

Kenai Peninsula Borough  
Assembly

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**MEMORANDUM**

**TO:** Wayne Ogle, Assembly President  
Kenai Peninsula Borough Assembly Members

**FROM:** Dale Bagley, Assembly Member *DLB*

**DATE:** June 7, 2018

**RE:** Amendment to Ordinance 2018-24, Amending the Borough's Sales Tax Code to Levy a 12 Percent Temporary Lodging Tax, Exempt Temporary Lodging Rentals from the General Sales Tax, and Allow Cities that Levy a Similar Separate Sales Tax on Temporary Lodging to Exempt up to One-Half of the Borough Temporary Lodging Tax, Subject to Voter Approval (Bagley, Dunne)

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Following assembly discussions regarding the impacts this ordinance could have on cities, I would like to amend this ordinance to provide that cities may continue to tax temporary lodging as a part of their general sales tax instead of creating a separate bed tax. This would apply to general law cities as home rule cities are not subject to the statutory restrictions against taxing sources not taxed by the borough. This would also alleviate the requirement that they obtain voter approval to impose a separate bed tax. (Please note the bold underlined language is new and the bold strikeout language in brackets is to be deleted.)

- Amend the sixth whereas clause, as follows:

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

- Amend the ninth whereas clause, as follows:

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 12 percent temporary lodging tax an amount equal to a similar ~~[additional]~~ city tax up to 6 percent; and

- Add a new tenth whereas clause immediately preceding the final whereas clause, as follows:

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

- Amend Section 1, as follows:

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

5.18.100. - General—Levied—Amount.

...

- C. In addition to the sales taxes levied by the borough, any municipality within the borough may levy a consumer's sales tax **[and] including a temporary lodging 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.

- Amend Section 3, as follows:

**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 within any city in the borough are exempt from the portion of the borough's temporary lodging tax in an amount equal to the amount of a similar **[separate]** temporary lodging tax that may be levied by a city, up to a maximum exemption of one-half of the borough's temporary lodging tax.

- Amend Section 4, as follows:

**SECTION 4.** That a ballot proposition shall be placed before borough voters at the regular election on October 2, 2018 to read as follows:

Shall Ordinance 2018-24, ~~[providing for the exemption of]~~ exempting temporary lodging from the general sales tax, ~~[the levy of a tax on temporary lodging]~~ providing for a sales tax of up to 12 percent ~~[of the rental price]~~ on temporary lodging, and, in any city ~~[in the borough]~~ that taxes ~~[levies a similar additional]~~ temporary lodging ~~[tax]~~, ~~[grants an exemption of]~~ exempting from the borough tax an amount equal to the city's temporary lodging tax~~[-]~~ up to a maximum of one-half of the borough's temporary lodging tax be approved?~~[-]~~ "Temporary lodging" means "a service to provide any lodging of less than one month".

Yes \_\_\_\_ A "yes" vote means you approve of a ~~[tax on]~~ borough temporary lodging tax of up to 12 percent ~~[of the rental price in the borough]~~ instead of the general sales tax on temporary lodging, with an exemption in any city that levies a ~~[similar additional]~~ temporary lodging tax of an amount equal to the city's tax. This exemption ~~[is up to a maximum of]~~ in cities cannot exceed one-half of the borough's temporary lodging tax.

No \_\_\_\_ A "no" vote means you oppose a borough tax on temporary lodging of up to 12 percent ~~[of the rental price in the borough]~~ instead of the general sales tax, with an exemption in any city that levies a ~~[similar additional]~~ temporary lodging tax of an amount equal to the city's tax. This exemption ~~[is up to a maximum of]~~ in cities cannot exceed one-half of the borough's temporary lodging tax.