

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:

...

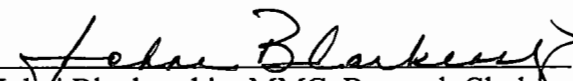
Q. "Recreational sales" means sales where the seller provides recreational services and rentals, except automobile rentals, to the buyer, either separately or in a combination, at an aggregate price, including, but not limited to guiding, charters, sightseeing tours, [FLIGHTSEEING TOURS,] outfitting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

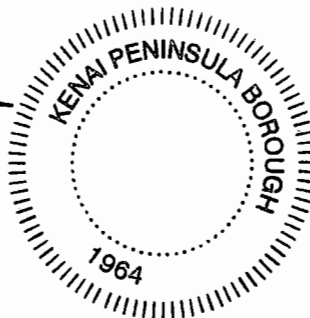
SECTION 3. That this ordinance takes effect retroactively on January 1, 2017.

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