

Introduced by: Smith, Murphy  
Date: 06/07/11  
Hearing: 07/05/11  
Action: Enacted  
Vote: 7 Yes, 2 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2011-23**

**AN ORDINANCE INCREASING THE BOROUGH SALES TAX FROM 3.0 PERCENT TO 3.1 PERCENT WITH THE ADDITIONAL 0.1 PERCENT TO BE USED FOR ECONOMIC DEVELOPMENT PURPOSES SUBJECT TO VOTER APPROVAL, AND REPEALING THE 60 PERCENT VOTER APPROVAL REQUIREMENT TO INCREASE THE SALES TAX RATE**

**WHEREAS,** the Kenai Peninsula Borough is authorized by AS 29.35.210(a) to provide for economic development in the area of the borough outside of the cities; and

**WHEREAS,** pursuant to AS 29.35.110(c) a borough that has entered into an agreement with a city in the borough to cooperatively or jointly provide for economic development may use borough revenue from taxes collected areawide or nonareawide, to carry out the terms of the agreement; and

**WHEREAS,** the Kenai Peninsula Borough economy is primarily driven by local plants and stores, a few large companies and many small businesses; and

**WHEREAS,** at this time the borough would benefit from efforts to stimulate the local economy including assisting small business owners, promoting the borough to various industries and tourists; and

**WHEREAS,** nondepartmental expenditures in the budget are funded with property taxes and grants as all current sales taxes must be used for the school district; and

**WHEREAS,** increasing the sales tax by .1 percent and using the proceeds from this increase to fund economic development would relieve some of the burden from property owners and shift it to all persons in the borough; and

**WHEREAS,** voter approval is required to increase the rate of sales taxes; and

**WHEREAS,** KPB chapter 19.30 must be amended to allow for such expenditures if the voters approve the proposition; and

**WHEREAS,** the requirement that any change to the rate be approved by 60 percent of the voters may legally be repealed as more than two years have passed since the initiative imposing this requirement became effective; and

**WHEREAS,** the 60 percent supermajority approval requirement for a change to the borough sales tax has been held invalid by the superior court;

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

**SECTION 1.** That Kenai Peninsula Borough Code of Ordinances Section 5.18.100 shall be amended as follows:

**5.18.100. General—Levied—Amount.**

- A. There is levied by the borough a consumer's sales tax of up to [3] 3.1 percent maximum rate on all retail sales, on all rents, and on all services made or rendered within the borough, measured by the gross sales price of the seller. [ANY FUTURE INCREASE TO THE SALES TAX MAXIMUM RATE, AS PROVIDED IN THIS SECTION, SHALL NOT TAKE EFFECT UNTIL RATIFIED BY AT LEAST 60 PERCENT OF VOTERS AT A REGULAR BOROUGH ELECTION.]
- B. In addition to the tax levied by the borough, any municipality within the borough may levy a consumer's sales tax as provided by Alaska Statute which shall be reported, collected, and enforced according to the terms of this chapter.

**SECTION 2.** That Kenai Peninsula Borough Code of Ordinances Section 5.18.110 shall be amended as follows:

**5.18.110. General—Proceeds—Use for school and economic development purposes—Payment to cities.**

- A. The net proceeds from the first 3.0 percent of tax[ES] collected by the borough pursuant to this chapter shall be used exclusively for borough school purposes. The net proceeds from the last .1 percent of tax collected by the borough shall be used exclusively for economic development purposes within the borough. Prior to the collection and expenditure of the taxes to be used for economic development purposes, the borough shall enter into agreements with all cities in the borough to jointly or cooperatively provide for economic development throughout the borough.
- B. The net proceeds from the taxes collected for any city shall be promptly paid over to the appropriate city.

**SECTION 3.** That Kenai Peninsula Borough Code of Ordinances Section 19.30.020 shall be amended as follows:

**19.30.020. Purpose and scope.**

The purpose of this chapter is to provide criteria, guidelines, and procedures for borough support of responsible economic development projects on a nonareawide basis. Nothing in this chapter shall be construed

to create any right whatsoever to borough support of any proposal, and the borough reserves the right to reject any and all such proposals. Consistent with the above, this ordinance does not apply to borough consideration of projects with primary purposes other than economic development; consideration of such projects shall be within the scope of other applicable borough powers. This chapter shall not apply to the exercise of economic development powers authorized by KPB 5.18.110(A).

**SECTION 4.** That a ballot proposition shall be placed before borough voters at the next regular election to read as follows:

PROPOSITION No. \_\_\_\_\_

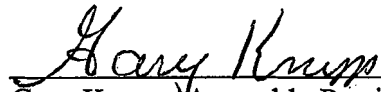
Shall Ordinance 2011-23 providing for the imposition of a sales tax increase of 0.1 percent to be used solely for economic development purposes, be ratified?

Yes \_\_\_\_\_ No \_\_\_\_\_

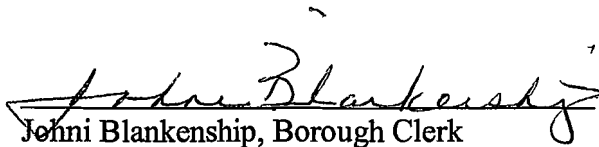
**SECTION 5.** That the portion of Section 1 deleting the voter approval requirement and Section 4 shall become effective immediately upon enactment of this ordinance.

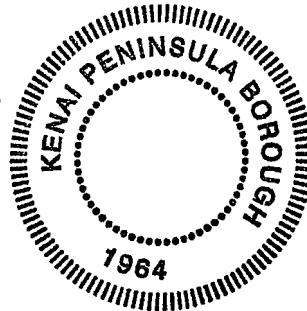
**SECTION 6.** That the sales tax rate increase in Section 1 and Sections 2 and 3 of this ordinance shall become effective January 1, 2012, only if the proposition contained in Section 4 is approved by a majority of voters voting on the question in the regular election of October 4, 2011.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF JULY, 2011.**

  
\_\_\_\_\_  
Gary Knopp, Assembly President

ATTEST:

  
Johni Blankenship, Borough Clerk



Yes: Haggerty, Johnson, McClure, Murphy, Smalley, Smith, Knopp  
No: Pierce, Tauriainen  
Absent: None