

Introduced by: Mayor
Date: 12/06/16
Hearing: 01/17/17
Action: Enacted
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2016-45**

AN ORDINANCE AMENDING KPB 5.18.200(A)(15)(d) EXEMPTIONS/WAIVERS FOR SALES OF NONPREPARED FOOD, KPB 5.18.200(A)(20) RELATING TO SALES TAX ON CERTAIN NONPROFIT SALES, AND KPB 5.18.900, DEFINITIONS

WHEREAS, in Ordinance 2016-31, the assembly enacted changes to the Kenai Peninsula Borough (“borough”) sales tax code, including changes which resulted in the imposition of a sales tax on certain nonprofit sales (KPB 5.18.200(A)(20)) and on sales of non-prepared food items by sellers not authorized to participate in the federal food stamp program (KPB 5.18.200(A)(15)(d)); and

WHEREAS, Ordinance 2016-31 has an effective date of January 1, 2017; and

WHEREAS, some convenience stores located in the borough are not authorized to participate in the federal food stamp program and would be required to charge sales tax on their non-prepared food items during the period September 1st to May 31st, putting them at an unfair disadvantage with their competitors; and

WHEREAS, adding the term “or are from admission fees” to KPB 5.18.200(A)(20) would clarify that admission fees charged by non-profits are not subject to sales tax; and

WHEREAS, adding a definition for occasional or intermittent in nature as it applies to KPB 5.18.200(A)(20) for nonprofit sales is needed for clarification;

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

SECTION 1. That KPB 5.18.200(A)(15)(d) and (A)(20) are hereby amended as follows:

5.18.200. Exemptions/waivers – Exemptions.

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

...

d. Exemptions/waivers - Sales of nonprepared food items by sellers authorized to participate in the federal food stamp program and by convenience stores. Sales tax is prohibited on sales of nonprepared food

items sold by sellers authorized to participate in the federal food stamp program and by convenience stores from September 1 until May 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. “Convenience store” means a small retail business that stocks a range of everyday items such as groceries, snack foods, confectionery, toiletries, soft drinks, tobacco products, magazines and newspapers, with those items providing the majority of the store’s sales.

...

20. Sales or services provided by an organization that has obtained from the Internal Revenue Service and provided proof to the borough of a 501(c) exemption ruling, other than under 501(c)(12), so long as the sales, services or rentals are occasional or intermittent in nature and not provided as an ongoing trade or business that is regularly carried on from an established physical location or are from admission fees.

SECTION 2. That KPB 5.18.900 Definitions, is hereby amended by adding a new paragraph S as follows:

5.18.900. Definitions.

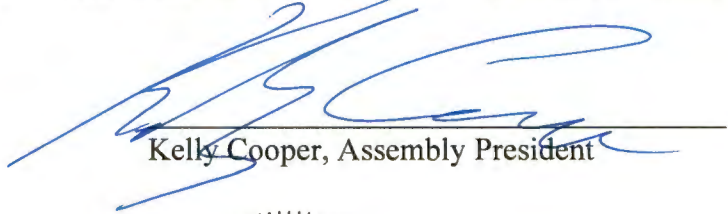
When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meanings:

...

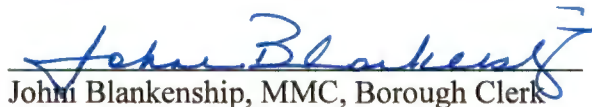
S. Occasional or intermittent in nature, under KPB 5.18.200(A)(20) means the sales of goods do not occur for more than 14 days in a calendar year.

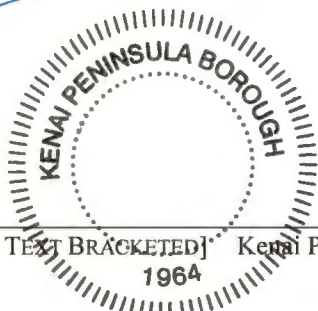
SECTION 3. That this ordinance takes effect retroactively on January 1, 2017.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 17TH DAY OF JANUARY, 2017.


Kelly Cooper, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Bagley, Dunne, Fischer, Gilman, Hibbert, Holmdahl, Ogle, Welles, Cooper

No: None

Absent: None