

**PETERSBURG BOROUGH
ORDINANCE #2013-1**

**AN ORDINANCE IMPLEMENTING AN AREAWIDE SALES TAX IN THE AMOUNT OF
6% THROUGHOUT THE PETERSBURG BOROUGH AND PROVIDING FOR THE
ADMINISTRATION, COLLECTION AND REPORTING OF THE SALES TAX**

Whereas, on January 3, 2013 the Election Division for the State of Alaska, certified the election results of the December 18, 2012 incorporation election for the Petersburg Borough; and

Whereas, the certified election confirmed the incorporation of the Petersburg Borough and dissolved the City of Petersburg, and

Whereas, the Charter for the Petersburg Borough, Section 12.02 designates that sales and use taxes can be levied on an areawide basis, a non areawide basis or service area basis and Petersburg Borough Charter Section 19.07B says "All sales and use taxes levied within the former City of Petersburg shall become areawide taxes at the time of borough formation and remain in effect until changed as provided in this Charter", and

Whereas, the Transition Plan contained within the Petersburg Borough petition called for the areawide sales tax to be implemented within 90 days after borough incorporation.

Therefore be it Resolved, the existing sales tax provisions for the dissolved City of Petersburg, Alaska, as noted with amendments below, are hereby approved and adopted as a borough ordinance to be administered on an areawide basis.

Section 1. Classification: This ordinance is of a permanent nature and shall be codified in the Petersburg Borough Code.

Section 2. Purpose: The purpose of this ordinance is to provide for the administration, collection and reporting of the six percent (6%) areawide sales tax as approved by the borough voters at the December 18, 2012 incorporation election.

Section 3. Substantive Provisions: The provisions of the former City of Petersburg Municipal Code, Chapter 4.28 are hereby transferred and incorporated into this borough ordinance. Chapter and section numbers from the prior city code are retained for future referencing and codification of the Borough Code.

Article 4.28, of the Petersburg Borough Code shall read:

Chapter 4.28 - SALES TAX*

Sections:

4.28.010 - Purpose and intent.

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4.28.010 - Purpose and intent.

It is the purpose of the tax levied under this chapter to raise revenues. The scope of the tax levied shall be broadly interpreted and exemptions shall be allowed only when the sales clearly fall within an exemption defined in this chapter.

4.28.020 - Definitions.

For the purposes of this chapter, the following words and phrases have the meanings ascribed to them.

"Alcoholic beverage" means an intoxicating liquor, including whiskey, brandy, rum, gin, wine, ale, porter, beer and all other spirituous, vinous, malt and other fermented or distilled liquors intended for human consumption and containing one-half of one percent or more of alcohol by volume.

"Buyer or consumer" means, without limitation, every individual, receiver, assignee, trustee in bankruptcy, trust estate, member, firm, partnership, joint venture, club, company, business, trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

"Common carrier" is a person or entity that holds itself out to the general public as providing transportation of goods for compensation and regularly issues bills of lading or other receipts for the carriage of goods.

"Finance director" means the borough finance director, or any other borough employee designated by the borough manager to perform the functions and duties of the finance director as described in the municipal code.

"Qualified nonprofit organization" means any organization formed exclusively for religious, educational or charitable purposes that has received an IRS nonprofit designation of 501(c)(3) or 501(c)(4). All sales of the organization must be exempt from federal income tax.

"Resale" means to sell again and is limited to items which are resold per se or are physically present in a final product which is sold and is subject to tax at the time of final sale. The resale item must be easily and readily identifiable in the final product. Resale sales are not made to the final consumer.

"Retail sale" means any sale of goods or services, including barter, credit, installment and conditional sales, for any purpose other than resale in the regular course of business. The delivery of property in the borough is considered subject to sales tax if the retailer maintains any office, distribution or sales house within the borough, or solicits business or accepts orders through any agent, salesman, member or representative within the borough.

"Sale for resale" means the sale of tangible personal property to a buyer whose principal business is the resale of the property, whether in the same or an altered form.

"Sale of goods" means the sale of all items purchased or delivered at the same time or within a twenty-four-hour period, beginning and ending at midnight, from a single retailer, shall be added together and the tax levied on the aggregate amount.

"Sale of services" means the sale of services, which includes parts and labor, for a specific job or task. Sales tax shall be computed on the invoice for the total job or task, such invoice period not to exceed thirty days.

"Sales price" means and includes the consideration, whether money, credit, rights or other property expressed in terms of money paid or delivered by a buyer to a seller, all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, discount, delivery costs, federal and state taxes, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses.

"Sales tax" means and includes the tax levied in this chapter on gross revenues derived from all taxable commercial retail sales or services, such revenues being computed in dollars and cents and the tax payable by the buyer, and to be collected by the seller or the person performing the services.

"Seller" means any person or entity making a retail sale to a buyer or consumer, whether as agent, broker or principal, any person or entity performing services for remuneration, or a purchasing cooperative.

"Services" include all services of every manner and description provided in whole or part within the borough, including travel and adventure services and delivery services, that are performed or furnished for consideration whether in conjunction with the sale of goods or not, but does not include services rendered by an employee to an employer.

"Tobacco product" means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body. Tobacco product does not include any cessation product approved by the United States Food and Drug Administration for use as a medical treatment to reduce and eliminate nicotine or tobacco dependence.

"Travel and adventure services" include, but is not limited to, tours and charters on land and water, guide services, admissions, lectures, transportation services on land and water, and the rental of lodging, aircraft, vehicles, watercraft and equipment, including fishing, boating, camping and other tour or adventure related goods.

4.28.030 - Levy and rate.

There is levied and shall be collected a six percent sales tax upon all retail sales made and services provided within the borough except those hereinafter specifically exempted from the tax. On sales less than three dollars, such tax is levied in accordance with the following schedule:

Sales Price	Tax	Sales Price	Tax
.30 to .58	.03	1.75 to 1.91	.11
.59 to .74	.04	1.92 to 2.08	.12
.75 to .91	.05	2.09 to 2.25	.13
.92 to 1.08	.06	2.26 to 2.41	.14
1.09 to 1.25	.07	2.42 to 2.58	.15

1.26 to 1.41	.08	2.59 to 2.74	.16
1.42 to 1.58	.09	2.75 to 2.91	.17
1.59 to 1.74	.10	2.92 to 3.08	.18

Continue the repeat sequence for each dollar of sales to the maximum of one thousand two hundred dollars.

4.28.040 - Employees—Subcontractors.

- A. The remuneration paid by an employer in the form of wages or salary to an employee for the sale of services by the employee to the employer are not taxable under the provisions of this chapter. Sales of services by contractor or subcontractors, and any other type of sale of a service by a person other than an employee are taxable unless specifically exempted.
- B. A person shall be deemed to be an employee under the provisions of this chapter if the person claiming to be an employer is withholding a portion of the person's wages or salary in accordance with federal income tax laws and regulations. In the event no amounts are being withheld, it shall be presumed the person is not an employee unless the person claiming to be his employer submits clear and convincing evidence establishing the person's status as an employee.

4.28.045 - Resale.

- A. To receive exemption from payment of sales tax on resale items, a buyer for resale shall obtain a resale certificate and present the resale certificate at the time of each purchase.
- B. A buyer for resale may apply for a resale certificate on a form provided by the borough. Upon approval of the application, the borough will issue a resale certificate.
- C. If a buyer for resale is not in full compliance with the sales tax code, the buyer for resale is not eligible to receive a resale certificate, and any issued resale certificate may be revoked. Full compliance means a buyer for resale does not have a sales tax account with a balance due or does not have a missing or incomplete sales tax return.
- D. The resale certificate shall be surrendered when the buyer for resale ceases doing business in the borough.
- E. The following penalties shall be imposed by the borough for misuse of a resale certificate:
 - 1. Immediate cancellation and demand for the surrender of the resale certificate;
 - 2. Retroactive denial of the exemption and payment of all sales taxes formerly exempted under the resale certificate.

4.28.050 - Duty to collect and make return.

- A. The tax levied under this chapter is assessed and levied upon the purchaser or consumer but it is the duty of the seller or person furnishing such services to collect the tax from the purchaser or consumer and make a return thereof to the finance director as provided in this chapter. In the event that the seller fails to collect the tax or remit tax collected to the borough, the seller is liable for the tax due, any interest and penalty thereon, and related administrative costs.
- B. The seller shall have the option of using a cash or accrual basis accounting method to report sales. The accounting method may not be changed during a calendar year.
- C. Any director, officer, employee, agent or member of a corporation, limited liability company, partnership or other business entity having control over or supervision of, or charged with the

responsibility for, the collection or remittance of sales tax, or the filing of sales tax returns, on behalf of the entity is personally liable for any uncollected and/or unpaid taxes, penalties, interest and administrative costs due the borough. Dissolution, sale or other transfer of the business entity does not discharge this liability.

4.28.060 - Tax to be paid monthly.

- A. Sales tax is due and payable on or before the last day of the month following the month in which the tax was collected. Delivery of the tax return may be made during normal business hours to the borough finance office or the drop box in the municipal building prior to eight a.m. of the first business day following the due date. A postmark on or before the due date shall be considered a timely return. Should the last day of the month fall on a weekend or holiday, returns will be accepted until 5:00 p.m. of the first business day following the due date. It is the duty and responsibility of every seller liable for the collection of any tax imposed unless otherwise provided in this chapter, to file with the finance director upon forms prescribed and furnished by the borough, a return setting forth the amount of all sales, taxable and nontaxable, the amount of tax on the sales and other information as the finance director may require. The amount of exempt sales must be separately stated for each type of exemption set forth in 4.28.120(A) - (X) and 4.28.130 of this Chapter. The completed and executed return, together with remittance in full for the amount of the tax due, shall be transmitted to the finance director.
- B. Any seller who filed or should have filed a sales tax return for the prior month shall file a return even though no tax may be due. This return shall show why no tax is allegedly due, or, if the business is sold, then the person to whom it was sold, the date it was sold, and the address and telephone number of the person to whom it was sold.
- C. Proof of claimed exemptions must be retained by the seller and provided to the borough's auditor when an audit is requested. These documents shall be retained for a period of two years.
- D. In the event that a seller will not be conducting business for thirty days or more, the beginning and ending dates that the seller will not be operating may be noted on the last sales tax return filed prior to temporary closure. This procedure, or other notice in writing, will excuse the seller from filing monthly returns during temporary closures. Seller must however, make the above notation or file monthly returns; failure to do so will result in penalty and interest.

4.28.070 - Penalty and interest.

- A. In the event tax is not timely paid, a penalty of eight percent of the unpaid tax shall be assessed and an additional penalty of eight percent of the unpaid tax shall be added for each additional month or part of a month of delinquency up to a maximum penalty of thirty-two percent of the unpaid tax.
- B. Interest shall accrue on the unpaid taxes due at a rate of ten and one-half percent annually from the date of delinquency until paid. Penalties and interest shall be collected in the same manner as the tax.

4.28.080 - Collection procedures.

- A. Whenever the finance director believes a return is inaccurate, or whenever a seller is delinquent in filing a return or paying tax due, the finance director shall mail to the seller's last address on file with the borough a written demand requesting the filing of a corrected or required sales tax return and payment of the tax due within ten days.
- B. In the event the seller does not comply with the demand to file a required or corrected return, the finance director may make a sales tax assessment against the seller. The assessment shall estimate the taxable revenue received by the seller during the period in question. The estimate may be based upon previous returns filed by the seller, information received during an investigation conducted

under this chapter, or any other relevant information known to the finance director. The assessment shall state the amount of taxes, penalties and interest assessed, and shall contain a brief statement explaining the basis of the assessment.

- C. A notice of assessment shall be sent to the seller's last known address by first class mail. The notice of assessment shall contain a copy of the assessment and a statement notifying the seller of the seller's right to a hearing. The notice of assessment shall state that if a timely request for a hearing is not made, 1) the assessment shall become final thirty days after the date the notice of assessment was mailed to the seller, and 2) seller shall be deemed to have waived the right to protest, appeal or otherwise challenge the amount due.
- D. The seller shall have a right to a hearing before the finance director concerning the assessment. The seller may request a hearing by delivering to the finance director a written request for a hearing within thirty days of the date the notice of assessment was mailed. The finance director shall schedule the hearing and notify the seller of the date and time for the hearing by mail. The hearing shall be conducted informally. The seller shall make available for examination and copying at the hearing the seller's books, records, papers and other documents relating to the seller's sales and revenue during the period involved in the assessment. The seller shall be given an opportunity to produce records and testimony and to present argument relating to the assessment.
- E. After the hearing, the finance director shall issue a written decision upholding or modifying the assessment. The decision shall be mailed by first class mail to the seller's last address on file with the borough. The decision shall notify the seller the assessment may be appealed by filing a written notice of appeal to the assembly within thirty days of the date the written decision of the finance director was mailed to the seller. Failure of the seller to file a timely appeal shall be deemed to be a waiver of any right to appeal such decision.
- F. Seller shall be notified by mail of the date and time of the hearing before the assembly, and seller shall be given an opportunity to produce records and present testimony and argument relating to the assessment. The assembly shall issue a final decision upholding or modifying the assessment. The final decision shall be mailed by first class mail to the seller's last known address. The final assessment shall notify the seller that it is the final administrative decision of the borough on the subject of the assessment and may be appealed to the Superior Court for the state of Alaska in accordance with state law and court rules.
- G. After an assessment has become final, or in the event a return was filed, but tax due was not paid in full, the borough may file a civil action against the seller for collection of the taxes, penalties and interest due under the assessment. The seller shall be liable to pay the borough's full reasonable attorney's fees and costs incurred in the civil action. Interest and penalties on the assessment shall continue to accrue until the seller's liability has been paid in full.
- H. After final determination of the amount of the tax due, and regardless of whether a civil action has been commenced, the finance director may publish the name of a delinquent seller and the amount due in the local newspaper.

4.28.085 - Sellers compensatory collection discount.

All sellers and persons rendering sales tax returns to the borough shall be entitled to a discount, as set forth herein, to compensate themselves for costs incurred in the collection, recordkeeping, remittance, and accounting for the tax imposed. One percent of the tax due as a tax collection discount may be taken to reduce the tax to be remitted on any monthly return that is fully and accurately completed and filed by the fifteenth of the month following the month in which the tax was collected. with a remittance of all sales taxes due. Should the fifteenth fall on a weekend or holiday, the discount will be recognized until 5:00 p.m. of the first business day following the fifteenth. The discount may not exceed fifty dollars for any monthly return and may not be taken if any sales tax, penalty, or interest is due for any previous monthly return.

4.28.090 - Application for tax identification number.

Each seller shall complete an application form to provide the borough with necessary information as to the nature of the business, location and owner. Each seller shall be assigned a sales tax identification number which shall identify the business for borough purposes and also for use in purchases for resale.

4.28.100 - Duty to keep books—Investigation.

- A. Every seller shall keep and preserve for a period of two years, suitable records of all sales made, invoices of goods and merchandise, including satisfactory proof of nontaxable sales and exempt sales, and such other books or accounts as may be necessary for the finance director to determine the amount of tax for the collection of which the seller is liable, all of which are open for examination at any reasonable time by the finance director or finance director's designee. In the absence of proof for nontaxable sales and exempt sales, the sales or services shall be deemed to have been taxable.
- B. For the purpose of determining the correctness of a return or for the purpose of determining the amount of tax collected or which should have been collected by any person, the finance director or director's designee may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records or memoranda, and may require the attendance of any person, officer or employee to a hearing. The finance director or director's designee has the power to administer oaths and affirmations and if any person, being first duly sworn, refuses to answer any questions by the finance director or director's designee, the finance director may apply to the superior court for an order requiring the person to answer said questions. The finance director may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any person refuses to obey any subpoena, the finance director may apply to the superior court for an order requiring the person to comply.
- C. In the event the finance director is unable to determine the tax due to be remitted by a seller by reason of failure of the seller to keep accurate books, allow inspection, failure to file a return or falsification of records, the finance director may make an estimate of the tax due based upon all of the information available. Notice of the estimate of taxes due shall be furnished by mail to the seller and shall become final for the purposes of determining liability of the seller to the borough in thirty days unless the seller earlier files an accurate return, supported by satisfactory records, indicating a lesser liability. The seller may appeal the estimate of tax due to the assembly in the matter provided under 4.28.080(E) and (F).
- D. Information relating to the amount of sales made or taxes due from any retailer shall be held confidential and shall be kept from public inspection except when the retailer has failed to comply with the provisions of this chapter. Nothing contained in this section, however, shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return or report filed by him nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers or sellers, nor to prohibit the furnishing of information on a reciprocal basis to other agencies of the borough, of the State of Alaska, or the United States, which agencies are concerned with the enforcement of tax laws.

4.28.110 - Sales of business—Final return—Liability of purchaser.

If any seller sells his business to another person, he shall make a final sales tax return within five days after the date of selling the business; and the purchaser, successor, successors or assigns, shall withhold a sufficient portion of the purchase money to pay the amount of sales taxes, penalties and interest due and unpaid to the borough; and provided, further, the purchaser, successor, successors or assigns are personally liable for the payment of said taxes, penalties and interest, accrued and unpaid to the borough on account of the operation of the business by any former owner, owners, or assigns as shown by the final return or an audit conducted by the borough within thirty days of the filing of the final return.

4.28.120 - Exemptions.

The following sales and services are exempt from said sales tax:

- A. Salaries and wages received by an employee;
- B. Casual and isolated sales not made in the regular course of business;
- C. Sales and revenue when the aggregate amount is less than thirty cents;
- D. That part of a sale of goods over one thousand two hundred dollars when all items purchased or delivered at the same time or within a twenty-four-hour period are added together;
- E. That part of a sale of services over one thousand two hundred dollars for a specific job or task. Invoices for sales of services shall be computed for tax purposes monthly;
- F. Sales of insurance and bonds of guaranty and fidelity;
- G. Fees for medical, psychological, dental, hospital and veterinary services;
- H. All drugs and medicines prescribed by a physician and dispensed by a registered pharmacist;
- I. Remuneration for services and materials, including caskets, used or furnished for funerals;
- J. Wharfage charges and charges for freight handling and cargo handling on docks;
- K. All sales to a bona fide buyer for resale of goods or services when the same are purchased for resale in the ordinary course of business. A bona fide buyer for resale is one who regularly stocks and displays merchandise for resale and is regularly engaged in the business of selling goods or services direct to the consumer. The buyer for resale shall, when purchasing goods for resale, identify the sale with the assigned sales tax identification number;
- L. All sales of goods for use outside the borough, if the goods are sold to a buyer who resides or has its principal place of business outside the borough, and if the goods are delivered to the buyer at a location outside the borough via common carrier or the U.S. Postal Service.
- M. All rental charges for residential houses, apartments, mobile homes, commercial structures and buildings for business purposes which are rented for long-term occupancy. "Long term occupancy," defined for the purpose of this chapter, is for month-to-month occupancy or longer;
- N. The following borough services: electric, water, sewer and refuse collection utility services charged by the borough;
- O. Exemptions as required by state law which prohibits the collection of a sales tax on purchases made with food coupons, food stamps or other type of certificate issued under the Food Stamp Act;
- P. Food purchases under the special supplemental food program for Women, Infants and Children (WIC);
- Q. Child day care, pre-elementary school and babysitting services;
- R. Charter services by air;
- S. Gross receipts derived from borough department of parks and recreation programs;
- T. Gross receipts derived from fees and charges for educational programs, courses, classes or activities provided by a nonprofit institution approved by the Board of Education of the state of Alaska;
- U. Sales of goods and services for repairs or major maintenance provided under a warranty or service contract, performed by a manufacturer or authorized representative of a manufacturer, and charged to a third party warrantor. Major maintenance does not include routine or scheduled maintenance attributable to normal operation of the warranted item;
- V. Sales of goods which were donated to a qualified nonprofit organization;

- W. Sales to a qualified nonprofit organization that has obtained and presented to the seller at the time of sale a certificate of exemption from the finance director. A nonprofit organization's certificate of exemption does not exempt the sale of alcoholic beverages, or tobacco products from sales tax; and
- X. Sales of pull-tab games by qualified organizations holding a charitable gaming permit or license issued by the state of Alaska.

4.28.130 - Exemption for the elderly.

A. For purposes of this section:

1. A local resident senior citizen is anyone sixty-five years of age or older who has a physical address within the Petersburg Borough prior to requesting a sales tax exemption card with intent to remain in the Petersburg Borough indefinitely and to make a home in the Petersburg Borough. A person demonstrates intent under this subsection by maintaining a principal place of abode in the borough, by obtaining a valid driver's license or valid voter registration card, and/or by providing other acceptable proof of residency within the borough boundaries. A local resident may apply for and be issued by the finance director, or director's designee, a senior citizen sales tax exemption card free of charge. The card is only valid while residency is maintained within the borough boundaries.
2. A state senior citizen is anyone sixty-five years of age or older who has a physical address within the state of Alaska with intent to remain in the state indefinitely. A person must demonstrate state residency by providing a pictured identification, such as a driver's license or state issued identification card, and one other current form of identification. A state resident may apply for and be issued by the finance director, or director's designee, a senior citizens sales tax exemption card for an annual fee of twenty-five dollars. This card is good from the date of issue through December 31 of the year issued.
3. A senior citizen sales tax exemption card entitles the card holder to be exempted from borough sales tax, subject to the limitations expressed in the balance of this section.
4. It is the responsibility of the senior citizen to present their sales tax exemption card to local merchants prior to each exempt sale being finalized. Merchants shall keep a record of all senior citizen exempt sales.

B. No person issued or authorized to use a senior citizens sales tax exemption card may use it to obtain a sales tax exemption for:

1. The purchase of alcoholic beverages or tobacco products; or
2. When the goods or services purchased are for use in any trade or business; or
3. For purchases for which the card holder is reimbursed or remunerated by a person or entity on whose behalf the purchase was made and who would not otherwise qualify for a sales tax exemption.

C. No person who has not applied for and received an exemption card may use it to obtain tax exemption. However, in the case where a person is physically unable to leave their home or dwelling to use the card, and proof of physical disability is documented by a physician, the finance director or director's designee may issue a special card authorizing another person to use the special card for the benefit of the person physically disabled. The physically disabled senior may be requested to return their tax exempt card before a new card is issued to a caregiver. The exemption card issued to the caregiver is good for a period of six months and at the end of each six-month period the card must be renewed.

D. A representative of the senior citizen's nutrition program may obtain from the finance director's office a sales tax exempt card which entitles the representative to purchase goods and/or services for the exclusive use of the senior citizen's nutrition program exempt from the borough's sales tax. No seller

within the borough shall charge or collect taxes from the senior citizen's nutrition program representative who displays to him such a valid tax exempt card.

- E. An exemption card which is lost or stolen shall be immediately reported to the finance director.
- F.
 - 1. Any person who violates any provision of subsections A through D of this section is guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars.
 - 2. The use of a senior citizen sales tax exemption card in any manner not allowed by this section, shall constitute a violation of the borough code by the card holder (unless the card was reported lost or stolen under E) and by any person using the card, and shall be punishable by a civil penalty of \$100.00 per violation. The violator(s) are also responsible for any tax which would otherwise have been due, plus interest and penalties thereon, and related administrative costs. If a penalty imposed is not paid, it may be collected in a civil action brought by the borough.
 - 3. A senior citizen sales tax exemption card issued to a card holder who has violated the provisions of this section shall be void and shall be forfeited to and canceled by the finance director.

4.28.135 - Sales tax-free days.

- A. By resolution of the borough assembly, up to two sales tax-free days may be declared annually.
- B. A declaration of a sales tax-free day means that the retail sales of goods and services for goods, or services purchased and received by a buyer, on a day declared as sales tax-free are exempt from the retail sales tax imposed by this chapter.
- C. The exemption set forth in section B. above does not apply to:
 - 1. Rentals for any period greater than the one day declared as tax-free;
 - 2. Taxable sales by the borough..
- D. All sales made under the tax-free day exemption shall be reported to the borough as exempt sales using "TFD" (tax-free day) as the exemption code for the sale.

4.28.140 - Sales tax liens.

- A. The sales tax, interest and penalties imposed by this chapter, and the administrative costs under subsection F of this section, shall constitute a lien in favor of the borough upon all of the real and personal property of every person owing the tax.
- B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent and continues until the entire amount is satisfied.
- C. If delinquent sales taxes, including interest and penalties, and administrative costs are not paid within ten days from the mailing of notice and demand for payment, a notice of lien may be recorded in the office of the district recorder and upon recordation a lien arising under this section has priority over any other liens, except: 1) those for property taxes and special assessments; 2) those that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; and 3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien.
- D. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for foreclosure of liens under state law.
- E. The remedy provided in this section is not exclusive and shall be in addition to all other remedies available to the borough to collect the sales taxes, penalties and interest due under this chapter.
- F. Fees for the administrative costs of filing notice of liens, and releasing liens shall be:
 - 1. Filing of notices of lien: fifty dollars plus recorder's filing fee;

2. Release of liens: fifty dollars plus recorder's filing fee.

4.28.150 - Refund of sales tax, penalty and interest.

- A. Right to Apply for Refund. If through error or by prepayment of tax on uncollectible debt, a seller or taxpayer remits to the borough sales taxes which the borough is not entitled by law, the seller or taxpayer is entitled to a refund. A seller or taxpayer must apply to the finance director in writing for a refund within one year from the date the sales taxes became due; otherwise, the right to a refund is waived.
- B. Refund by Finance Director. If the amount of refund requested, including any interest and penalty assessed and paid is less than the maximum departmental expenditure allowed to the finance director and the finance director determines that the seller or taxpayer is entitled to a refund as authorized by subsection A of this section, then the finance director may refund the seller or taxpayer any such tax overpayment, including interest and penalties assessed and paid. An aggrieved seller or taxpayer may request the decision of the finance director be reviewed by the borough manager.
- C. Refund by Borough Manager. All refund requests not governed by subsection B of this section and all cases where an aggrieved seller or taxpayer requests further review, shall be presented by the finance director to the borough manager. If the manager finds that the seller or taxpayer is entitled to a refund as authorized by subsection A of this section, then the city manager shall authorize the finance director to make the requested refund, including any interest and penalties assessed and paid. Otherwise, the manager shall deny the refund request. The borough manager shall provide the seller or taxpayer with a written final decision.
- D. Appeal to Borough Assembly: An aggrieved seller or taxpayer may appeal to the borough assembly by filing a notice of appeal with the borough manager within fifteen calendar days of receipt of the manager's written final decision. If a notice of appeal is timely filed, the assembly shall set a date for and hold a public hearing. The assembly shall hear such evidence as may assist it to make a determination whether the seller or taxpayer is entitled to a refund as authorized by subsection A of this section. The assembly, by motion, shall approve or deny, in whole or in part, the refund request.
- E. Exclusive Procedure. The procedure as set forth in this section is the sole and exclusive procedure whereby a refund may be made and, this procedure is a condition precedent to bringing a suit to recover such taxes. Any person who has not timely availed himself of this exclusive procedure shall be deemed to have waived any right to such refund as well as the right to recover such tax, penalty or interest or all of the same.
- F. Limitation. Any claim for refund, filed with the finance director after one year of the due date of the tax, is forever barred.

4.28.160 - Use of proceeds.

- A. The proceeds of the tax levied by this chapter shall be used in amounts and for purposes as the borough assembly shall determine, except that proceeds shall first be applied to the payment of general obligation school bonds and the interest thereon, before being used for other purposes. Other purposes for the proceeds shall be:
 1. To pay amounts under agreement with governmental agencies for public works;
 2. To construct, operate and maintain school facilities;
 3. To plan, design and construct any permanent public works, and to pay incidental expenses in connection with such improvements;
 4. To pay principal and interest on any general obligation bonds of the borough; and
 5. To provide for general government operations.

- B. Proceeds or revenue of the tax levied and collected may be pledged in such amount or in such percentage as may be fixed by ordinance of the borough, to secure the payment of principal and interest on any general obligation bonds, including bonds issued for school purposes of the borough.

Section 4. Severability: If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected.

Section 5. Effective Date: This Ordinance shall become effective April 1, 2013.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this 4th day of February, 2013.

ATTEST:

Mark Jensen, Mayor

Kathy O'Rear, Clerk

Adopted: 02-04-2012
Published: 02-05-2012
Effective: 04-01-2013