrative hearing commission, may not be cited as the basis for an addition to tax under this section. If additions to tax are

assessed under authority of this subsection, additions to tax may not be assessed by the City under authority of subsection (b) of this section.

(d) Except in cases of fraud or evasion, if a person neglects or refuses to make a return and payment as required by this Code, the City shall make an estimate based upon any information in his possession or that may come into his possession of the amount of the gross receipts of the delinquent for the period in respect to which he failed to make return and payment, and upon the basis of said estimated amount compute and assess the tax payable by the delinquent; such estimate may be reconstructed for that period of time for which the tax may be collected as prescribed by law.

(e) Promptly thereafter, the City shall give to the delinquent taxpayer written notice of such estimated assessment, the notice to be served personally or by certified or registered mail at his or its last known address.

(f) In addition to any other penalties imposed by law or ordinance, any person who fails to comply with or who violates any provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$25.00 nor more than \$1,000.00, or by imprisonment for not more than 90 days, or by both such fine and imprisonment for each offense or violation; and each day such failure to comply or such violation continues shall be deemed a separate offense.

Section 2. Sections 14-150, 14-211, 14-235, 14-254 and 14-274 of the Code of Ordinances of the City of Ballwin shall be repealed and replaced with the following:

Noncompliance or violation.

(a) In addition to any other penalties imposed by law or ordinance, any person who fails to comply with or who violates any provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$25.00 nor more than \$1,000.00, or by imprisonment for not more than 90 days, or by both such fine and imprisonment for each offense or violation; and each day such failure to comply or such violation continues shall be deemed a separate office.

(b) Delinquent taxes and fees under this Article shall be subject to the penalties as provided for by other Ordinances of the City, now or hereinafter enacted, relating to penalties upon delinquent taxes and fees, including, but not limited to Section 14-29.

Section 3. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict repealed.

Section 4. This ordinance shall take full force and effect from and after the date of its passage by the Board of Aldermen and approval of the Mayor.

PASSED this _____ day of _____, 2013.

TIM POGUE, MAYOR

APPROVED this _____ day of _____, 2013.

TIM POGUE, MAYOR

ATTEST:

ROBERT KUNTZ, CITY ADMINISTRATOR