

Introduced by: Mayor
Date: 05/19/26
Hearing: 06/16/26
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2026-24**

**AN ORDINANCE AMENDING KPB CHAPTER 5.19, UNIFORM REMOTE
SELLER SALES TAX CODE, IN ACCORDANCE WITH AMENDMENTS
ADOPTED BY THE ALASKA REMOTE SELLER SALES TAX
COMMISSION**

WHEREAS, the Kenai Peninsula Borough (KPB) is a member jurisdiction of the Alaska Remote Sellers Sales Tax Commission (ARSSTC) which is an intergovernmental cooperative established for the joint administration, collection, and enforcement of sales tax from remote sellers and marketplace facilitators who lack a physical presence within the KPB; and

WHEREAS, ARSSTC approved updates to the Uniform Remote Seller Sales Tax Code (Uniform Code) for the purpose of allowing certain marketplace facilitators that facilitate services and rentals within a municipality, to report and remit directly to the ARSSTC, if the municipality opts to; and

WHEREAS, per the governing intergovernmental agreement, to retain full membership status the KPB must adopt the amendments approved by the Commission; and

WHEREAS, it is in the best interest of the Kenai Peninsula Borough to opt-out of the proposed code changes related to businesses that have physical presence in the KPB and retain KPB's authority to enforce sales tax obligations for entities with a physical presence within the borough;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That this ordinance amends KPB Code and will be codified.

SECTION 2. That KPB 5.19.010 is hereby amended as follows:

5.19.010. – Interpretation.

- A. [IN ORDER T]To prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person or entity engaging in business are subject to the sales tax.

- B. The application of the tax to be collected under this Code shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax to be collected under this Code shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in the member jurisdiction's Code.
- D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services into [M]member jurisdictions[municipalities adopting this Code, within the state of Alaska].

SECTION 3. That KPB 5.19.040 is hereby amended as follows:

5.19.040. - Obligation to collect tax—Threshold criteria.

- A. Any remote seller or marketplace facilitator must collect and remit sales tax in compliance with all applicable procedures and requirements of law, provided the remote seller or marketplace facilitator has met one of the following Threshold Criteria ("Threshold Criteria") in the current or previous calendar year:
 - 1. The remote seller's statewide gross sales, including the seller's marketplace facilitator's statewide gross sales, from the sale(s) of property, products or services delivered in the state meets or exceeds one hundred thousand dollars (\$100,000).
 - B. For purposes of determining whether the Threshold Criteria are met, remote sellers or marketplace facilitators shall include all gross sales, from all sales of goods, property, products, or services rendered within the state of Alaska.
 - C. The following marketplace facilitators are excluded from the obligation to collect tax outlined in this section:
 - 1. Delivery network companies that deliver tangible personal property on behalf of a marketplace seller that is engaged in business in a member jurisdiction[.];
 - 2. [MARKETPLACES FACILITATING] Accommodations intermediaries that facilitate the rental of transient lodging accommodations [IN HOTELS, COMMERCIAL TRANSIENT LODGING FACILITY, HOMES, APARTMENTS, CABINS OR OTHER RESIDENTIAL DWELLING UNITS]; and
 - 3. Marketplaces that facilitate or perform travel agency services.

SECTION 4. That KPB 5.19.050 is hereby amended as follows:

5.19.050. - Reporting and remittance requirements for local and remote sales.

- A. Sellers with a physical presence in a member jurisdiction conducting only local sales shall report and remit to, and comply with standards of, including audit authority, the member jurisdiction.
- B. Sellers with a physical presence in a member jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Member Jurisdiction shall (i) report and remit the remote or internet sales to the Commission; and ii) report and remit the local sales to the Member Jurisdiction.
- C. Sellers with a physical presence in a Member Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Member Jurisdiction shall report and remit those remote sales to the Member Jurisdiction.
- D. Sellers and marketplace facilitators that do not have a physical presence in a Member Jurisdiction must report and remit to the Commission all remote sales where the Point of Delivery is in a Member Jurisdiction.
- E. A marketplace facilitator is considered the remote seller for each sale facilitated through its marketplace and shall collect, report, and remit sales tax to the Commission.
- F. The following marketplace facilitators shall report and remit to, and comply with standards of, including audit authority, the member jurisdiction:
 - 1. Delivery network companies that deliver tangible personal property on behalf of a marketplace seller that is engaged in business in a member jurisdiction,
 - 2. [MARKETPLACES FACILITATING] Accommodations intermediaries that facilitate the rental of transient lodging accommodations [IN HOTELS, COMMERCIAL TRANSIENT LODGING FACILITY, HOMES, APARTMENTS, CABINS OR OTHER RESIDENTIAL DWELLING UNITS]; and
 - 3. Marketplaces that facilitate or perform travel agency services.

SECTION 5. That KPB 5.19.080 is hereby amended as follows:

5.19.280. - Definitions.

For purposes of this chapter, the following definitions shall apply:

“Accommodation” means any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, short-term rental, or any other place in which rooms, accommodations, space, or accommodations are furnished to transients for a consideration and upon which an accommodations Tax or sales tax is imposed.

“Accommodation fee” means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.

“Accommodations intermediary” means any person other than an accommodations provider that (i) facilitates the sale of an accommodation, and (ii) either (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale; (b) collects a room charge from the customer; or (c) charges a fee, other than an accommodations fee, to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, “facilitates the sale” includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

“Accommodations provider” means a person who owns, operates or controls any facility or structure in which there is rented or offered for rent accommodations, the rent for which is taxable under an accommodations tax or sales tax.

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“Discount room charge” means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

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"Lease" or "rental" means any transfer of possession or control of tangible personal property or real property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

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"Marketplace" means a physical or electronic place, platform or forum, including a store, booth, internet website, catalog or dedicated sales software application, where products or services are offered for sale or rental.

“Marketplace facilitator” means a person that contracts with marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale or rental of the marketplace seller’s property, product, or services through a physical or electronic marketplace operated by the person, and engages:

- A. Directly or indirectly, through one or more affiliated persons in any of the following:
 - (i) Transmitting or otherwise communicating the offer or acceptance between the buyer and marketplace seller;
 - (ii) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and marketplace sellers together;
 - (iii) Providing a virtual currency that buyers are allowed or required to use to purchase products from the marketplace seller; or
 - (iv) Software development or research and development activities related to any of the activities described in (b) of this subsection , if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and
- B. In any of the following activities with respect to the seller’s products:
 - (i) Payment processing services;
 - (ii) Fulfillment or storage services;
 - (iii) Listing products for sale;
 - (iv) Setting prices;
 - (v) Branding sales as those of the marketplace facilitator;
 - (vi) Order taking;
 - (vii) Advertising or promotion; or
 - (viii) Providing customer service or accepting or assisting with returns or exchanges.

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“Point of delivery” means the location at which property or a product is delivered, service is rendered, or accommodation is physically located.

- A. When the product is not received or paid for by the purchaser at a business location of a remote seller in a Member Jurisdiction, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller.
- B. When the product is received or paid for by a purchaser who is physically present at a business location of a Remote Seller in a Member Jurisdiction the sale is considered to have been made in the Member Jurisdiction where the purchaser is present even if delivery of the product takes place in another Member Jurisdiction. Such sales are reported and tax remitted directly to the Member Jurisdiction not to the Commission.
- C. When the service is not received by the purchaser at a business location of a remote seller, the service is considered delivered to the location where the purchaser receives the service.
- D. For accommodations rentals, the point of delivery is the physical location of the accommodation.
- E. For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.

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“Room charge” means the entire amount charged to the transient to secure the right to use or possess any accommodation that is subject to an Accommodations Tax, including any mandatory fees or charges by an accommodations intermediary.

“Sale” or “retail sale” means any transfer of property or product or any provision of service(s) for consideration for any purpose other than for resale. A transfer includes a lease or rental.

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“Transient” means the person purchasing the right to use or occupy an accommodation for thirty (30) days or less.

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SECTION 6. That the Kenai Peninsula Borough will maintain its membership in the Alaska Remote Seller Sales Tax Commission (ARSSTC) through the Alaska Intergovernmental Remote Seller Sales Tax Agreement but nonetheless specifically opts-out of having ARSSTC collect sales tax from a marketplace facilitator or accommodations intermediary who have a physical presence within KPB.

SECTION 7. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances will not be affected.

SECTION 8. This ordinance shall become effective immediately.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2026.

Ryan Tunseth, Assembly President

ATTEST:

Michele Turner, MMC, Borough Clerk

Yes:

No:

Absent: