

Introduced by:	Mayor
Date:	05/17/16
Hearings:	06/07/16 and 06/21/16
Date:	06/07/16
Action:	Postponed to 06/21/16
Vote:	8 Yes, 0 No, 1 Absent
Date:	06/21/16
Action:	Enacted as Amended
Vote:	7 Yes, 1 No, 1 Absent
Election Date:	10/04/16
Certification Date:	10/11/16
Defeated by the Voters:	57.62% No, 42.38% Yes

KENAI PENINSULA BOROUGH ORDINANCE 2016-16

AN ORDINANCE AMENDING KPB 5.18.200(A)(16) AND 5.18.430 BY INCREASING THE MAXIMUM AMOUNT OF A SALE SUBJECT TO THE BOROUGH SALES TAX TO \$1,000 SUBJECT TO VOTER APPROVAL; AND IF VOTERS APPROVE INCREASING THE MAXIMUM TAXABLE AMOUNT TO \$1,000, EXEMPTING RESIDENTIAL RENTALS FROM SALES TAX

WHEREAS, KPB 5.18.430(A) currently provides for a ‘maximum tax’ of \$500, meaning the borough’s sales tax is only applied to the first \$500 of each separate sale, rent, or service transaction unless otherwise provided; and

WHEREAS, Ordinance No. 9, enacted by the assembly in 1965, set the maximum taxable amount at \$500 and this sum has never been adjusted for inflation or otherwise; and

WHEREAS, the 2015 value of \$500 in 1965 is approximately \$3,072 according to the Alaska Department of Labor Anchorage Consumer Price Index inflation calculator and approximately \$3,762 according to the U.S. Bureau of Labor Statistics Consumer Price Index inflation calculator; and

WHEREAS, if the maximum taxable amount in Ordinance No. 9 had been adjusted for inflation between 1965 and today, the maximum taxable amount today would be in excess of \$3,000; and

WHEREAS, with the decline in state programs and financial assistance to municipalities and schools, the borough will face additional pressure to provide public services and will need additional revenues to meet the community’s needs; and

WHEREAS, an increase in the maximum taxable amount would disproportionately affect tenants of residential property who would pay the higher sales tax on a recurring basis each month; and

WHEREAS, affordable rental housing is important for the borough and its residents; and

WHEREAS, KPB 5.18.430(F) requires that any increase in the amount of the maximum taxable amount be approved by the voters; and

WHEREAS, if the voters approve an increase in the maximum taxable amount, it is appropriate to then exempt residential rents from sales tax to protect tenants of residential property from a disproportionate effect of the increase;

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

SECTION 1. That KPB 5.18.200(A)(16) is hereby amended as follows:

5.18.200. Exemptions/waivers—Exemptions.

A. The following classes of retail sales, services and rentals are exempt:

...

16. Rental or lease payments for a dwelling unit for a permanent place of abode. [SENIOR, DISABLED RESIDENT, AND DISABLED VETERAN HOUSING RENT. RENTAL PAYMENTS FOR A DWELLING UNIT FOR A PERMANENT PLACE OF ABODE BY A RESIDENT WHO IS AT LEAST 65 YEARS OF AGE, OR WHO IS A DISABLED VETERAN OR A DISABLED RESIDENT. DISABLED VETERAN HAS THE MEANING PROVIDED IN KPB 5.12.105(F)(3), AND THE TERM DISABLED RESIDENT HAS THE MEANING PROVIDED IN KPB 5.12.110, AS THOSE PROVISIONS ARE NOW ENACTED OR MAY BE HEREINAFTER AMENDED.] Dwelling unit means a house, apartment, or room in a residential facility such as congregate housing or assisted living. Permanent means the tenant has lived in the dwelling unit [WITHIN THE KENAI PENINSULA BOROUGH] for a minimum of [SIX MONTHS] one month or signed a lease agreement for the dwelling unit with a term greater than one month. [AND IS A RESIDENT OF THE STATE OF ALASKA.] The landlord must accept an affidavit on a form provided by the borough or otherwise acceptable to the borough administration from the tenant as proof of [AGE AND] eligibility for this exemption. [If ANY PERSON UNDER 65 YEARS OF AGE, OTHER THAN A SPOUSE, RESIDES IN THE DWELLING UNIT WITH A QUALIFYING SENIOR, THE EXEMPTION MAY NOT BE GRANTED UNLESS THE SENIOR IS THE PRINCIPAL SOURCE OF SUPPORT FOR SUCH PERSON LESS THAN 65 YEARS OF AGE, OR UNLESS THE PERSON QUALIFIES AS A DISABLED VETERAN OR A DISABLED RESIDENT. THIS EXEMPTION SHALL ALSO APPLY TO A RESIDENT AT LEAST 60 YEARS OLD WHO IS THE WIDOW OR WIDOWER OF A PERSON WHO QUALIFIED FOR THIS EXEMPTION AS A SENIOR CITIZEN OR A DISABLED VETERAN.]

SECTION 2. That KPB 5.18.430 is amended as follows:

5.18.430. Computation—Maximum taxable amount.

A. The sales tax referred to in KPB 5.18.100 shall be applied only to the first \$1,000.00~~[500.00]~~ of each separate sale, rent or service transaction, except as otherwise provided in this section.

B. Except as provided below for long-term vehicle leases, the payment of rent, whether for real or personal property, in excess of the current maximum taxable amount in KPB 5.18.430(A) ~~[\$500.00]~~ and for more than one month, shall be treated as several separate transactions covering the rental/lease for one month each.

C. Services provided on account and billed to the customer on a periodic basis are subject to ~~[APPLICATION TO]~~ the ~~[TAX ON A]~~ maximum ~~[OF \$500.00 OF]~~ taxable amount in KPB 5.18.430(A) for each billing, per account. For purposes of this section, any advance payment for services other than to a trust or escrow account is considered to be paid pursuant to a "billing."

D. Except as provided in KPB 5.18.200(A)(16), ~~[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.

E. Long-term vehicles leases shall be treated as one transaction per year, and per fractional year, of the lease term. The tax paid for any fraction of a year shall equal the tax paid for a whole year. The sales tax for the entire long-term vehicle lease shall be due and collected at the time of the first payment. Tax shall be calculated at the sales tax rate in effect on the day the lease is signed. There shall be no refund of such taxes should the lease terminate earlier than on its terms. Any extension of the initial lease term shall be treated as a new long-term vehicle lease.

F. Any increase to the maximum sales tax described in subsection (A), above, shall not take effect until ratified by a simple majority of voters at a regular borough election.

G. Recreational sales shall be treated on a per person per day basis and therefore the maximum tax computation shall be calculated on a per person per day basis. For purposes of this subsection, the term "person" means an individual human being.

SECTION 3. That a ballot proposition shall be placed before borough voters at the next regular election to read as follows:

PROPOSITION No. _____

Shall the provisions in Section 2 of Ordinance 2016-16, increasing the maximum amount of a sale subject to the borough sales tax from \$500 to \$1,000 be ratified?

YES _____

A “yes” vote means that the maximum amount of a sale subject to the borough sales tax will be increased to \$1,000. If the majority vote “yes,” a secondary result or byproduct of that vote would be that monthly rental amounts for residential dwelling units used as a permanent place of abode will be exempt from borough sales taxes.

NO _____

A “no” vote means that the maximum amount of a sale subject to the borough sales tax will remain at a maximum of \$500. If the majority vote “no,” a secondary result or byproduct of that vote would be that borough sales taxes will continue to be charged on rental amounts for residential dwelling units used as a permanent place of abode.

SECTION 4. That Section 3 shall become effective immediately upon enactment of this ordinance. Sections 1 and 2 of this ordinance shall become effective January 1, 2017, only if the proposition contained in Section 3 is approved by a majority of voters voting on the question in the regular election of October 4, 2016.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF JUNE, 2016.

Blaine Gilman, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

06/07/16 Vote on motion to postpone to 06/21/16:

Yes: Bagley, Cooper, Dunne, Holmdahl, Johnson, Knopp, Ogle, Welles

No: None

Absent: Gilman

06/21/16 Vote on motion to enact as amended:

Yes: Bagley, Dunne, Holmdahl, Johnson, Knopp, Ogle, Gilman

No: Cooper

Absent: Welles

