

Kenai Peninsula Borough Legal Department

MEMORANDUM

TO: Brent Hibbert, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Brent Hibbert, Assembly President *BH*
Charlie Pierce, Mayor *CP*

FROM: Sean Kelley, Deputy Borough Attorney *SK*
Brandi Harbaugh, Finance Director *BH*

DATE: March 25, 2021

RE: Ordinance 2021-12, Amending KPB Chapter 5.19, Uniform Remote Seller Sales Tax Code, in Accordance with Updates and Changes Adopted by the Alaska Remote Seller Sales Tax Commission (Hibbert, Mayor)

Following the U.S. Supreme Court decision in *South Dakota v. Wayfair*, the borough joined with other Alaska municipalities to form an intergovernmental commission and enter into an intergovernmental agreement ("Agreement") to combat the inability to effectively collect sales tax on online retail sales that would otherwise be subject to borough and city sales tax.

After a recent omnibus review of the Uniform Remote Seller Sales Tax Code, at its meeting on February 24, 2021, the Alaska Remote Sellers Sales Tax Commission ("Commission") unanimously approved updates to the code aimed to improve code inconsistencies and administrative processes.

A review by the borough's finance and legal departments revealed that the changes will not substantively or negatively impact remote sellers or residents in the borough who purchase products, goods, or services online.

The borough is a signatory to the Agreement and per the Agreement, in order to retain full membership status, the borough must enact the code amendments within 120 days of the date the Commission adopted the changes. All the incorporated cities within the borough are also members of the Commission and signatories to the Agreement. Therefore, failure to enact the Commission's amendments to Chapter 5.19 may impact the ability of the borough and the cities to remain full members of the Commission.

Your consideration of this ordinance is appreciated.