

Introduced by: Bagley  
Date: 11/22/16  
Hearing: 01/03/17  
Action: Enacted  
Vote: 8 Yes, 0 No, 1 Abstention

**KENAI PENINSULA BOROUGH  
ORDINANCE 2016-40**

**AN ORDINANCE AMENDING KPB 5.18.200(A)(11) AND KPB 5.18.900(Q) TO  
EXEMPT FLIGHTSEEING FROM SALES TAXES**

**WHEREAS**, in Ordinance 2016-31, the assembly enacted changes to the Kenai Peninsula Borough (“borough”) sales tax code, including changes which resulted in the imposition of a sales tax on flightseeing; and

**WHEREAS**, Ordinance 2016-31 has an effective date of January 1, 2017; and

**WHEREAS**, air charters and air taxi services, which included flightseeing, were previously exempted from sales taxes to avoid “expensive protracted litigation with questionable long-term benefit;” and

**WHEREAS**, amending KPB 5.18.200(A)(11) and KPB 5.18.900(Q) to eliminate the sales tax on flightseeing would bring the borough back into clear compliance with legal restrictions regarding imposing a sales tax on flightseeing tours under both state and federal law thereby avoiding expensive protracted litigation;

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

**SECTION 1.** That KPB 5.18.200(A)(11) is hereby amended as follows:

**5.18.200. Exemptions/waivers—Exemptions.**

A. The following classes of retail sales, services and rentals are exempt: ...

11. Sale of passenger seat tickets by an air charter, air taxi, or commercial airline, however [~~FLIGHTSEEING TOURS,~~] ground-based wildlife viewing, sport fishing, hunting or any other goods or services provided in combination with such air charter, air taxi or commercial airline [~~FLIGHTSEEING TOURS, THAT TAKE OFF AND RETURN TO THE SAME AIRPORT OR SEAPLANE BASE ON THE SAME DAY~~] are recreational sales not exempt under this section;

**SECTION 2.** That KPB 5.18.900(Q) is hereby amended as follows:

**5.18.900. Definitions.**


When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meanings:

...

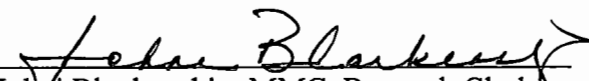
Q. "Recreational sales" means sales where the seller provides recreational services and rentals, except automobile rentals, to the buyer, either separately or in a combination, at an aggregate price, including, but not limited to guiding, charters, sightseeing tours, [FLIGHTSEEING TOURS,] outfitting or equipment rentals, instructional classes or lessons, and beauty or spa services.

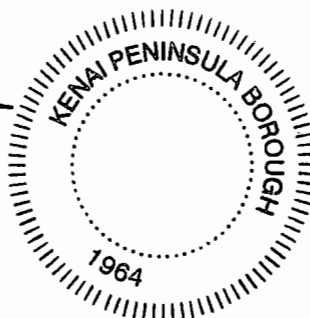
**SECTION 3.** That this ordinance takes effect retroactively on January 1, 2017.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JANUARY, 2017.**

  
\_\_\_\_\_  
Kelly Cooper, Assembly President

ATTEST:

  
\_\_\_\_\_  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Dunne, Fischer, Gilman, Knopp, Ogle, Welles, Cooper  
No: None  
Absent: None  
Abstention: Holmdahl