

Introduced by:	Mayor
Date:	09/19/06
Shortened Hearing:	10/10/06
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2006-35**

**AN ORDINANCE SETTING THE BOROUGH SALES TAX RATE AT
2 PERCENT IF PROPOSITION 2 IS DEFEATED**

- WHEREAS,** on June 7, 2005, the assembly enacted ordinance 2005-09, which included three measures designed to enhance borough revenues, including an increase in the sales tax rate from 2 percent to 3 percent and other measures; and
- WHEREAS,** on August 16, 2005, in Ordinance 2005-37, the assembly amended the effective date of the sales tax increase in Ordinance 2005-09 to January 1, 2006; and
- WHEREAS,** on November 17, 2005, the borough clerk certified a referendum petition referring Ordinance 2005-09 to the voters for approval or rejection; and
- WHEREAS,** the increase in sales tax from 2 percent to 3 percent in Ordinance 2005-09 has been suspended both because it was not in effect at the time the referendum petition was filed as the effective date was January 1, 2006, and also because the voters in the October 2005 election approved Initiative Proposition 5 which set the sales tax rate at 2 percent and prohibited increasing the sales tax rate above 2 percent without at least 60 percent voter approval; and
- WHEREAS,** according to AS 29.26.180, if a majority vote favors repealing the matter referred, then it is repealed; otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election; and
- WHEREAS,** the assembly adopted the fiscal year 2007 budget based in part upon revenue from a 2 percent sales tax and therefore does not require an immediate increase to a 3 percent sales tax; and
- WHEREAS,** enacting an ordinance setting the sales tax rate at 2 percent, effective on October 10, 2006, would coincide with certification of the election; and
- WHEREAS,** if a majority of the voters do not repeal ordinance 2005-09, pursuant to AS 29.26.180 the assembly would have the voter approval needed to raise the sales tax rate to 3 percent; and
- WHEREAS,** this ordinance levies 2 percent instead of the maximum 3 percent sales tax authorized by the voters but is not intended to relinquish the authority to increase

the sales tax rate to a maximum of 3 percent at a later date by ordinance without voter approval to the extent such increase is allowed by law; and

WHEREAS, if the voters repeal Ordinance 2005-09, then this issue will be moot and the sales tax rate will remain at 2 percent;

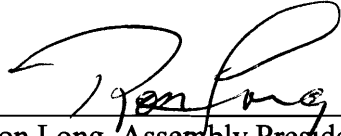
NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the first sentence of KPB 5.18.100(A) is hereby amended as follows:

A. Without affecting the authority granted by the voters to levy a sales tax of up to 3 percent, t[T]here is levied by the borough a consumer's sales tax of up to 2 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.

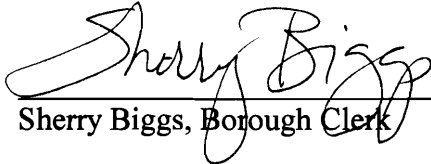
SECTION 2. That this ordinance takes effect immediately upon its enactment and if proposition 2 is defeated by the voters.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 10TH DAY OF OCTOBER, 2006.

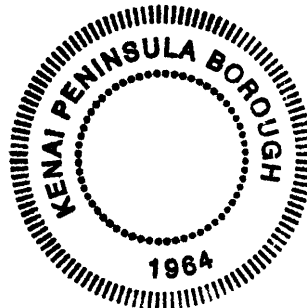


Ron Long, Assembly President

ATTEST:



Sherry Biggs, Borough Clerk



Yes: Chay, Fischer, Germano, Gilman, Martin, Merkes, Sprague, Superman, Long

No: None

Absent: None