

Introduced by:	Bagley
Substitute Introduced:	03/17/15
O2015-03 (Gilman):	see original for prior history
Hearing:	03/17/15 and 04/07/15
Date:	03/17/15
Action:	Postponed Until 04/07/15
Date:	04/07/15
Action:	Enacted as Amended
Vote:	5 Yes, 4 No, 0 Absent
Action:	Reconsideration Given by Wolf
Date:	04/21/15
Action:	Reconsidered and Failed to Enact as Amended
Vote:	4 Yes, 5 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2015-03
(BAGLEY) SUBSTITUTE**

**AN ORDINANCE AMENDING KPB 5.18.200 TO CHANGE THE SEASONAL
EXEMPTION FROM SALES TAXES OF NON-PREPARED FOOD ITEMS TO APPLY
FROM OCTOBER 1 TO MARCH 31 OF EACH YEAR**

- WHEREAS,** in October 2002 an initiative exempting non-prepared food from sales tax failed by a vote of 3,976 to 7,051; and
- WHEREAS,** Initiative Ordinance 2008-01 effective January 1, 2009, exempted all sales of non-prepared food items from the borough sales tax from September 1 until May 31 each year; and
- WHEREAS,** the voters approved this exemption during the October 2008 regular election; and
- WHEREAS,** in 2011 the voters defeated proposition 1 which would have repealed the seasonal exemption of sales tax of non-prepared food items; and
- WHEREAS,** this seasonal sales tax exemption has resulted in annual reductions in sales tax revenues of approximately \$3,108,941 in fiscal year 2012, \$3,179,398 in fiscal year 2013, and in the estimated amount of \$3,335,187 for fiscal year 2014; and
- WHEREAS,** due to the projected severe budget deficit at the state level it is anticipated that the borough revenue sharing will decrease from about \$2M to roughly \$1.2M this year, followed by significantly greater reductions in future years, and that capital project appropriations to the borough will immediately be substantially reduced beginning this year; and

WHEREAS, reducing the seasonal sales tax exemption from 9 months to 6 months will increase revenues for the borough while leaving the exemption in place for half the year; and

WHEREAS, sellers filing quarterly sales tax returns have difficulty filing their returns since the current nine month exemption does not line up with normal quarterly filing periods; and

WHEREAS, changing the exemption period to coincide with typical quarterly filing periods will help the sellers administer the exemption; and

WHEREAS, voters of the Kenai Peninsula Borough have never before had a 6-month non-prepared food exemption option on a ballot; and

WHEREAS, making this ordinance effective January 1, 2016 would allow ample time to implement it;

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

SECTION 1. That KPB 5.18.200(15)(D), providing for a seasonal exemption of non-prepared food from sales taxes, is hereby amended as follows:

5.18.200. Exemptions/waivers – Exemptions.

...

15. Retail sales of food are exempt in the following circumstances:
 - a. When served in cafeterias or lunchrooms of elementary, secondary, post-secondary schools, colleges or universities which are operated primarily for students and staff, and are not operated for the public or for profit;
 - b. When served to clients and staff, and not to the public or for profit, as part of services provided by a nonprofit hospital or other nonprofit or government organization licensed by the State of Alaska for the care of humans;
 - c. Meals delivered by a nonprofit organization to handicapped or senior citizens at their place of residence or meals served on the premises of a nonprofit senior citizens; organization which receives funding from the State of Alaska or a political subdivision of the state: provided that the sale price of such meals does not exceed the cost of delivery or service of such meals;

- d. Exemptions/waivers - Sales of nonprepared food items. Sales tax is prohibited on all sales of nonprepared food items from [SEPTEMBER] October 1 until [MAY] March 31 of each year. These food items exempted from sales tax include those which have been previously granted exemption in KPB 5.18.200(14) for food purchased with coupons issued under the federal food stamp program.

SECTION 2. That a ballot proposition shall be placed before borough voters at the next regular election to read as follows:

PROPOSITION No. _____

Shall Ordinance 2015-03 (Bagley) Substitute, amending the seasonal sales tax exemption period by changing it from a 9-month exemption to a 6-month exemption, be ratified?

Yes _____ A "yes" vote will change the exemption to a 6-month exemption.

No _____ A "no" vote will leave the exemption as a 9-month exemption.

SECTION 3. That Section 2 shall become effective immediately upon enactment of this ordinance. Section 1 of this ordinance shall become effective January 1, 2016, only if the proposition contained in Section 2 is approved by a majority of voters voting on the question in the regular election of October 6, 2015.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF APRIL, 2015.

Dale Bagley, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

04/07/15 Vote on Motion to Enact as Amended:

Yes: Gilman, Johnson, McClure, Wolf, Bagley

No: Cooper, Haggerty, Ogle, Welles

Absent: None

04/21/15 Vote on Motion to Reconsider:

Yes: Cooper, Haggerty, Ogle, Welles, Wolf

No: Gilman, Johnson, McClure, Bagley

Absent: None

04/21/15 Vote on Motion to Enact as Amended

Yes: Gilman, Johnson, McClure, Bagley

No: Cooper, Haggerty, Ogle, Welles, Wolf

Absent: None