

Introduced by: McGahan
Date: ~~Nov. 18, 1980~~ Dec. 2 Refer Fin.
Hearing: Dec. 16, 1980 Committee
Vote:
Action:

KENAI PENINSULA BOROUGH

ORDINANCE 80-62

AMENDING SECTION 5.16.090 OF THE BOROUGH CODE OF ORDINANCES TO EXEMPT THE RETAIL SALE OF FOOD PRODUCTS FOR HUMAN CONSUMPTION FROM THE BOROUGH SALES TAX.

WHEREAS, the concept of a retail sales tax has traditionally been considered as an excise tax upon the sale of tangible personal property at the retail level; and

WHEREAS, Alaska Statute 29.53.415, which authorizes the levy of a sales tax by municipalities, includes a blanket authority to tax foods and services at the retail level, and does not exclude necessities; and

WHEREAS, AS 29.53.415 allows a municipality to exempt certain items from the retail sales tax; and

WHEREAS, a sales tax on the purchases of food products for human consumption creates an unreasonable burden upon the taxpayers within the Borough, who are required to pay a tax on their daily sustenance; and

WHEREAS, this tax burden falls with direct impact upon the resident taxpayers of the Borough because nonresident taxpayers can easily avoid the sales tax by purchasing food products and other items outside the Borough's boundaries; and

WHEREAS, Borough taxpayers should not be burdened with a tax upon the essential necessities of life;

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

Section 1. That Section 5.16.090 of the Borough Code of ordinances is amended by adding a new subsection (N) which reads:

5.16.090 Exemptions:

(N) The retail sale of food products for human consumption. "Food products" include milk and milk products, cereals, breads, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products other than candy or confectionery.

"Food products" do not include alcoholic, malt or other liquors, soft drinks, sodas, or beverages ordinarily dispensed at bars and soda fountains, or dietary supplements.

"The exemption provided for in this subsection does not apply (a) when the food products are served as prepared meals on or off the premises of the retailer or (b) when the products are prepared foods furnished or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware provided by the retailer or (c) when the food products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer."

Section 2. This ordinance takes effect on July 1, 1981.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
ON THIS _____ DAY OF _____, 198_.

Assembly President

ATTEST:

Borough Clerk

INFORMATIONAL DATA SHEET FOR ORD.

80-62

ADMINISTRATIVE COSTS: Unknown at this time

CITIZENRY EFFECT:

Group Affected: Food retailers & purchasers;
City & Borough governments.

Nature & Effect on Each Group: Will result
in undetermined revenue
loss to Borough & cities;
eliminates sales tax on
unprepared food items.

INTRODUCING AUTHORITY:

Kenai Peninsula Borough Assembly

By: McGahan

