

Introduced by:	Bagley
Date:	05/07/19
Action:	Introduced and Set for Public Hearing
Vote:	7 Yes, 1 Absent, 1 Abstention
Hearing:	06/04/19
Action:	Postponed to 06/18/19
Vote:	8 Yes, 0 No, 1 Abstention
Date:	06/18/19
Action:	Enacted as Amended
Vote:	5 Yes, 3 No, 1 Abstention
Date:	08/12/19
Action:	Motion to Override Mayor's Veto
Failed:	4 Yes, 4 No, 0 Absent, 1 Abstained

**KENAI PENINSULA BOROUGH  
ORDINANCE 2019-09**

**AN ORDINANCE AMENDING THE BOROUGH'S SALES TAX CODE TO LEVY A 10 PERCENT TAX ON RENTALS OF TEMPORARY LODGING AND OVERNIGHT CAMPING FACILITIES, EXEMPT THESE RENTALS FROM THE GENERAL SALES TAX, AND ALLOW CITIES THAT LEVY A SIMILAR SALES TAX ON THESE RENTALS TO EXEMPT UP TO ONE-HALF OF THE BOROUGH'S TAX ON THESE RENTALS, SUBJECT TO VOTER APPROVAL**

**WHEREAS,** the Kenai Peninsula Borough ("borough") needs to raise revenue to protect the general fund, which has been declining due to substantial losses in tax revenues due to past increases in tax exemptions, the continuing and projected large decline in state assistance to municipalities, other proposed cuts in municipal funding, and the increasing reliance on borough funding for education; and

**WHEREAS,** the borough is currently facing a potentially severe budget deficit for FY2020; and

**WHEREAS,** currently 49 Alaska municipalities including cities and boroughs have a bed tax, with bed tax rates that are based on a percentage of price ranging from 4 percent to 12 percent; and

**WHEREAS,** the Kenai Peninsula Borough and the Aleutians East Borough are the only second-class boroughs in the state without an additional sales tax on temporary lodging; and

**WHEREAS,** several hundred thousand visitors travel to the Kenai Peninsula each year and contribute in a large way to the area's economy but also create a large demand on public services in the borough; and

**WHEREAS**, impacted borough services include solid waste, roads, recreational and senior citizen services, 911 and emergency services, hospital services and disaster services; and

**WHEREAS**, while the revenue to the borough generated from this additional sales tax on temporary lodging and overnight camping facilities would be used solely for educational purposes, it would also make other borough revenues available to offset these visitor costs and help maintain the fund balance; and

**WHEREAS**, “temporary lodging” is currently defined in the borough sales tax code as “a service to provide any lodging of less than one month”; and

**WHEREAS**, to clarify what is considered temporary lodging, the definition of “temporary lodging” is amended; and

**WHEREAS**, a temporary lodging tax of 10 percent is estimated to generate approximately \$825,000 in additional revenues in FY2020 and \$3,300,000 in FY2021 and FY2022; and

**WHEREAS**, to enable the cities to levy a similar tax and allow the tax to apply evenly throughout the borough, the ordinance exempts from the borough’s 10 percent temporary lodging tax an amount equal to a similar city tax of up to one-half of the borough’s temporary lodging tax; and

**WHEREAS**, as this includes an increase in the sales tax rate voter approval is required; and

**WHEREAS**, this also specifically authorizes cities to levy a temporary lodging tax to ensure the general law cities may legally do so under AS 29.45.700(a) after the borough exempts temporary lodging from its general sales tax provisions in this ordinance;

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

**SECTION 1.** KPB 5.18.100 is amended as follows:

**5.18.100. General—Levied—Amount.**

- A. There is levied by the borough a consumer's sales tax of up to 3 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.
- B. In addition to the tax levied in paragraph A of this section, there is levied in the borough a sales tax on the rental of temporary lodging and overnight camping facilities of up to 10 percent of the rental price of all such rentals within the borough, except as specifically exempted herein.

- C. In addition to the sales taxes levied by the borough, any municipality within the borough may levy a consumer's sales tax and a temporary lodging and overnight camping facilities tax that may be included in their general sales tax, taxed separately, or both, as provided by Alaska Statute which shall be reported, collected, and enforced according to the terms of this chapter.

**SECTION 2.** That KPB 5.18.200(A) is amended by amending paragraph 22, as follows:

**5.18.200. Exemptions/waivers—Exemptions.**

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

...

22. The rental of temporary lodging and overnight camping and shall be exempt from the borough general sales tax levied pursuant to KPB 5.18.100(A).

**SECTION 3.** That KPB 5.18.215 is hereby enacted, as follows:

**5.18.215. Exemptions/waivers—Temporary lodging within cities in the borough.**

Rentals of temporary lodging and overnight camping facilities within any city in the borough are exempt from the borough's temporary lodging room tax in an amount equal to a similar temporary lodging and overnight camping facilities tax that is either levied separately from or included in the city's general sales tax, or both, with a maximum total exemption of one-half of the borough's temporary lodging tax.

**SECTION 4.** That KPB 5.18.900, Definitions, is hereby amended by amending the definition of temporary lodging 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:

...

“Overnight camping facilities” means places used for temporary overnight stays including campgrounds and places providing spaces for recreational vehicles, caravans, trailers, other vehicles, tents, or other items used for overnight shelter.

“Temporary lodging” [IS DEFINED AS] means a service to provide any structure or portion of a structure, permanent or temporary, fixed or mobile, in which a person, for money or other consideration, may obtain lodging, dwelling, or sleeping accommodations for less than one month. This term includes hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, hostels, trailers, bed and breakfasts, dormitories except as excluded below, and any other facility, structure, or room of whatever name where space for lodging, dwelling, or sleeping may be secured for consideration. “Room” excludes any self-contained and powered motor home or tent not provided by the seller, tent or tent space, hospital, medical clinic, sanitarium, or nursing home; or any student dormitory operated by a non-profit or public educational entity.

**SECTION 5.** That a ballot proposition shall be placed before borough voters at the regular election on October 1, 2019 to read as follows:

Shall Ordinance 2019-09 be approved? Ordinance 2019-09 establishes a borough sales tax of up to 10 percent on temporary lodging and overnight camping facilities rentals and exempts these rentals from the borough general sales tax. It also exempts the amount of any similar city tax up to one-half of the borough’s tax. “Temporary lodging” includes a service to provide lodging as described in the ordinance of less than one month for money or other consideration”. “Overnight camping facilities” means places used for temporary overnight stays including campgrounds and places providing spaces for recreational vehicles, caravans, trailers, other vehicles, tents, or other items used for overnight shelter.

Yes \_\_\_\_\_ A “yes” vote means you approve of a borough tax on rentals of temporary lodging and overnight camping facilities of up to 10 percent instead of the general sales tax on these rentals. This would also exempt any similar tax levied by a city. This exemption in cities cannot exceed one-half of the borough’s tax on these rentals.

No \_\_\_\_\_ A “no” vote means you oppose a borough tax on rentals of temporary lodging and overnight camping facilities of up to 10 percent instead of the existing general sales tax on these rentals. This would also exempt any similar tax levied by a city. This exemption in cities cannot exceed one-half of the borough’s temporary lodging tax on these rentals.

**SECTION 6.** That Sections 5 and 6 of this ordinance shall become effective immediately upon enactment of this ordinance. Sections 1, 2, 3 and 4 of this ordinance shall become effective April 1, 2020, only if the proposition contained in Section 5 is approved by a majority of voters voting on the question in the regular election of October 1, 2019.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THE  
18TH DAY OF JUNE, 2019.**

\_\_\_\_\_  
Wayne H. Ogle, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk

05/07/19 Vote on motion to introduce and set for public hearing

Yes: Blakeley, Carpenter, Dunne, Fischer, Hibbert, Smalley, Bagley

No: None

Absent: Ogle

Abstention: Cooper

06/04/19 Vote on motion to postpone Ordinance 2019-09 to 06/18/19

Yes: Bagley, Blakeley, Carpenter, Dunne, Fischer, Hibbert, Smalley, Ogle

No: None

Abstention: Cooper

06/18/19 Vote on motion to enact as amended

Yes: Bagley, Blakeley, Carpenter, Dunne, Fischer, Hibbert, Smalley, Ogle

No: None

Absent: Cooper

08/12/19 Vote on motion to override Mayor's Veto:

Yes: Bagley, Hibbert, Smalley, Dunne

No: Fischer, Carpenter, Blakeley, Ogle

Absent: Cooper