

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



WORKSESSION
5:00 P.M. MONDAY
MAY 16, 2016
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER GUS VAN DYKE
COUNCIL MEMBER CATRIONA REYNOLDS
COUNCIL MEMBER DONNA ADERHOLD
COUNCIL MEMBER HEATH SMITH
CITY ATTORNEY HOLLY WELLS
CITY MANAGER KATIE KOESTER
CITY CLERK JO JOHNSON

WORKSESSION AGENDA

- 1. CALL TO ORDER, 5:00 P.M.**
- 2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
- 3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**
- 4. VISITORS**
 - A. Larry Persily, Kenai Peninsula Borough
- 5. REVENUES FOR THE CITY**
- 6. COMMENTS OF THE AUDIENCE**
- 7. ADJOURNMENT**

Next Regular Meeting is Monday, May 23, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



City of Homer

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Office of the City Manager

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Memorandum 16-079

TO: Honorable Mayor Wythe and Homer City Council
FROM: Katie Koester, City Manager
DATE: May 11, 2016
SUBJECT: May 16, 2016 Revenue Work session

The purpose of this memo is to inform the Council's conversation on potential revenue options for funding a bond for the public safety building and ongoing operational costs at the City of Homer once the suspension of HART ends in 2019.

Timeline

The timeline is tight for a tax increase to make in through the public process before the October election and needs to be put on the next Council meeting agenda.

May 23rd: Last date to introduce a property tax increase for 2016

June 13: Last date to introduce a ballot proposition to increase sales tax and question for the regular election in October 2016.

Follow-up from the last meeting

What is the history of the Permanent Fund? [See attached chart.](#)

Can you tie a bond question to a tax increase on the ballot (2 questions in one)? [Yes. Attorney Klinkner proposed several ways to approach this. The City could tie a tax increase to repayment of the bond. Any and all proceeds from that would go to pay off the bond \(for example, if a sales tax increase passed and sales were strong, it would get paid off early\). If the Council wanted to dedicate the increase to bond payments but have the ability to spend any excess of the annual payment on general government, the question would need to specify that.](#)

Was the 6 mill limit on property tax in HCC 9.16.010 implemented by voters? [Yes. An election in 1985 set the sales tax at 2% and mandated that the sales tax would go away if the property tax exceeded 6 mills.](#)

When do we start paying back the PS building bond? [6 months after date of issuance.](#)

When was the last time we decreased property taxes? [A 1 mil reduction was done in December 2004, effective for 2005. On March 22, 2005 at a special election the voters approved a 1% sales tax increase.](#)

The revenue needs spreadsheet I prepared for the last meeting has multiple of assumptions making it difficult to predict what future actual needs will be. Council ended the last work session working towards filling a \$1.7 million gap in operating costs in 2019 and \$759,000 annual bond payment for the public safety building, which equals a total need of \$2.5 million.

Enc:

Permanent Fund History

Property tax draft resolution

Ordinance 04-30, voter approval for authorizing financing the Homer Public Library

Memo to Public Safety Building Review Committee on financing options for Fire Hall improvements

Chart on potential revenue options (updated)

Permanent Fund - Income	Transactions	Balance	Year End	Return
6/16/2010 First Deposit to US Bank	460,508.25			
12/31/2010 Gain, Loss, & Net of Fees	(5,957.23)	454,551.02	2010	-1.29%
12/31/2010 Second Deposit US Bank	106,410.65	560,961.67		
12/31/2011 Gain, Loss, & Net of Fees	20,170.41	581,132.08	2011	3.60%
12/31/2012 Gain, Loss, & Net of Fees	15,065.26	596,197.34	2012	2.59%
3/31/2013 Green Dot Transfer	(3,554.79)	592,642.55		
6/30/2013 Fees	(5,451.00)	587,191.55		
8/31/2013 Third Deposit (Oil Rig Tax) Ord. 13-22	72,434.86	659,626.41		
12/31/2013 Gain, Loss, & Net of Fees	4,237.78	663,864.19	2013	-0.20%
12/31/2013 Homer Foundation	(30,545.77)	633,318.42		
12/31/2013 Move to Fund 806	(4,237.78)	629,080.64		
12/31/2013 Move to Fund 806	(629,080.64)	0.00		
12/31/2013 Move from 999	633,318.42	633,318.42		
12/31/2014 Gain, Loss, & Net of Fees	3,097.00	636,415.42	2014	0.49%
12/31/2015 Gain, Loss, & Net of Fees	1,477.74	637,893.16	2015	0.23%

Permanent Fund - Growth	Transactions	Balance	Year End	Return
6/16/2010 First Deposit to US Bank	690,762.39			
12/31/2010 Gain, Loss, & Net of Fees	121,090.35	811,852.74	2010	17.53%
12/31/2010 Second Deposit US Bank	159,615.99	971,468.73		
12/31/2011 Gain, Loss, & Net of Fees	(64,207.79)	907,260.94	2011	-6.61%
12/31/2012 Gain, Loss, & Net of Fees	145,689.91	1,052,950.85	2012	16.06%
6/30/2013 Int. Div	52,562.00	1,105,512.85		
8/31/2013 Third Deposit (Oil Rig Tax) Ord. 13-22	108,652.30	1,214,165.15		
12/31/2013 Gain, Loss, & Net of Fees	161,927.51	1,376,092.66	2013	18.79%
12/31/2013 Homer Foundation	(45,818.67)	1,330,273.99		
12/31/2013 Move to Fund 806	(1,168,346.48)	161,927.51		
12/31/2013 Move to Fund 806	(161,927.51)	0.00		
12/31/2013 Move from 999	1,330,273.99	1,330,273.99		
12/31/2014 Gain, Loss, & Net of Fees	62,699.00	1,392,972.99	2014	4.71%
12/31/2015 Gain, Loss, & Net of Fees	9,302.60	1,402,275.59	2015	0.67%
<u>Total Fund Balance</u>		<u>2,040,168.75</u>		

**City of Homer
2016 Operating Budget**

PERMANENT FUND - ORDINANCE 05-14(S)

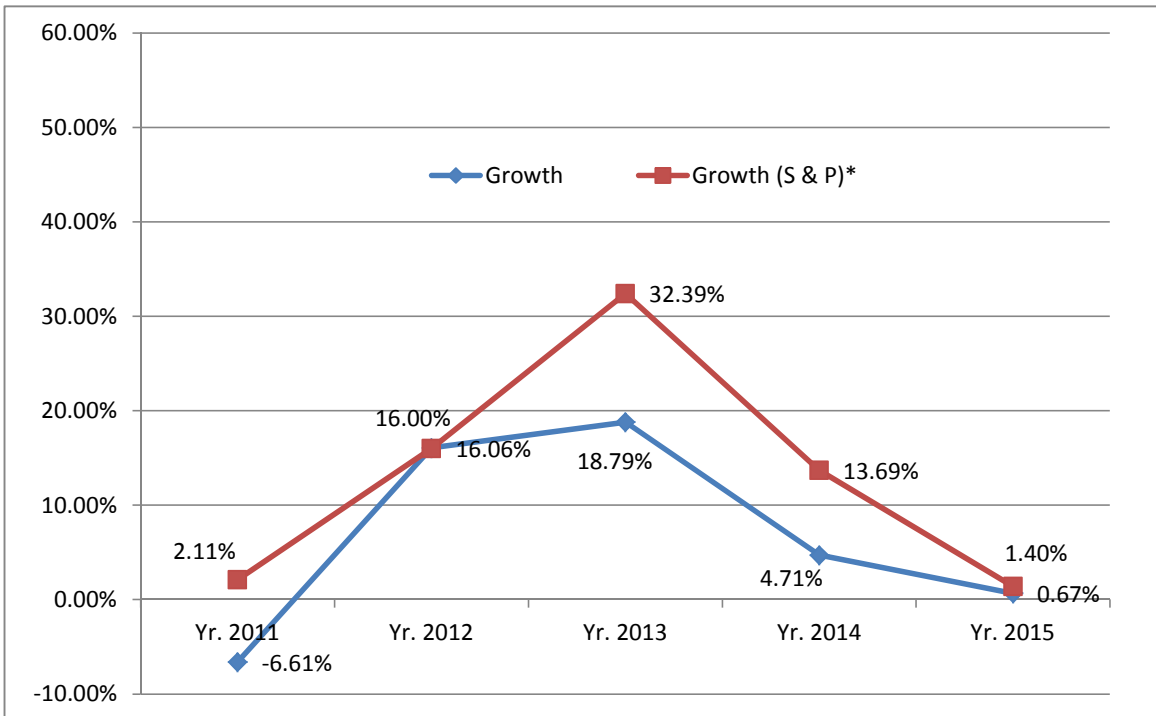
US Bank

	Market Value As Of	Income	Growth	Total
Yr. 2010	12/31/2010	560,961.67	971,468.73	1,532,430.40
Yr. 2011	12/31/2011	581,132.08	907,260.94	1,488,393.02
Yr. 2012	12/31/2012	596,197.34	1,052,950.85	1,649,148.19
Yr. 2013	12/31/2013	633,318.42	1,330,273.99	1,963,592.41
Yr. 2014	12/31/2014	637,612.10	1,392,973.49	2,030,585.59
Yr. 2015	12/31/2015	637,893.16	1,402,275.59	2,040,168.75

	Annual Return	Income	Growth	Growth (S & P)*
Yr. 2011		3.60%	-6.61%	2.11%
Yr. 2012		2.59%	16.06%	16.00%
Yr. 2013		-0.20%	18.79%	32.39%
Yr. 2014		0.49%	4.71%	13.69%
Yr. 2015		0.23%	0.67%	1.40%

* https://ycharts.com/indicators/sandp_500_total_return_annual

	Management fees	Income	Growth	Total
Yr. 2011		(4,236.28)	(7,209.35)	(11,445.63)
Yr. 2012		(4,387.49)	(7,409.31)	(11,796.80)
Yr. 2013		(4,551.29)	(8,555.72)	(13,107.01)
Yr. 2014		(4,746.41)	(10,180.01)	(14,926.42)
Yr. 2015		(4,771.27)	(10,511.37)	(15,282.64)



1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3
4 **RESOLUTION 16-XX**

5
6 A RESOLUTION OF THE HOMER CITY COUNCIL ESTABLISHING
7 THE CITY OF HOMER PROPERTY TAX MILL LEVY RATE AT ___ MILLS
8 FOR 2016.
9

10 WHEREAS, Homer City Code 9.04.040 states that the City Council must establish a mill
11 rate no later than June 15 of each year; and
12

13 WHEREAS, Council set the mill rate at 4.5 mills for 2015 with the adoption of budget
14 Ordinance 14-51(A); and
15

16 WHEREAS, Justification for increase...
17

18 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby establishes
19 the City of Homer property tax mill levy rate at ___mills for 2016 and authorizes the City
20 Manager to so inform the Kenai Peninsula Borough.
21

22 PASSED AND ADOPTED by the Homer City Council this ___th day of ___, 2016.
23

24 CITY OF HOMER
25

26
27 _____
28 MARY E. WYTHE, MAYOR
29

30 ATTEST:
31
32

33 _____
34 JO JOHNSON, MMC, CITY CLERK
35

36 Fiscal Note: Estimated real property tax revenue \$2,855,317 (4.5 mills), Account No. 100-0005-
37 4101.
38

CITY OF HOMER
HOMER, ALASKA

City Council

ORDINANCE 04-30(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER ALASKA APPROVING AND SUBMITTING A LOAN AND LONG TERM DEBT AUTHORIZATION FOR THE PURPOSE OF FINANCING AND CONSTRUCTING THE NEW HOMER PUBLIC LIBRARY TO THE VOTERS FOR VOTER APPROVAL AT THE OCTOBER 5, 2004 MUNICIPAL ELECTION.

WHEREAS, The City Council has recently adopted a Long Range Fiscal Plan, and

WHEREAS, During the planning process, the Council identified the need to borrow an amount up to \$2,200,000 in order to complete the financing package and begin construction of the new Homer Public Library, and

WHEREAS, The construction of a new public library has been a top city priority for many years and is considered to be vital to the educational, economic, social, and cultural development and vitality of the city, and

WHEREAS, The Friends of the Library and its staff, the Library Advisory Board and its associated committees, City staff, and many other dedicated individuals, organizations, and businesses have done an outstanding job raising funds for this project, and

WHEREAS, The City anticipates at this time that approximately \$4.7 Million will be raised for the project through grants, donations, and other fund raising activities and that an additional \$1.8 to \$2.2 million will be needed, and

WHEREAS, The amount of money raised to date demonstrates that there is overwhelming support for this project from the community, organizations, businesses, and the federal, state, and local governments, and

WHEREAS, The City Council wishes to obtain a loan in the amount not to exceed \$2.2 Million and incur long term debt in order to make sure that this very high priority project is constructed as soon as possible.

NOW THEREFORE, the City of Homer Ordains:

Section 1. That the Homer City Council finds that at the present time it is in the best interest of the City to incur long-term debt in order to complete the financing package for the new library.

Page Two
Ordinance 04-30(A)
City of Homer

Section 2. The City Clerk shall submit the following question to the voters at the next regular election to be held on October 5, 2004. The ballot proposition shall read as follows:

PROPOSITION 1

PROPOSITION 1

Shall the City of Homer borrow funds, which shall be a general obligation of the City, in an amount not to exceed \$2,200,000.00 (\$2.2 Million) for the purpose of constructing and equipping the new Homer Public Library? once a funding mechanism for the repayment has been defined by the City Council??

_____ **YES** _____ **NO**

Section 3. The City Manager and City Clerk are authorized to provide an explanation to the voters regarding issues such as the terms of the loan and how the loan would be repaid.

-

Section 4. This ordinance is not of a permanent nature and as such, shall not be codified.

PASSED AND ENACTED by the Homer City Council this ___day of __, 2004.

CITY OF HOMER

JACK CUSHING, MAYOR

ATTEST

MARY L. CALHOUN, CMC, CITY CLERK

Introduction: 06/14/04

Public Hearing: 06/28/04 and 07/26/04

Second Reading: 07/26/04 Reconsideration issued 07/27/04 Reconsidered on 08/09/04

Effective Date: 08/10/04

Ayes: 5

Nays: 1

Abstain: 0

Absent: 0

Page Three

Ordinance 04-30(A)

City of Homer

Reviewed and approved to form and content:

Walt Wrede, City Manager

Gordon Tans, City Attorney

Date:

10

Date:

Date:

Date:

Fiscal Note: Amortization Schedule Attached



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Memorandum

TO: Mayor Wythe and the Public Safety Building Review Committee
FROM: Katie Koester, City Manager
DATE: March 31, 2016
SUBJECT: Financing for improvements to the Fire Hall

Mayor Wythe asked for information on possible ways to finance approximately \$1m in improvements to the Fire Hall. As this is a relatively small amount, the question was raised about traditional financing versus general obligation bond which could slow the project down. A \$1m payment amortized over 10 years at 5% interest would be approximately \$150,000 a year. There are many variables to consider when bonding a project (interest rate, term, cost of borrowing), but this at least gives the committee an idea.

According to research with the City Attorney and City Bank (Wells Fargo), there are two options:

- 1) A lease purchase transaction. This is what we did with the street sweeper and dump truck. We would be putting up the building as collateral. [The City's obligation to make payments is subject to annual appropriation by the Council. The conditional nature of the City's obligation takes it out of the voter approval requirement. If the City fails to appropriate funds to make the payments, the lender's only recourse is to repossess—it can't sue the City for damages.](#) For these reasons, it may be difficult to get a bank to work with us on something other than a fixed asset that they can reposes, which may be reflected in a higher interest rate.
- 2) Revenue bond with a dedicated funding source. The only dedicated funding source I could think of that is related to the fire hall and not property or sales tax (which would require a vote) is ambulance billing. We average \$130,000 in actual revenue collected from ambulance billing that currently goes into the general fund. Of course these dollars are committed in current budget and from a practical standpoint would have to be replaced; however, we are anticipating an increase in future years now that we have outsourced ambulance billing. With ambulance billing as guarantee, we could pursue a tax exempt revenue bond, much like we did with the Harbor Improvements revenue bond a few years ago.

I have requested additional detailed information from Key Bank and Wells Fargo regarding possibilities for public financing and what obstacles we may face. The ability to dedicate a funding stream that is not sale or property tax (ambulance billing) opens up the possibility of using different organizations that could provide financing (tax exempt bond through the bond bank, USDA rural development loan, or even possibly the KPB in the same way we did the gas line buildout, though this has not been explored with the Borough).

2015 REVENUE OPTIONS

09/23/2015

BOROUGH

REVENUE	ANNUAL \$ VALUE	PRO	CON	BARRIER	HOW WOULD BECOME EFFECTIVE	RESPONSE FROM PUBLIC	NOTES
Raise Sales Tax Cap from \$500-1000	Under KPB ordinance, \$150,000 after rent exempted	Instituted Borough wide.	Burden on businesses, especially those that sell large items. Raise rent cost.	Unsure how much momentum is behind current proposal.	Ordinance by Borough and vote (note, it can be implemented w/o a vote, but the current proposal puts a vote to Borough residents).	Town Hall: 80% positive response; Online survey: 39.83% selected option	KPB Assembly Member Cooper has proposed putting this on the ballot will be reviewed by borough as part of comprehensive tax code review.
Bed Tax	\$120,000 per 1%	Captures revenue from visitors.	Targets one industry. Argument revenue should be dedicated to economic development. Not enough to balance budget unless very high.	Requires Borough action.	Borough would need to allow COH to institute a tax OR pass one themselves. Then would need a vote. Borough appetite for bed tax seems low. If Borough allowed City to collect tax, we would have to get in the business of tax collection. May be a possibility to collect as an excise tax.	Town Hall: 81% positive response; Online survey: 65.41% positive response	Estimate provided by KPTMC in 2012
Excise Tax	Unknown	Popular to tax alcohol, tobacco, and marijuana.	Difficult to implement. Revenue impact very unknown.	State rules, may be opportunity with marijuana changes.	Borough could implement an excise tax which would impact City. City may be able to implement, and collect, excise tax on own, but is it worth the expense?	Not polled	Lots of outstanding issues and potential with legalization of marijuana and desire to tax it.

COUNCIL

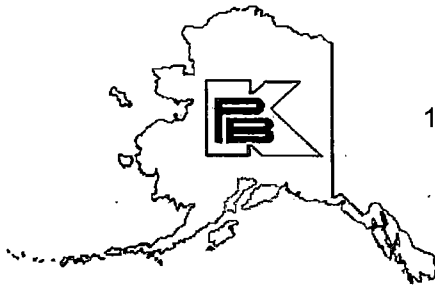
Eliminate COH \$20,000 Property Tax Exemption for Primary Residence	\$94,000	Can be implemented by Council.	Burden is on year round City of Homer residents. Does not raise much revenue.		Requires Council action only.	Town Hall: 42% positive response; Online survey: 25.79% selected option	The City cannot exempt more than \$50,000 on primary residence. Currently we exempt the first \$20,000, but could exempt less. The \$94,000 figure
Raise Property Tax 1 Mill	\$660,000 per mill.	Can be implemented by Council.	Increases taxes on residents when many of the services City provides are to entire Homer area.		Council pass a resolution by July 1, 2016 increasing the mill rate.	Town Hall: 65% positive response; Online poll: selected by 24.74% of respondents	Currently COH taxpayers pay 4.5 COH, 4.5 KPB and 2.3 SPH (total 11.3). According to HCC if property taxes increase to 6 mills, sales tax is eliminated.

VOTERS

2015 REVENUE OPTIONS

09/23/2015

REVENUE	ANNUAL \$ VALUE	PRO	CON	BARRIER	HOW WOULD BECOME EFFECTIVE	RESPONSE FROM PUBLIC	NOTES
Raise Sales Tax .5%	\$854,434	Raises sufficient funds to bring City close to closing the gap. Taxes non-residents who use City services.	Places burden on local business. Makes rents more expensive.	Need a vote of City residents.	Council would pass an ordinance to increase the sales tax and for a special election.	Town Hall: 85% positive response; Online survey: 35.43% selected option	Based on 2014 sales tax revenue. Revenue estimate for 2016 (2-4 quarters) is \$717,669. Current COH sales tax is 4.5% COH and 3% KPB.
1% seasonal sales tax increase (6 moths of year)	\$1,141,762	Captures more visitor revenue. Closes gap.	Burden on local businesses.	Need a vote of City residents.	Council would pass an ordinance to increase the sales tax for a special election.	Not polled	Based on 2014 sales tax revenue.
Repeal HART (direct .75% sales tax back to general fund)	\$996,601	No tax increase for public. Generates sufficient revenue to close the gap.	Eliminates funding for roads and trails, basic infrastructure Short term fix. Would effect road HSAD program.	Need a vote of City residents.	Council would pass an ordinance to not continue to fund HART and for a special election.	Not polled	Based on 2014 sales tax revenue. HART has been around since 1987.




KENAI PENINSULA BOROUGH

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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Mike Navarre, Mayor

FROM: Larry Persily, Assistant to the Mayor 

COPIES: Craig Chapman, Finance Director
Tom Anderson, Assessing Director
Colette Thompson, Borough Attorney

DATE: May 17, 2016

SUBJECT: Proposed sales tax and property tax code revisions

The months-long review of borough sales tax and property tax codes by personnel from the finance department (including sales tax, audit and property tax collections staffs), assessing and legal departments will produce three ordinances for assembly consideration:

- **To be introduced May 17:** Raising the taxable sales cap on goods and services to \$1,000 effective Jan. 1, 2017, an increase from the \$500 maximum established in 1965. If the 1965 amount had been adjusted for inflation over the past 51 years, the \$500 maximum would be in excess of \$3,000 in 2016. Resetting the maximum to \$1,000 is a reasonable, long-overdue adjustment, and would still be at the low end of maximum taxable amounts set by boroughs and cities in Alaska. The proposal also would exempt residential rent from sales tax, due to concern that renters would be disproportionately impacted by the increase in the maximum taxable transaction. The ordinance would add to code a provision to adjust the maximum taxable amount every five years, based on inflation, subject to assembly approval at each adjustment. If the assembly approves the ordinance, the increase in the maximum amount subject to sales tax per transaction would go before borough voters Oct. 4, 2016.
- **To be introduced June 7:** Reducing and then phasing out the optional \$150,000 senior citizen property tax exemption over the next seven years, but **only** for seniors who are not 65 years old by Dec. 31, 2017. Under this ordinance, senior citizens who are at least 65 years old by Dec. 31, 2017, and otherwise eligible for the exemption, would continue to

receive the full \$150,000 optional exemption for as long as they own qualifying residential property in the borough and otherwise remain eligible for the benefit (subject, of course, to any future assembly or voter actions). Starting with seniors who turn 65 in 2018, the exemption on taxable property value would be phased out in three steps. This ordinance would not change the exemption for the first \$150,000 in senior-owned residential property in the borough; only the second \$150,000 exemption, which is optional under state law, would change. The public policy issue is the increasing number of over-65 residents and the growing impact on borough finances, shifting more of the tax responsibility to other residents. The total amount of senior citizen-owned residential property exempt from property taxes in the borough increased 8% last year, and state projections show the number of over-65 borough residents almost doubling by 2030 to nearly one-quarter of the population. Statewide, the total amount of senior-owned residential property exempt from property taxes has increased an average of 7% per year over the past decade. If approved by the borough assembly, the change in the optional senior citizen property tax exemption would go before borough voters Oct. 4, 2016.

- Applicants who turn 65 between Jan. 1, 2018, and Dec. 31, 2020, would be eligible for a \$100,000 optional senior exemption on their taxable property value, in addition to the first \$150,000 in their property value and the \$50,000 exemption provided all residential properties in the borough; for a total exemption of \$300,000.
- Applicants who turn 65 between Jan. 1, 2021 and Dec. 31, 2023, would be eligible for a \$50,000 exemption in addition to the \$150,000 senior exemption and the \$50,000 residential exemption; for a total exemption of \$250,000.
- Applicants who turn 65 as of Jan. 1, 2024, would receive no additional senior citizen property tax exemption but would continue to receive the exemption on the first \$150,000 of property value and the \$50,000 exemption on all residential property; for a total exemption of \$200,000.
- There would be no change in borough code that provides for hardship exemptions for senior citizens who face property tax bills in excess of 2% of their household annual gross income after any exemptions are applied to their assessed value. Staff believes it is important to retain this provision without changes — in particular to ensure that economically vulnerable seniors are protected from heavy tax bills if their property has appreciated significantly in value during their long ownership.
- **To be introduced July 26:** The third ordinance will cover more than 40 sales tax and property tax code revisions. This ordinance and its multiple provisions are still under review, but the intent is to propose:
 - Eliminate the seasonal sales tax exemption for non-prepared foods sold through vending machines.
 - Increase the annual fee for sales tax-exempt cards for construction contractors.
 - Change the exemption for sales by nonprofit organizations to require collection of tax on sales; purchases by nonprofits would continue to be exempt from sales taxes.
 - Require collection of sales tax on alcohol sales at certain nonprofit events.

- Require collection of sales tax on flightseeing excursions that take off and land at the same location within the borough on the same day.
- Clarify the tax status of services performed in part outside the borough and in part inside the borough.
- Exempt businesses of less than \$2,500 a year in sales from the collection of sales tax.
- And more than three dozen changes in administrative procedures.

The proposed schedule for consideration of the three ordinances includes:

- May 17: Present the assembly with a spreadsheet of all the changes considered for the sales tax and property code revisions, along with a binder of backup materials — adding additional information to the binder as we move along in the process. Each proposal will be accompanied by an explanation of the proposed changes, reasons for the changes and any measurable revenue impacts to the borough and its residents.
- May 17: Introduction of the ordinance to raise the maximum taxable amount in the sales tax code and exempt residential rent from sales tax.
- June 7 and 21: Public hearings on the sales tax ordinance.
- June 7: Introduction of the ordinance to start phasing out the optional \$150,000 senior citizen property tax exemption in 2018 for applicants who turn 65 years old that year or later, and then closing off the program in 2024 to applicants who turn 65 years old that year or later.
- June 21 and July 26: Public hearings on the optional senior citizen property tax exemption ordinance.
- July 26 or Aug. 9: Assembly action on the sales tax and property tax exemption ordinances in order to make the ballot for the Oct. 4 election.
- July 26: Introduction of the third ordinance, covering sales tax and property tax code revisions that do not require a vote of the public.
- Aug. 9 and 23: Public hearings on the comprehensive tax code revisions ordinance.
- August and September: Community meetings throughout the borough to explain the ordinances and answer questions from the business community and the general public before the Oct. 4 election.
- Jan. 1, 2017: Implement changes in the tax codes.

Sales and property tax code revision proposals

Prepared by the Office of the Mayor, Kenai Peninsula Borough

SALES TAXES

	<u>Code section</u>	<u>Description</u>	<u>Gain or loss</u>	<u>Revenue impact</u>	<u>Proceed?</u>
1.	5.18.430	Raise the cap on taxable sales (goods and services) from \$500 to \$1,000 per transaction, effective Jan. 1, 2017. The cap has not increased since it was established in 1965 and is at the low end of municipal sales tax caps in Alaska. Adjusted for inflation, \$500 in 1965 is equal to more than \$3,000 in 2016. The code revision to raise the taxable maximum to \$1,000 would link the new cap to inflation, with an adjustment every five years, starting Jan. 1, 2022, subject to assembly approval at each adjustment. That ongoing adjustment, based on the Alaska Department of Labor Anchorage Consumer Price Index, would take effect Jan. 1 of the year immediately after each five-year calculation. For example, if inflation totals 10% for the five years 2017-21, the new cap starting Jan. 1, 2022, would be \$1,100. Raising the maximum taxable amount to \$1,000 would require voter approval, as per 5.18.430. The ballot question also would cover the five-year inflation adjustments.	Gain	Raising the cap would generate an estimated \$3.6 million for the borough (a full year) and more than \$1 million for cities. If the change took effect Jan. 1, 2017, the gain to the borough for FY17 is estimated at less than half the annual amount, due to tax collection periods. (These estimates assume no change in the taxation of residential rent; see below.)	
2.	5.18.200 A.	Exempt residential rent from sales tax if the maximum taxable transaction is increased. With an increase in the cap on taxable transactions to \$1,000, the change would disproportionately affect tenants of residential property who would pay the higher sales tax on a recurring basis each month -- a significant burden when multiplied by 12 monthly rent payments a year. Exempting residential rent from sales taxes would help serve the public policy objective of affordable rental housing.	Loss	The loss in revenue to the borough is estimated \$700,000 for a full fiscal year, and almost \$600,000 a year to the cities.	
3.	5.18.200 A.6.	Remove real property from the list of exemptions from sales taxes. The tax cap would apply to real property sales the same as any other sale, limiting the tax to the first \$1,000 of the sales price (if the cap is raised to that level).	Small gain	Estimated at less than \$50,000 a year in new revenue to the borough.	
4.	5.18.200 C.	Specify that purchases by a nonprofit are exempt from sales taxes, but sales by a nonprofit to the public are taxable -- the buyer is the taxpayer, not the nonprofit. Currently, sales by nonprofits are exempt from sales taxes. The code revision would exempt from taxes those sales at annual events such as Girl Scout cookies, Boy Scout popcorn and similar public fund-raising sales held by church, school or nonprofit organizations separate from an ongoing sales operation (such as a retail shop).	Gain	Estimated at \$100,000 to \$500,000 a year.	
5.	5.18.200 A.15.d.	Sales of non-prepared foods would be subject to year-round sales tax if the seller is not authorized to accept food stamps. This change would make snack bars, candy, chips, soft drinks and such sold at hardware stores, variety stores and other similar retail counters subject to sales tax, eliminating the seasonal tax exemption for non-prepared foods sold at such locations.	Small gain	Estimated at less than \$10,000 a year.	
6.	5.18.200 A.15.d.	Vending machine food sales would no longer be treated as tax-exempt non-prepared foods.	Small gain	Estimated at \$20,000 to \$50,000 a year.	

7.	5.18.200 A.11.	Clarify that flightseeing tours that take off and return on the same day at the same location in the borough (regardless if there is an intermediate stop along the way) are a service, subject to sales tax.	Gain	Estimated at more than \$200,000 a year.
8.	New section	Levy a \$10-per-box tax on packed catches from charter fishing customers. This excise tax would be assessed, collected and remitted by either the charter boat operator, if the operator or employee or agent packs the fish, or a processor, if the customer delivers the fish to a processor for packing. (Sitka and Gustavus impose such a tax; Sitka collected \$133,000 in 2015.) The borough's legal department is researching this option.	Gain	Unable to estimate.
9.	5.18.210 D. 5.18.430 G.	Clarify that the seller, such as but not limited to a charter fishing or tour operation, shall collect and remit sales taxes on the full sales price, regardless whether a cook, tour guide, boat operator, commission agent or other personnel included in the all-inclusive price are employees of the seller or independent contractors. This would address an enforcement issue of businesses passing on the sales tax responsibility to crew or contractors whose services are covered in the fees collected by the business. As a point of clarity, commission agents are not responsible for remitting sales taxes to the borough so long as the operator collects from the customer and remits to the borough sales taxes on the full retail price of the tour or service, including the commission. The commission shall be considered an intermediate service included in the full retail price and tax.	Negligible	Negligible
10.	5.18.430	Clarify that the sales tax cap in 5.18.430 shall not apply to sales of all-inclusive, single-price lodging and services, such as room or bed rentals, meals, recreation services and other amenities. Borough staff has seen an increase in all-inclusive lodges that bundle services into a single price, which makes it difficult, if not impossible, to separate out the room rate from the other services that are capped. The preferred solution is to exclude all such bundled sales from the sales tax cap in 5.18.430.	Negligible	Negligible
11.	5.18.430 D.	Clarify in code that a rental of an entire lodge or hotel for multi-person overnight use, such as a wedding party, does not exempt the rental from the borough's per-night, per-room application of sales taxes. However, this per-night, per-room taxation would not apply to a facility such as a work camp that usually and customarily is rented out as an entire unit to a company for use by multiple employees or contractors.	Negligible	Negligible
12.	5.18.450	Clarify the taxable point of sales/services for collecting sales taxes. This is a common administrative and taxpayer problem in the borough, particularly for services, such as when a service provider maintains a place of business in one jurisdiction but travels to another jurisdiction to provide the service. Such as a plumber with a shop in Soldotna who repairs a pipe for a homeowner in Kenai, and who does some of the work at the residence and some at the shop. Rather than adopt a complex allocation structure, and in the interest of simplicity for all concerned, staff recommends that the point of taxation be the location where the service is provided if 100% of the service is performed at that location. If the work is divided between more than one location in more than one tax jurisdiction, then 100% of the transaction shall be taxable at the service provider's place of business.	Neutral	No net gain in revenue predicted. This code revision would, however, affect how sales tax receipts are distributed between cities and the borough.

13.	5.18.300 and .500	For the sake of administrative and taxpayer convenience, and to reduce paperwork and tax filings, set a \$2,500 annual cap in sales before a small or occasional, part-time or temporary seller would be required to collect and remit sales taxes. This would eliminate insignificant tax returns from almost 2,000 filers (based on fiscal year 2015). Such businesses, however, would still be required to register with the borough each year, attesting to their expected sales, but would not be required to file tax returns. This no-tax registration could be handled under a different (simplified) system than taxable sellers, in an effort to reduce the workload for all parties. If a business during the year determines it has passed the \$2,500 threshold, it would be required to start collecting and remitting taxes to the borough and filing returns. This change in code would have minimal consequences in tax revenues, but would have significant benefit to the borough and small sellers from reduced tax filings.	Minimal loss	The change would reduce revenue to the borough and cities by less than \$50,000 a year.
14.	5.18.300 and .500	Code requires "all sellers" to file an application for a certificate of registration and file returns, even if they are completely exempt from collecting and remitting sales taxes. Staff recommends changing code to state that sellers completely exempt from collecting sales tax still would be required to register but could check a box on the application to certify that they are not engaged in any taxable sales of goods or services -- eliminating the requirement that they file countless tax returns full of zeros. This would help reduce paperwork for sellers and the borough.	Neutral	Paperwork reduction for all parties, with no noticeable impact on revenues.
15.	5.18.450	Clarify that a service provider with offices solely outside the borough, such as accountants or lawyers, would be responsible for collecting and remitting sales tax on services provided to a resident or business in the borough if at any point during the service the provider performed any of the work in the borough. That physical nexus would make 100% of the service taxable, with the location of the business that receives the service designated as the taxable point of sale.	Small gain	Unable to estimate.
16.	5.18.450	Specify that advertising services shall be subject to sales tax if the advertising is solicited from borough businesses and the material is printed, broadcast, distributed or delivered to addresses in the borough. This would cover mailers and other promotional materials, advertising magazines, Internet advertising and other media sold in the borough for distribution in the borough. If the advertising seller does not have a business address in the borough, the taxable point of sale would be the address of the buyer in the borough that purchases the advertising or promotional materials.	Small gain	Unable to estimate.
17.	5.18.450	Clarify that sales taxes on taxi fares shall be calculated based on the pick-up location of the fare, and amend code to specify that towing services shall be taxed at the point of delivery of the vehicle (as the pick-up location often is a remote site along a highway).	Neutral	Clarifies point of taxation, with no impact on revenues.
18.	5.18.200 A.12.	Remove the sales tax exemption for freight services, and clarify that freight, delivery and courier services shall be taxable; and specify that the taxable point of the transaction is the pick-up location.	Small gain	Unable to estimate.

19.	5.18.240	Clarify that a buyer residing outside the borough that purchases goods from a seller inside the borough for resale outside the borough is not required to obtain a tax-exempt resale certificate if the goods are delivered to the purchaser's place of business outside the borough. The intent of this revision is remove any uncertainty when a business in the borough, such as a jewelry maker, sells wholesale directly to a business out of the borough (or out of state) over which the Kenai Borough has no authority to require that the buyer apply for and maintain a resale certificate. However, buyers outside the borough that purchase goods from sellers in the borough for their own use or benefit -- not for resale -- shall be liable for the sales tax on those goods, regardless that it is delivered to the buyer outside the borough.	Small gain	No impact expected on resale sales; small gain possible in retail sales.
20.	5.18.450	Clarify that an out-of-borough business that sells, delivers or otherwise transfers goods to customers in the borough, either directly or indirectly through a sales agent, commission agent, distributor, reseller or independent contractor, shall be required to register with the borough and collect and remit sales taxes on the delivered price of the goods. Should that out-of-borough business fail to register and collect and remit sales taxes to the borough, then the local agent, contractor, reseller or independent distributor shall be responsible for registering with the borough, collecting and remitting the taxes on the delivered price of the goods.	Small gain	Unable to estimate.
21.	5.18.200 C.	Alcohol sold at a fund-raising event sponsored by a nonprofit organization is subject to sales tax if the drinks are sold and/or served by a licensed alcoholic beverage business.	Gain	Estimated at \$50,000 to \$100,000 a year.
22.	5.18.200 C.	Clarify that non-prepared food sales at a bar operated by a nonprofit organization are subject to sales tax. Currently, some locations treat such food sales as tax-exempt.	Minimal gain	Unable to estimate.
23.	5.18.200 C.	Exempt from sales taxes the total cost of a meal ticket sold by a nonprofit organization for events where a portion of the proceeds goes to the nonprofit organization. This would codify current practice.	Neutral	No impact; such sales currently are exempt.
24.	5.18.200 B.	Add federally recognized tribes to the list in code of organizations exempt from paying sales tax. This would serve to codify existing borough practice.	Neutral	Adopts current practice.
25.	5.18.210 C. and 5.18.225 A.1.	Amend both sections of the code dealing with the tax exemption for materials used in building construction so that they are the same: Materials permanently affixed to the structure are exempt from sales tax; but materials and equipment used during the construction and not affixed to the structure are taxable. This change would reduce a frequent enforcement issue and uncertainty for businesses that sell to contractors and owners/builders.	Small gain	Unable to estimate.
26.	5.18.225	Establish an annual payment-in-lieu-of-taxation card for owners/builders to lessen the potential for overuse of tax-exempt certificates and to reduce enforcement problems with businesses presented with the certificates. An owner/builder would apply for and receive a tax-exempt card good for one year; the card would be a different color each year for ease of identification at merchants. Under current code, the certificates are good for 12 months and can overlap calendar years. The fee for the annual card would be \$100; the same as the current \$100 tax-exempt certificate fee for owner/builders. A separate card would be required for each owner/builder project, linked to that address. As a matter of fairness, the code also would be amended to collect the same \$100 annual fee and adopt the same color-coded cards for contractors that currently pay \$10 for an annual tax-exempt resale certificate.	Small gain	There would be a small gain to the borough for the higher annual fee for tax-exempt cards for contractors, but the larger benefit is to make it easier for sellers to identify tax-exempt sales and to reduce audit uncertainty. Estimated gain at less than \$50,000, which would be shared with the cities.

27.	5.18.200 A.10.	Add late fees, overdrafts fees and interest charged on past-due accounts to the list of financial service transactions exempt from sales tax, and amend code to make clear the exemption for financial services applies to "FDIC- or NCUA-approved financial institutions" (this would add credit unions to the list). These changes would codify current practice. And amend code to add finance charges, penalties and interest charged by retailers, service providers and other sellers on delinquent accounts to the list of tax-exempt financial transactions.	Neutral	Adds current practice to code.	
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Administrative revisions to sales tax code

28.	5.18.530	Allow a business to retain 5% of the tax collected only if the business is paid in full on sales taxes or has entered into a borough-approved payment plan on back taxes owed.	Negligible	Negligible
29.	5.18.530 and 5.18.620	Allow a 15-day grace period after the due date on sales taxes before penalties start to accrue. Interest would begin accruing immediately upon the missed payment deadline.	Negligible	Negligible
30.	5.18.510 B.	Clarify that in the event the borough rejects a sales tax return, any interest and penalties shall start accruing with the original filing deadline of the return rather than the date the return was rejected. The borough reserves the right to reject a sales tax return for failure to comply with borough code up to one year from the date of filing.	Neutral	N/A
31.	5.18.555 A.	Conform code to current practice by allowing the finance director the discretion to accept amended returns more than a year after the original due date of the return.	Neutral	N/A
32.	5.18.130 C.	Clarify the process for a new owner of a business to request from the borough the amount of the tax liability owed by the former owner, and state clearly that any interest shall continue to accrue until the liability is paid in full.	Neutral	N/A
33.	5.18.230 C. and 5.18.310 E.	Eliminate the fee charged to applicants for government and nonprofit tax-exempt certificates, and delete the fee for duplicate certificates.	Negligible	N/A
34.	5.18.670 A.	Eliminate the fee for issuing a duplicate sales tax certificate.	Negligible	N/A
35.	5.18.130 D.	Clarify that the borough may initiate enforcement and collection actions for sales tax debt against "any officers, employees, agents, members, managers or partners of a corporation, limited liability company, limited liability partnership or limited partnership," to the fullest extent allowed by state and federal law.	Neutral	N/A
36.	5.18.660 A. and B.	Cross-reference this section with 5.18.130 regarding liens. And delete 5.18.660 B. as unnecessary, as the borough already notifies the seller prior to a sales tax lien being filed.	Neutral	N/A
37.	5.18.570	Administrative changes of deleting "hearing" from A. and amending C. to allow the borough to look back three years in an audit under the circumstances described in this section.	Neutral	N/A
38.	5.18.580 A.	Require sellers that want to dispute an estimate of their tax liability must do so in writing.	Neutral	N/A
39.	5.18.580 B.	To match code with current practice, eliminate "an informal meeting or hearing" from the description of a review between the seller and the borough.	Neutral	N/A
40.	5.18.580 C.	For administrative clarity, add "final" to the determination of a protest covered by this section.	Neutral	N/A

41.	5.18.580	Add a new section to state that written protests must be submitted within 30 days of a notice of estimated tax owed or the result of an audit or review or examination, or the determination shall be final, due and owing.	Neutral	N/A
42.	5.18.620	To strengthen borough code, insert a reference to state statute AS 29.25.070 dealing with enforcement actions, civil penalties and injunctive relief for violations of a sales tax ordinance. The state statute gives municipalities the authority for such actions.	Neutral	N/A
43.	5.18.240 A.	This is a correction to change "seller" to "buyer" and "sale" to "purchase" for the resale certificates covered by this provision.	Neutral	N/A
44.	5.18.210	Code clean-up to delete E. and F. dealing with resale exemptions for third-parties and employer-employee relationships.	Neutral	N/A
45.	5.18.430 D.	Correct a typographical error and clarify " ... each night <u>of</u> each rental unit ..."	Neutral	N/A
46.	5.18.900	Consolidate definitions from the sales tax code in one section.	Neutral	N/A
47.		Revise the code to make it gender neutral.	Neutral	N/A
48.		Reorganize sections of the code to group together common and related issues.	Neutral	N/A
549.	New section	Add a provision dealing with sellers who have moved and left no forwarding address: "If mail sent by the borough to the seller's last known address is returned more than two times, the borough's obligation to keep sending notices ceases."	Neutral	N/A

Sales tax options no longer under active consideration

1.	5.18.450	As much as borough staff researched the taxability of online purchases delivered into the borough, federal law appears to block any effort to equalize the tax status of online sales with local businesses. There are proposals before Congress that would allow states and municipalities to fully tax online sales of businesses that lack a physical presence or nexus in the tax jurisdiction (such as a local store), but no action is expected this year. The borough could revisit the issue if Congress changes the law.		
2.	5.18.200 A.15.	Leave unchanged the interpretation of non-taxable, non-prepared foods. Though staff looked at how the interpretation of code might be tightened to exclude such items as energy drinks and candy bars — which are not; as a matter of good public policy, in the same category of nutritional foods as milk, produce and fresh meat — the collective decision was that no administratively feasible definition exists that would not place an undue burden on business owners and create enforcement issues. The problem would be to clearly define prepared foods (taxable) as separate from non-prepared foods (non-taxable) in a way that is understandable and enforceable — and fair. Though a specific list might seem possible, the problem with such a list is what's missing, what's debatable (is a chocolate-covered energy bar "candy"), and what's open to misinterpretation.		
3.	New section	Staff considered but rejected an additional sales tax or excise tax on alcohol, similar to the alcohol taxes in two boroughs and four cities in Alaska where the rate varies from 3% to 6%. Alaska Statute 04.21.010 deals with municipal taxation of alcohol and there would be legal considerations if the borough wanted to impose a tax on alcohol sales in addition to its general sales tax.		
4.	New section	Staff considered but rejected a "raw fish tax" as is assessed in five boroughs and seven cities around the state. The tax would be assessed and collected at the point that the commercial fishing permit holder sells the catch to a processor or wholesaler, similar to the other municipalities and similar to the state's Fisheries Business Tax (AS 43.75). The tax would be assessed on the price paid to the commercial fisherperson. The borough received \$630,000 in FY2015 as its share of the state fish tax that ranges between 3% and 5% depending whether the processor is floating, shore-based or a cannery. Cities receive a separate share from the state.		
5.	New section	Staff considered but rejected an additional sales or excise tax on tobacco products (cigarettes, cigars, loose tobacco, chewing tobacco and electronic cigarettes). The state and several municipalities in Alaska impose substantial taxes on cigarettes and other tobacco products.		
6.	New section	Staff considered but rejected a sales tax on retail marijuana sales.		
7.	5.18.430 D.	Borough code currently requires payment of sales tax on motor vehicle leases on an annual basis, even though the leases generally are paid monthly. This allows a lessee to pay sales tax on a single invoice rather than 12 invoices. Changing to sales tax liability on each month's invoice would impose a substantially heavier tax burden on vehicle lessees. Staff recommends no changes in this provision.		
8.	5.18.610, .620 A., .630 and .640	Staff considered elimination but decided to retain the criminal provisions for violations of the sales tax code.		

9.	5.18.420	Code currently requires sales tax on equipment operating leases but not on equipment finance leases. Staff recommends no change in this section, as a financing lease is similar to a loan -- which is not taxable.			
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PROPERTY TAXES

	<u>Code section</u>	<u>Description</u>	<u>Gain or loss</u>	<u>Revenue impact</u>	<u>Proceed</u>
1.	5.12.105 A.	Implement a gradual phase-out of the optional senior exemption (i.e. the second \$150,000 property tax exemption) for senior citizens who are not 65 years old on or before Dec. 31, 2017. This change would not affect the mandatory senior exemption on the first \$150,000 in property value for senior citizens, or the residential property tax exemption of \$50,000. The phase-out of the optional senior exemption would not affect any property owners age 65 or older as of Dec. 31, 2017; they would continue to receive that full second \$150,000 exemption as long as they remain otherwise eligible for the benefit. For seniors who turn 65 between Jan., 1, 2018, and Dec. 31, 2020, the exemption would be \$100,000 for as long as they remain otherwise eligible. For seniors who turn 65 between Jan. 2, 2021, and Dec. 31, 2023, the exemption would be \$50,000 for as long as they remain otherwise eligible. For seniors who turn 65 on or after Jan. 1, 2024, there would be no additional exemption beyond the first \$150,000 in property value and the \$50,000 exemption allowed to all residential property owners in the borough.	Gain	No change in borough revenues until the phase-out begins in 2018. Though the cost to the borough from the senior property tax exemption would climb along with the aging population and property values, phasing out the second \$150,000 exemption would reduce that cost to the borough and service areas by an estimated \$200,000 in 2018. By 2024, when the phase-out is complete, the reduced cost to the borough and service areas is estimated at \$1.4 million a year, gradually increasing over time as the number of seniors with the exemption declines.	
3.	5.12.100	Adopt a definition in code of "community purpose" as it relates to the existing property tax exemption. There is no definition in code. Staff recommends adopting the definition provided by the Alaska Association of Assessing Officers, which references "the exclusive use of property ... which benefits the general public."	Negligible	N/A	
4.	5.12.100 D.	Add a requirement that requests for community-purpose, nonprofit, religious, charitable, cemetery, hospital or educational exemptions from property taxes must be filed by March 31 of the tax year and must be filed on a form provided by the assessor. The intent in providing and requiring a form is to encourage consistency and completeness in information to make a determination.	Neutral	N/A	
5.	5.12.105 G.	Define "primary residence" in code as it relates to the senior citizen/disabled veteran property tax exemption to minimize the possibility of granting the exemption to a property owner who receives a similar exemption in another city, borough or state. The amended definition would require that the property owner live in the Kenai Borough residence at least 184 days of the year (the same as the requirement to receive an Alaska Permanent Fund dividend), and that the property owner not have applied for or received a similar residency-based exemption for property in a different jurisdiction.	Unknown	Probably minimal.	

Administrative revisions to property tax code

6.	5.12.052 A. and .060 B.	Amend membership of the Board of Equalization to establish a pool of between five and nine members, and allow at least three members to convene as the board for tax assessment appeals. And amend code that in cases of an unexpected absence of a member, the borough clerk may request a volunteer from the borough assembly to sit on the panel. The intent is to make it easier to hold meetings with a quorum of members in order to expedite hearing decisions for property owners.	Neutral	N/A
7.	5.12.050 F. and .055 B.	Allow the borough clerk to notify property owners of Board of Equalization meetings by email rather than mail, but only if the property owner consents to email. The same email provision would be added to code for information requested of the borough by property owners in assessment appeals before the board.	Neutral	N/A
8.	5.12.060 D.	In the interest of saving time, delete the requirement that the Board of Equalization read aloud its procedures at the start of every meeting, so long as a copy of the procedures has already been provided to property owners.	Neutral	N/A
9.	5.12.060 G. and L.	Reduce from 30 minutes to 15 minutes the time allowed for each side to present its case at the Board of Equalization (code would continue to allow the board to grant exceptions).	Neutral	N/A
10.	5.12.060	Add a new provision that would allow the Board of Equalization to hear a single consolidated presentation of evidence upon agreement of all parties if a property owner is challenging the assessment of multiple similar parcels.	Neutral	N/A
11.	5.12.060	Amend code to make clear the Board of Equalization may discuss matters in executive session, to the extent allowed under borough and state law.	Neutral	N/A
12.	5.12.055 C.	Amend code to adopt the same one-day deadline for the borough clerk to provide a copy of the property owner's documents to the assessor as assessor documents must be provided to the property owner.	Neutral	N/A
13.	5.12.055 E.	Substitute "electronic transmission" for "fax" to allow use of email transmission for parties in an appeal to provide documents to the other side.	Neutral	N/A
14.	5.12.060 C. and R.	Amend code to clarify that the Board of Equalization attorney, not the borough clerk, shall prepare decision forms for the board.	Neutral	N/A
15.	5.12.060 T.	Amend code to clarify that requests for telephonic participation before the Board of Equalization do not have to be physically delivered to borough offices on Binkley Street.	Neutral	N/A
16.	5.12.180	Amend code to allow for the estate or executor or other responsible party to file a personal property tax return on behalf of a deceased individual.	Neutral	N/A

17.	5.12.260	Increase the threshold for the delinquent balance that must be owed on real property before the borough can foreclose on the property. The current minimum owed is \$20; the amendment would increase that to \$100.	Neutral	N/A
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Property tax options no longer under active consideration

2.	5.12.105 I.	Staff considered but decided against recommending any changes to borough code for the hardship exemption for senior citizens, which currently is determined based on the property owner's gross household income. If a property owner is eligible for the hardship exemption, their tax liability is limited to 2% of their household gross income.	Negligible	The borough receives fewer than half a dozen such exemption requests a year, though the number could increase if the exemption for the second \$150,000 in property value is phased out.
1.	5.12.105 E.	Staff considered an amendment to direct that the assessor, instead of the assembly, could determine good cause if a senior citizen or disabled veteran tax misses the application deadline for a property tax exemption. But state statute requires such cases must go before the assembly.		
2.	5.12.060 E.	After consideration of due process, no changes recommended in the procedure if a property owner does not appear at the board hearing.		
3.	5.12.117 and .210	After consideration, staff decided to retain the criminal penalties in code for filing a false personal property tax return or making a false representation in an application for a property tax exemption. Though the borough does not routinely file such criminal charges, staff determined it is useful to keep the option in code.		

Introduced by: Mayor
Date: 05/17/16
Hearing: 06/07/16 and 06/21/16
Action:
Vote:

**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 WITH AN ADJUSTMENT FOR INFLATION EVERY FIFTH YEAR; 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. On January 1 of every fifth year, beginning

January 1, 2022, this maximum taxable amount shall be adjusted based on the change in inflation as calculated in the year immediately preceding the effective date of the adjustment and based on the preceding five years as measured by Alaska Department of Labor Anchorage Consumer Price Index, rounded down to the nearest \$10, subject to assembly approval amending this section to reflect the adjusted amount. For purposes of calculating the five-year inflation adjustment to the maximum taxable amount, the borough finance director shall calculate the adjustment based on the percentage change in inflation for the five-year period used in the calculation.

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. Except for inflation adjustments to the maximum taxable amount, [A]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-_____, increasing the maximum amount of a sale subject to the borough sales tax from \$500 to \$1,000 with an adjustment for inflation every five years 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 and then adjusted for inflation every five years. 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 * DAY OF * 2016.

Blaine Gilman, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:



KENAI PENINSULA BOROUGH

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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Blaine Gilman, Assembly President
Members of the Kenai Peninsula Borough Assembly

THRU: Mike Navarre, Mayor *MN*
Craig Chapman, Finance Director *CC*
Colette Thompson, Borough Attorney *CT*

FROM: Larry Persily, Assistant to the Mayor *LP*

DATE: May 5, 2016

SUBJECT: 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 Borough Sales Tax to \$1,000, Subject to Voter Approval, with an Adjustment for Inflation Every Fifth Year; and, if Voters Approve Increasing the Maximum Taxable Amount to \$1,000, Exempting Residential Rentals From Sales Tax (Mayor)

The borough's sales and property tax codes have not undergone a comprehensive review in years and an update is overdue — not just for administrative and technical issues (such as e-mail in lieu of U.S. mail), but for matters of tax policy. A well-designed tax structure should work toward an equitable distribution of the financial load among borough residents, non-residents and businesses, striving for fairness. For example, while the spread between property tax revenues over sales tax revenues remained fairly constant in Fiscal Years 2012-2015, an increasing share of general fund dollars is coming from property taxes — and that gap is projected to widen.

In addition, the decline in state programs and financial assistance to municipalities and schools is ongoing and expected to deepen in the years ahead. As such, the borough will face additional pressure to provide an adequate level of public services and, along with responsible budgeting, may need to generate additional revenues to meet the community's needs.

The assembly and borough voters in 1965 set the maximum amount of goods and services transactions subject to sales tax at \$500 per individual transaction, and that limit has not changed in 51 years. Had the number kept up with inflation-adjusted purchasing power, that \$500 in 1965 would be well over \$3,000 in 2016. This ordinance would amend borough code, subject to voter approval, to set the maximum transaction subject to sales tax at \$1,000, effective Jan. 1, 2017.

An increase in the maximum taxable amount would generate an estimated \$3.6 million a year in additional sales tax revenues for the borough — less than half of that for Fiscal Year ("FY") 2017, as the change would occur halfway through the fiscal year and sales tax collections by

sellers in the final quarter of FY 2017 would be remitted to the borough after the start of FY 2018.

That revenue estimate would be reduced, however, by that section of the ordinance which would exempt residential rent from sales tax. The concern is that renters would be disproportionately impacted by the increase in the maximum taxable transaction on a recurring basis each month. Affordable rental housing is important for the borough and its residents and, as such, exempting residential rent from sales tax would be consistent with that public policy goal.

Exempting residential rent from sales tax would reduce borough revenues by an estimated \$700,000 for a full year. When combined with the proposed increase in the maximum taxable amount, the estimated net gain in borough revenues would be about \$2.9 million for a full fiscal year. That is equivalent to about 2.2 percent of the borough’s total estimated revenues for FY 2016.

The ordinance also would amend code — subject to voter approval — to require an adjustment to the maximum amount subject to sales tax every five years, starting January 1, 2022. The proposed code revision instructs the borough finance director every five years to determine the total percentage change in the Alaska Department of Labor Anchorage Consumer Price Index for the five full years immediately preceding the year of the calculation. That percentage change would be applied to the borough’s maximum taxable amount, rounded down to the nearest \$10, and submitted to the assembly for consideration at each adjustment.

For comparison purposes, Alaska cities and boroughs have a wide range of maximum transaction amount subject to sales tax, including:

North Pole:	\$200
Wasilla:	\$500
City of Kodiak:	\$750
Palmer:	\$1,000
Ketchikan Borough:	\$1,000
Petersburg:	\$1,200
Dillingham:	\$2,000
Cordova:	\$3,000
Sitka:	\$3,000
Bethel:	\$10,000; with the limit for all-terrain-vehicle sales set at \$3,500
Haines Borough:	\$10,000; with a \$5,000 limit on construction materials per project
Juneau:	\$12,000 per single item or service (no taxable limit on jewelry sales); with adjustments every two years based on Anchorage Consumer Price Index
Kotzebue:	No limit; except a \$1,000 taxable limit on all-terrain vehicles, snowmachines, boats and boat motors, cars, trucks or vans
Nome:	No limit; except a \$1,500 taxable limit on vehicle sales (all-terrain vehicles, snowmachines, cars, trucks or vans)