

Introduced by: Mayor  
Date: 05/17/94  
Hearing: 06/21/94  
Action: Enacted as Amended  
Vote: Unanimous

KENAI PENINSULA BOROUGH  
ORDINANCE 94-27

**AN ORDINANCE AMENDING THE SALES TAX CODE**

**WHEREAS,** as part of the regular review of the sales tax code, the Borough administration found several sections of the code that needed revision, and some new sections that needed to be added; and

**WHEREAS,** it is desirable to amend the code to make these necessary changes;

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

**SECTION 1.** That KP.B 5.18.130 is amended to read as follows:

**5.18.130. General — Seller — Liability to the borough — Successor liability — Corporate officer liability.**

A. All sales taxes collected or which should have been collected pursuant to this chapter are borough moneys for which the seller is at all times liable [ACCOUNTABLE] to the borough. The seller is also liable for all monies collected from the buyer as sales tax.

B. Any person acquiring an ownership interest in an ongoing business or the accounts receivable of a business, whether by purchase, foreclosure, or otherwise, shall be liable for the payment of taxes, penalties, [AND] interest, fees and costs accruing and unpaid to the borough on account of the operation of the business by the former owner, owners or assigns. [PROVIDED, HOWEVER, THAT] The borough may continue to [SHALL FIRST] make [ALL REASONABLE] efforts to collect the tax from the person who owned the business at the time the liability was incurred.

C. The liability of a purchaser or other entity for outstanding taxes, penalties, [AND] interest, fees and costs accrued and unpaid by the former owner shall be limited to an amount stated in writing by the borough in response to a release of information request. The borough shall have 15 days to respond to the request.

D. The president and any officer, employee or agent of a corporation having control of, supervision of, or charged with the responsibility of filing sales tax returns or remitting sales taxes is personally liable for any unpaid corporate sales taxes, penalties, interest, fees and costs accruing and unpaid to the borough. Dissolution of, or sale of, or other change in the form of the corporation does not discharge this liability.

**SECTION 2.** That KPB 5.18.140 is amended to read as follows:

**5.18.140. General — Administration enforcement authority — Request for ruling — Appeal of determination.**

A. The mayor shall have the authority to enforce proper registration, reporting and tax collection requirements imposed in this chapter, including the authority to implement and interpret this chapter, in a manner consistent with the provisions of this chapter.

B. Any taxpayer under this chapter, or any seller obliged to collect the tax under this chapter, or any borough official may apply to the mayor for a determination on the application of this chapter to an actual fact situation.

C. Any taxpayer or seller may appeal any written determination made by the mayor or borough administration pursuant to this section or section 250 of this chapter by appealing to the superior court in the Kenai venue district under the rules of appellate procedure governing appeals from administrative agency decisions, within 30 days of the date of the determination; otherwise, a challenge or protest of a determination of the mayor or borough administration made under this section or section 250 of this chapter is barred.

**SECTION 3.** That KPB 5.18.150 is added to read as follows:

**5.18.150. General — Refunds.**

A. No sales tax refund shall be made unless the claimant complies with the requirements to obtain a sales tax refund set out in this section.

B. A claim for refund of sales taxes paid for exempt sales shall be denied unless the claimant complies with 5.18.250.

C. A claim for refund of sales taxes overcollected in error is barred unless

1. The claimant files a claim for refund with the borough within one year of the date of sale, on the form prescribed by the borough; and
2. If the claimant is a seller, and the tax refund is owed to any buyer, the seller submits, and the borough approves, a refund plan to all affected buyers.

D. A claim for refund overpaid in error because of a mistake on the face of a sales tax return is barred unless:

1. The claimant files a claim for refund within one year of the due date of the return, on the form prescribed by the borough; and
2. The claimant files an amended return pursuant to the requirements of this chapter.

E. When the borough initiates an audit or estimate pursuant to KPB 5.18.570-580, the period for claiming a refund under subsections (C) and (D), above, is the same as the period under audit, but in no case more than three years from the date of sale.

F. The borough shall not be liable for interest on any refund claimed or paid, or for any costs incurred by a buyer or seller in claiming or obtaining a refund.

**SECTION 4.** That KPB 5.18.220 is amended to read as follows:

**5.18.220. Exemptions/waivers — Exemption for intermediate services and rentals.**

[THE FOLLOWING SALES OF SERVICES AND RENTALS ARE EXEMPT UNDER THIS CHAPTER:]

A. Sales of intermediate services to a business the charge for which will be passed directly by that business to a specific buyer are exempt under this chapter; except that provision of meals, temporary lodging and/or utilities shall in no case fall within this exemption [THE EXCEPTION FROM SALES TAX PROVIDED FOR INTERMEDIATE SERVICES].

B. Where personal property is rented from a dealer in a taxable transaction and the renter is then directly reimbursed by a third party for the exact rental expense, without markup, then that reimbursement is not a rental or lease subject to the borough sales tax.

C. Services rendered by an employee to his/her employer are not subject to borough sales tax.

**SECTION 5.** That KPB 5.18 is amended by adding section 225 to read as follows:

**5.18.225. Exemption for owner builder construction materials — Owner builder certified required — Penalty for misuse.**

A. Sales of building construction materials are exempt under this chapter, but only if:

1. The materials become part of the permanent structure; and
2. The materials are bought by the owner of a residential or other building, for a specific building project; and
3. The building owner obtains an owner builder tax exemption certificate as provided in this section, and presents the certificate at the time of each sale.

B. An owner builder may apply for a tax exemption certificate, on the form provided by the borough. Upon receipt of a completed application, and a fee of \$200 per card, the borough will issue the certificate, which will be valid for one year from the date of purchase.

C. The following penalties shall be imposed by the borough for misuse of the owner builder certificate:

1. Immediate cancellation and demand for surrender of the certificate.
2. Retroactive denial of the exemption, and collection of sales taxes formerly exempted under the certificate.

**SECTION 6.** That KPB 5.18.230 is repealed and reenacted to read as follows:

**5.18.230. Exemptions/waivers — Exemptions — Nonprofit or government exemption certificate.**

A. In order to receive an exemption from payment of sales tax under section 5.18.200(B)(1), a buyer shall obtain a nonprofit exemption certificate as provided in this section, and present the certificate at the time of each sale.

B. In order to receive an exemption from payment of sales tax under section 5.18.200(B)(2), a buyer shall either:

1. Obtain a government exemption certificate as provided in this section, and present the certificate at the time of each sale; or
2. Present to the seller a government purchase order, government check or credit card issued in the name of the government agency, for each sale.

C. A buyer may apply for a nonprofit or government exemption certificate, on the form provided by the borough. Upon receipt of a completed application, and a fee of \$10 per card, the borough will issue the certificate, which will be valid for the calendar year for which the application

is made.

D. No exemption certificate for a class of buyer exempt under section 5.18.200(B)(1) shall be approved by the mayor until the applicant has produced suitable evidence that it is currently incorporated by the State of Alaska as a nonprofit corporation and that it has received tax-exempt status from the United States Internal Revenue Service.

E. The following penalties shall be imposed by the Borough for misuse of the nonprofit or government certificate:

1. Immediate cancellation and demand for surrender of the certificate.
2. Retroactive denial of the exemption, and collection of sales taxes formerly exempted under the certificate.

**SECTION 7.** That KPB 5.18.240 is repealed and reenacted to read as follows:

**5.18.240. Exemptions/waivers — Exemptions — Resale or intermediate sale exemption certificate.**

A. In order to receive an exemption from payment of sales tax under section 5.18.210 or 5.18.220, a seller shall obtain a resale or intermediate sale exemption certificate as provided in this section, and present the certificate at the time of each sale.

B. A seller may apply for a resale or intermediate sale exemption certificate, on the form provided by the borough. Upon receipt of a completed application, and a fee of \$10 per card, the borough will issue the certificate, which will be valid for the calendar year for which the application is made.

C. A resale or intermediate sale exemption certificate shall be surrendered when the seller ceases doing business in the borough.

D. The following penalties shall be imposed by the Borough for misuse of the resale or intermediate sale exemption certificate:

1. Immediate cancellation and demand for surrender of the certificate.
2. Retroactive denial of the exemption, and collection of sales taxes formerly exempted under the certificate.

**SECTION 8.** That KPB 5.18.250 is repealed and reenacted to read as follows:

**5.18.250. Exemptions — Seller's liability for incorrect determination — Buyer's protest — Appeals.**

A. A seller shall determine in the first instance whether a sale is exempt under this chapter. However, if a seller incorrectly determines that a sale is exempt, and does not collect the tax from the buyer, then the seller is liable to the borough for the uncollected tax.

B. If the seller determines that a sale is not exempt, but the buyer believes the sale to be exempt, then the buyer may protest the tax by paying the tax at the time of sale and filing a certificate of protest form with the borough, no later than 60 days after the date of sale. The seller shall collect the protested tax at the time of the sale.

C. If the seller determines that a sales is exempt, the seller can request a determination on whether a sale is exempt by filing a certificate of protest form with the borough, no later than 60 days after the date of sale. The seller shall continue to collect the tax at the time of sale, until the seller receives a determination from the borough.

D. The mayor will rule on each protest by sending to the buyer or seller a written determination on the protest. If the protest is allowed, a refund of the sales tax paid will be remitted to the buyer with the determination.

E. Either the buyer or seller may appeal the mayor's determination to superior court pursuant to KPB 5.18.140(C).

**SECTION 9.** That KPB 5.18.260 is amended to read as follows:

**5.18.260. Exemptions/waivers — Waiver — Application for extension of time — Assembly authority.**

A. For good cause shown, the mayor may grant extensions on any time limitation described in this chapter upon application filed on or before the date specified as the original time limitation; except that no extension of time shall be allowed for filing claims for refund of taxes, or for appeals to superior court from determinations of the borough.

The 5% credit will not be allowed where extension is granted.

B. The assembly shall have no authority to grant any extension of time or waiver of any provision of this chapter or any regulations adopted pursuant to this chapter other than by ordinance.

**SECTION 10.** That KPB 5.18.400 is amended to read as follows:

**5.18.400. Computation — Addition of tax to total retail price — Tax schedule — Exceptions.**

A. The tax to be added to the sale price, charge or rental shall be 2% of the sale price, charge or rental rounded off to the nearest cent by eliminating any fraction of one-half cent or less and by increasing any fraction over one-half cent to the next highest cent. Each seller shall be furnished the schedule of tax payable on each taxable amount from one cent to one hundred dollars. Any one sale of items separately priced shall be taxed upon the aggregate amount, except as otherwise provided in this section.

[B. THE PLACE OF DELIVERY OF THE GOODS OR SERVICES IS THE PLACE OF SALE. SELLERS OF SERVICE WHICH LACK A DEFINITE PLACE OF DELIVERY MAY, UPON PRIOR BOROUGH APPROVAL, COLLECT THE TAX BASED UPON THE OFFICE LOCATION OF THE BUSINESS SELLING SUCH SERVICES.]

B.[C] The revenue from a coin-operated machine shall be treated in gross on a monthly basis, without reference to the amount paid on a particular transaction.

**SECTION 11.** That KPB 5.18.430 is amended to read as follows:

**5.18.430. Computation — Maximum tax.**

The tax shall be applied only to the first \$500.00 of each separate sale, rent or service transaction, except as otherwise provided in this section.

A. The payment of rent, whether for real or personal property, in excess of \$500.00 and for more than one month, shall be treated as several separate transactions covering the rental/lease for one month each.

B. A transaction involving payment for services or personal property to be rendered or delivered over a period of more than one month for a consideration in excess of \$500.00 shall be treated as several separate transactions occurring one each month over the period of time that the

service or property is rendered or delivered.

[C. THE PURCHASE OF BUILDING CONSTRUCTION MATERIALS ON A SINGLE VENDOR JOB ACCOUNT NUMBER AND BILLED ON A MONTHLY BASIS ARE SUBJECT TO APPLICATION OF THE TAX ON A MAXIMUM OF \$500.00 OF EACH MONTHLY BILLING.]

C.[D] Services provided on account and billed to the customer on a monthly basis are subject to application of the tax on a maximum of \$500.00 of each monthly billing, per account.

D.[E] Each night's rental of each individual room shall be considered a separate transaction and therefore the maximum tax computation shall be calculated on a per room per night basis.

**SECTION 12.** That KPB 5.18 is amended by adding section 440 to read as follows:

**5.18.440. Application of payments.**

A. Payments on sales tax accounts shall be applied to the oldest balance due, by sales tax period, in the following order: first to accrued fees and costs, then accrued interest, then accrued penalty, then to the tax principal; and then the next oldest balance due, in the above order, and so forth, until the payment is applied in full; except as otherwise provided in this section.

B. Payments on sales tax accounts submitted with sales tax returns shall be applied to the most current return period, in the following order: first to accrued interest, then to accrued penalty, and then to the tax principal. Any remaining monies shall be applied as in subsection A, above.

C. Payments on sales tax accounts where sales tax liens have been recorded to secure payment on the account shall be applied to the oldest unsecured balance due, by sales tax period, in the order listed in subsection A, above.

D. The borough may by written agreement, or shall by court order, vary the application of payments.

**SECTION 13.** That KPB 5.18 is amended by adding section 450 to read as follows:

**5.18.450. Tax jurisdiction — Office location of seller.**

A. The rate of tax to be added to the sale price is based on the place of sale. The place of sale of goods is where the goods are delivered. The place of sale of services is where the services are delivered, which means the place where the services are rendered. The place of sale for rentals is the place where the real property is located, or where the personal property is delivered to the renter. The borough shall determine the place of sale of a good, service or rental pursuant to this section, and the borough's determination is final.

B. When there is a question or dispute over the place where services are rendered, a seller of a service may, after requesting and receiving borough approval in writing, collect the tax based on the office location of the business selling such services. Approval of a request to collect a tax at the seller's office location is completely within the discretion of the borough, and shall not be granted if the borough has already determined that the place of sale for the seller's industry is not the office location.

C. The seller is liable for any sales taxes due because of the seller's incorrect determination of the sales tax rate to be applied.

**SECTION 14.** That KPB 5.18.510 is amended to read as follows:

**5.18.510. Returns/records/audit — Returns — Contents.**

A. Every seller required by this chapter to collect sales tax shall file with the borough upon forms furnished by it a return setting forth the following information with totals rounded to the nearest dollar:

- 1.[A] Gross sales;
- 2.[B] The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;
- 3.[C] Computation of taxes to be remitted;
- 4.[D] Such other information as may be required by the borough [REGULATION].

B. The borough reserves the right to reject a filed return for failure to comply with the requirements of this section, for one year from the date of filing. The borough shall give written notice to a seller that a return has been rejected, including the reason for the rejection.

**SECTION 15.** That KPB 5.18.520 is amended to read as follows:

**5.18.520. Returns/records/audit — Returns and sales taxes — Filing and payment required by due date.**

[A. TAXES COLLECTED OR WHICH SHOULD HAVE BEEN COLLECTED BY A SELLER, HEREUNDER SHALL BE PAID TO THE BOROUGH AT THE EXPIRATION OF THE REPORTING PERIOD ESTABLISHED FOR THAT SELLER.]

A.[B. THE] A completed sales tax return, together with remittance in full for the amount of sales taxes collected or which should have been collected [DUE], or for monies collected as taxes by the seller, must be transmitted to the borough on or before the first business day following the last day of the month following the end of each reporting period.

B[C]. A transmittal of taxes made by mail shall not be considered delinquent if the postmark on the envelope indicates the date of mailing to be on or before the first business day following the last day of the month following the end of the reporting period.

**SECTION 16.** That KPB 5.18.555 is added to read as follows:

**5.18.555. Returns/records/audit — Returns — Finality of returns — Amendment of returns — Escaped assessments.**

A. A seller may file an amended return with the borough, and the borough may accept the amended return, but only in the following circumstances:

1. The amended return is filed within one year of the original due date for the return;
- and
2. The seller provides justification in writing for requesting approval of the amended return; and
  3. The seller was registered to collect sales tax during the period for which the amended return is filed and filed an original return for that period; and
  4. The seller agrees to submit to an audit upon request of the borough.

B. If the borough rejects an amended return, it shall give written notice to a seller, including the reason for the rejection.

C. The borough may adjust a return for a seller if, after investigation, the borough determines that the figures included in the original returns are incorrect, and that additional sales taxes

are due; and the borough adjusts the return within three years of the original due date for the return.

**SECTION 17.** That KPB 5.18.560 is amended to read as follows:

**5.18.560. Returns/records/audit — Records — Seller recordkeeping required — Loss of records.**

A. Every seller engaged in activity subject to this chapter shall keep and preserve suitable records of all sales made by the seller and such other books or accounts as may be necessary to determine the amount of tax which the seller is obliged to collect. Every seller shall preserve suitable records of sales for a period of 3 years from the date of the return reporting such sales, and shall preserve for a period of 3 years all invoices of goods and merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the seller was obliged to collect under this chapter.

B. A seller shall immediately notify the borough of any fire, theft or other casualty which prevents his or her compliance with this chapter. The casualty constitutes a defense to any penalty provided in this chapter if determined to be the proximate cause of the failure to comply for a given reporting period, but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense against the penalties of this chapter.

**SECTION 18.** That KPB 5.18.570 is repealed and reenacted to read as follows:

**5.18.570. Returns/records/audit — Audit — Authority — Seller's consent to inspection of federal income tax returns — Estimated tax — Results.**

A. The borough administration may examine and audit any relevant books, papers, records, returns or memoranda of any seller, may require the attendance of any seller or buyer, or any officer or employee of a seller or buyer at a meeting or hearing, and may require production of all relevant business records, in order to determine whether the seller has complied with this chapter.

B. A seller required to register for sales tax collection under this chapter consents to the inspection of the seller's federal income tax returns in order to determine the seller's compliance with this chapter.

C. If the borough is unable to ascertain the amount of tax due from a seller because the seller has failed to keep accurate records, has failed or refused to allow an audit or inspection of records, has failed to file a return, has falsified records or, has improperly calculated the tax, then the borough may estimate the tax due based upon any information available to it. The borough shall send a written notice of the estimated tax due to the seller, and of the assessment of an audit estimate fee.

D. The results of any examination or audit performed under this section shall be reported in writing to the seller.

**SECTION 19.** That KPB 5.18.580 is repealed and reenacted to read as follows:

**5.18.580. Returns/records/audit — Audit — Protest.**

A. If the seller wishes to dispute the amount of the estimate, or the results of an examination or audit, the seller must file a protest with the borough, within 30 days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:

1. the seller's justification for reducing or increasing the estimated tax amount,



including any missing sales tax returns for the periods estimated; or

2. the seller's reasons for challenging the examination or audit results.

B. In processing the protest, the borough may hold an informal meeting or hearing with the seller, either on its own or upon request of the seller, and may also require that the seller submit to an audit.

C. The borough administration shall make a written determination on the seller's protest, and mail a copy of the determination to the seller.

**SECTION 20.** That KPB 5.18.600 shall be amended to read as follows:

**5.18.600. Enforcement — Civil and criminal actions — Payment agreements — Joint bank accounts - Offset.**

A. Nothing in this chapter shall be construed as preventing the borough from filing and maintaining an action at law to recover any taxes, penalties, interest, and fees due from a seller. Failure to register under this chapter or to collect taxes which otherwise should have been collected under this chapter shall not be a defense to an action by the borough against such seller to recover all amounts due. Each act prohibited in this chapter constitutes a separate cause of action or offense.

B. The mayor may enter into an agreement secured by a confession of judgment or a deed of trust on property with sufficient equity to cover the liability for delinquent sales taxes on such payment terms as the administration finds reasonable, provided that the terms shall require full payment of all obligations of the seller within a maximum period of 24 months from entry of such an agreement, unless a shorter term is required by other provisions of this code, in which case those provisions shall be followed. The mayor shall not enter into a repayment agreement with a seller who has been involved in a repayment agreement within the prior five (5) years, unless otherwise provided in this code.

C. All businesses or owners of businesses against which the borough has an outstanding judgment may be required by the mayor to deposit sales tax monies collected, on a weekly basis, to a joint bank account upon which the borough is signatory. Dual signature would be required for withdrawal from the account.

D. The borough shall set off all delinquent borough and city sales taxes owed by a seller against borough or school district accounts payable to the seller or credit balances on borough or school district accounts in the name of the seller.

**SECTION 21.** That KPB 5.18.620 is amended to read as follows:

**5.18.620. Enforcement — Failure to file returns or remit taxes — Criminal penalty — Civil penalties and interest — Injunction — Publication.**

A. Failure to file 2 or more returns in any 1 calendar year after notice from the borough to the seller's last registered address; when intentional, constitutes a misdemeanor and is punishable by imprisonment for up to 30 days, and by a fine not to exceed \$500.00, plus costs of prosecution, in addition to any civil penalty assessed.

B. A seller who fails to file a return within the time required by this chapter, or who fails to remit all taxes collected by him, or later found to be due, is subject to a civil penalty of 5% per month of the amount of taxes found to be due, to a maximum of 25%. The filing of an incomplete return, or the failure to remit all taxes, is the equivalent of filing no return. All taxes due but not paid

within the time required by this chapter shall accrue and be assessed an interest charge at the [STATUTORY] rate of 15% per annum [AS PROVIDED BY ALASKA STATUTE].

C. Any seller who fails to file a return required under this chapter within fifteen (15) days of written notification by regular mail, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of \$25.00 for each return not filed, in addition to any penalty for late filing.

D. Sellers who have not filed returns for two (2) consecutive reporting periods shall be assumed to have ceased conducting business and shall be removed from the roll of active businesses. Reinstatement of a business removed from the active roll by this section shall require the payment of a mandatory reinstatement fee.

E. If the mayor has reason to believe that a seller who has been removed from the roll of active businesses pursuant to this section is in fact continuing to conduct business, the mayor may cause a proceeding to be filed in the superior court requesting the issuance of an injunction prohibiting that business from continuing to conduct business.

F. As soon as practicable after the expiration of thirty days following the end of each calendar quarter, the borough [MAYOR] shall publish in a newspaper of general or customary circulation in the appropriate area of the borough, a list of every seller who:

1. Was conducting business in the borough and was required to file a return during that quarter, but who has not filed the required return, unless the seller has paid any balance due for that period in full,

2. Did not pay all balances due, as long as the balance due is greater than \$100; or

3. Owe taxes, penalty or interest pursuant to a payment agreement unless the payment agreement required payment in full within 30 days of the date of execution of the agreement.

G. Notwithstanding subsection (F) above, the borough is not required to include in the quarterly publication a closed business which has been published in the preceding four publications.

**SECTION 22.** That KPB 5.18.900 is 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:

A. "Buyer" includes persons who are purchasers of personal property, rental space or services.

B. "Coin-operated machine" means a slot machine, marble machine, jukebox, merchandise vending machine, laundry, dry cleaning and any other service-dispensing machine or amusement device of any kind which requires the insertion of a coin to make it operative.

C. "Mayor" or "borough mayor" means the mayor of the Kenai Peninsula Borough or his designee.

D. "Nonprofit organization" means an association, corporation or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder or other individual.

E. "Office location" means the place in the borough where the seller does business, as determined by the borough.

F. "Person" includes individuals and every person recognized in law and every group of persons who act as a unit.

- G. "Quarter" means trimonthly period established by the finance director.
- H. "Sale" or "retail sale" includes:
1. Every sale or exchange of services;
  2. Every rental or lease of personal property;
  3. Every sale of the use or play of a coin-operated machine;
  4. Installment, credit and conditional sales;
  5. Every sale of use or title in tangible personal property, regardless of quantity or price, whether sold by coin-operated machine or otherwise;
  6. Every rental or lease of real property other than a rental or other agreement for occupancy of residential real property pending the closing of a transaction which does not exceed 90 days in length for a buyer of that property.
  7. Gaming sales authorized by AS 5.15.
- I. "Sales price" means consideration paid by the buyer whether money, credit, rights or other property, expressed in terms of money equal to the fair market value of the consideration and including delivery or installation costs, taxes, or any other expenses whatsoever, measured by the gross sales price of the seller.
- J. "Seller" includes persons who are vendors of property, persons furnishing services, the lessors of rental space or goods, and all persons making sales, including space or goods, and all persons making sales, including consignees and persons who conduct sales where items will be sold for a commission or fee. Notwithstanding any other provisions of this chapter, "seller" includes all persons engaging in sales of fireworks regardless of the length of time, duration or volume of such sales in any calendar year.
- K. "Services" includes all services of every manner and description which are performed or furnished for compensation, including but not limited to:
1. Professional services;
  2. Services in which a product or sale or property may be involved, including personal property made to order;
  3. Utilities and utility services not constituting a sale of personal property, including sewer, water, solid waste collection or disposal, electrical, and telephone services and repair;
  4. The sale of transportation services;
  5. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business or occupation, including all services rendered for commission;
  6. Any other services, including advertising, maintenance, recreation, amusement and craftsman services;
- L. "Time of sale" for installment sales is the time at which the initial payment is made.
- M. "Temporary lodging" is defined as a service to provide any lodging of less than one month.

**SECTION 23.** That KPB 5.28.140(C) is amended to read as follows:

**5.28.140. Contractors' violations of tax ordinances.**

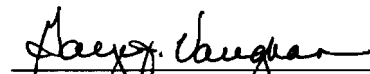
C. The borough reserves any right it may have to offset amounts by its contractor(s) for delinquent borough or city taxes against any amount owing to the contractor(s) under a contract between the borough and the contractor(s).

**SECTION 24.** That this ordinance becomes effective July 1, 1994, with the exception of Section 5. which shall become effective January 1, 1995.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 21st DAY OF JUNE, 1994.**

  
Betty J. Glick, Assembly President

ATTEST:

  
Gaye J. Vaughan, Borough Clerk