

**PETERSBURG BOROUGH
ORDINANCE #2018-16**

AN ORDINANCE PROPOSING AMENDMENTS TO CHAPTER 4.28, "SALES TAX" OF THE PETERSBURG BOROUGH CODE BY DELETING SECTION 4.28.130, "SENIOR CITIZEN EXEMPTION"; ADDING NEW SECTION 4.28.155 "ANNUAL SALES TAX REBATE FOR QUALIFIED SENIOR CITIZENS"; AMENDING SECTION 4.28.020 "DEFINITIONS"; AND DIRECTING THAT THE AMENDMENT BE SUBMITTED TO THE VOTERS OF THE BOROUGH AT THE OCTOBER 2, 2018 BOROUGH ELECTION

WHEREAS, Section 4.28.130, Senior citizen exemption, of the Petersburg Borough Code exempts all qualified and eligible persons age 65 years or older, from paying local sales tax, and

WHEREAS, the current senior exemption card process used by the borough is burdensome to local retailers as they are required to acquire, process and maintain the necessary paperwork to justify each sales tax exemption transaction, and

WHEREAS, the annual fee and senior tax exemption card is burdensome to both the senior citizens and the borough, and

WHEREAS, the current senior sales tax exemption allowance reduces the overall income available to the borough that could be used to help off-set some of the operating costs of many general public programs and services used and depended upon by all borough residents, and

WHEREAS, the State of Alaska continues to decrease funding to municipalities, requiring the municipalities to either cut or reduce services to its residents, or raise revenues locally by increased services fees, tax levies or new revenue streams, and

WHEREAS, the Petersburg Borough is blessed with a growing senior aged population and a current stable younger generation. Both groups desire to see Petersburg remain a vibrant, self-sufficient and prospering community; and

WHEREAS, providing services to all residents on an equal financial cost share basis, while acknowledging that some of our aged residents are truly economically stressed, is a goal our community must accomplish if we desire Petersburg to remain a productive, safe and prosperous community for all families, young and old, into the future.

THEREFORE, THE PETERSBURG BOROUGH ORDAINS, existing Chapter 4.28, Sales Tax, of the Petersburg Municipal Code, is hereby amended as follows:

Section 1. Classification: This ordinance is of a permanent nature and the amendments set out herein shall be codified in the Petersburg Borough Code upon ratification by the voters of the Borough.

Section 2. Purpose: The purpose of this ordinance is to amend, subject to voter ratification, Chapter 4.28, "Sales Tax" of the Petersburg Borough Code to delete the existing senior citizen sales tax exemption; and to add a provision to the Code that provides a regulatory framework for an annual senior sales tax rebate for low to middle-income seniors. This ordinance sets forth how and when the rebates shall be authorized and implemented; who qualifies for the rebate; the amount of the rebate; penalties for obtaining rebates under false pretenses; and

definitions of terminology used. If ratified by the voters, the current senior sales tax exemption shall no longer be valid after January 1, 2019.

Section 3. Substantive Provisions:

A. Petersburg Borough Code, Section 4.28.020- Definitions, is hereby amended to add the following definitions: (definitions are applicable to Chapter 4.28 only)

“Obligation” or “debt” means any sum of money which a resident of the borough, or customer of the borough in some capacity, is legally obligated to pay to the borough for any purpose.

“Past-due” means any obligation or debt owed to the borough which has not been paid prior to the due date.

“Qualified senior citizen” means a person (i) who is 65 years of age or older, (ii) has their permanent place of abode within the Petersburg Borough, (iii) has resided within the Petersburg Borough for at least one year immediately preceding the date of application for rebate and intends to remain in the Petersburg Borough indefinitely and to make a home in the Petersburg Borough and (iv) was physically present in the Borough a minimum of 185 days in the 12-month period immediately preceding the date of rebate application. A person demonstrates residency under this subsection by maintaining a principal place of abode in the borough, by maintaining a valid driver's license or valid voter registration card with a residence within the borough, or by providing other proof of residency within the borough boundaries acceptable to the finance director, including demonstrating eligibility for a permanent fund dividend under AS 43.23.005 at a residence within the borough.

“Rebate” means a “sales tax rebate”.

B. Petersburg Borough Code, Section 4.28.120- Exemptions, is hereby amended to add recognized senior citizen’s nutrition programs to sales tax exemption:

Y. Sales to an organization which operates a senior citizen nutrition program recognized by the borough, for the purchase of goods and/or services for the exclusive use of the program.

C. Petersburg Borough Code, Section 4.28.130 – Senior citizen exemption, is hereby repealed in its entirety.

~~4.28.130 – Senior citizen exemption.~~

~~A sale to a qualified senior citizen is exempt from borough sales tax in accordance with the provisions of this section.~~

~~A. For purposes of this section:~~

~~1. A qualified senior citizen is a person who has obtained and maintained a senior citizen tax exemption card. A person is eligible to receive a tax exemption card if the person (i) is 65 years of age or older, (ii) has their permanent place of abode within the Petersburg Borough, (iii) has resided within the Petersburg Borough for at least one year immediately preceding the date of application and intends to remain in the Petersburg Borough indefinitely and to make a home in the Petersburg Borough and (iv) was~~

~~physically present in the Borough a minimum of 185 days in the 12-month period immediately preceding the date of application. A person demonstrates residency under this subsection by maintaining a principal place of abode in the borough, by maintaining a valid driver's license or valid voter registration card with a residence within the borough, or by providing other proof of residency within the borough boundaries acceptable to the finance director, including demonstrating eligibility for a permanent fund dividend under AS 43.23.005 at a residence within the borough.~~

~~2. A non-refundable application fee of \$100 shall be collected by the finance director, or the director's designee, from those applying for a senior citizen sales tax exemption card. An exemption card issued under this section shall be valid for the remainder of the calendar year in which it is issued, and shall expire automatically on December 31 of the year of issuance, unless sooner terminated due to applicant's lack of continued compliance with the residency requirements imposed under paragraph (1) above. The card fee will be waived to a senior citizen that has signed an affidavit at the borough finance office attesting they are 65 years old or older, is a permanent resident of the Borough and all combined household income did not exceed \$20,000 during the previous year. In this paragraph, "household" includes the applicant, the applicant's spouse, and any individual claimed as a tax dependent on the federal income tax returns of the applicant or the applicant's spouse.~~

~~3. A senior citizen sales tax exemption card entitles the card holder to be exempted from borough sales tax, subject to the limitations expressed in the balance of this section.~~

~~4. It is the responsibility of the senior citizen to present their sales tax exemption card to local merchants prior to each exempt sale being finalized. Merchants shall keep a record of all senior citizen exempt sales.~~

~~B. No person issued or authorized to use a senior citizens sales tax exemption card may use it to obtain a sales tax exemption for:~~

~~1. The purchase of alcoholic beverages or tobacco products; or~~

~~2. When the goods or services purchased are for use in any trade or business; or~~

~~3. For purchases for which the card holder is reimbursed or remunerated by a person or entity on whose behalf the purchase was made and who would not otherwise qualify for a sales tax exemption.~~

~~C. No person who has not applied for and received an exemption card may use it to obtain tax exemption. However, in the case where a person is physically unable to leave their home or dwelling to use the card, and proof of physical disability is documented by a physician, the finance director or director's designee may issue a special card authorizing another person to use the special card for the benefit of the person physically disabled. The physically disabled senior may be requested to return their tax exempt card before a new card is issued to a caregiver. The exemption card issued to the caregiver is good for a period of six months and at the end of each six-month period the card must be renewed.~~

~~D. A representative of the senior citizen's nutrition program may obtain from the finance director's office a sales tax exempt card which entitles the representative to purchase goods and/or services for the exclusive use of the senior citizen's nutrition program exempt from the borough's sales tax. No seller within the borough shall charge or collect taxes from the senior citizen's nutrition program representative who displays to him such a valid tax exempt card.~~

- ~~E. An exemption card which is lost or stolen shall be immediately reported to the finance director. There shall be a replacement card administrative fee of \$25.~~
- ~~F. 1. Any person who violates any provision of subsections A. through D. of this section is guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars.~~
- ~~2. The use of a senior citizen sales tax exemption card in any manner not allowed by this section, shall constitute a violation of the borough code by the card holder (unless the card was reported lost or stolen under subsection E.) and by any person using the card, and shall be punishable by a civil penalty of \$100.00 per violation. The violator(s) are also responsible for any tax which would otherwise have been due, plus interest and penalties thereon, and related administrative costs. If a penalty imposed is not paid, it may be collected in a civil action brought by the borough.~~
- ~~3. A senior citizen sales tax exemption card issued to a card holder who has violated the provisions of this section shall be void and shall be forfeited to and canceled by the finance director.~~

D. Petersburg Borough Code, new Section 4.28.155- entitled Annual Sales Tax Rebate for Qualified senior citizens, is added to read as follows:

4.28.155 – Annual sales tax rebate for qualified senior citizens.

A. Policy and procedure.

1. It shall be the policy of the borough that applicants meeting certain criteria shall be eligible to apply for a sales tax rebate.
2. Rebates shall be in the form of general governmental payments to eligible applicants, funded from current sales tax revenue.
3. Applications for rebates shall be submitted to the finance department on forms provided by the finance director. Applications must be signed before a notary by the applicant, and submitted during the application period, between January 1 and March 31 each year. The processing period for applications will be between April 1 and June 30 immediately following the application period each year. Rebates to eligible applicants will be issued starting after July 1 of the same calendar year.
4. Any applicant deemed eligible for a rebate in a calendar year must re-apply for eligibility in any subsequent calendar year.
5. The finance director shall examine all applications and determine the eligibility of each applicant. A denial of eligibility by the finance director may be appealed to the manager within 30 days of mailing of the written notice of the denial from the finance director. The manager's decision on the appeal shall be deemed the final borough action.
6. The amount of the rebate shall be \$300.00 for an eligible applicant, except that if an eligible applicant is married to another eligible applicant, the combined rebate shall be \$450.00.

B. Eligibility for Sales tax rebate. This rebate is intended to be a social welfare payment. In order to be eligible for a rebate, the applicant must meet all of the following criteria:

1. Meet the definition of “qualified senior citizen”, as found in Section 4.28.020.

2. Be receiving assistance on the date of the application, and through the close of the processing period, from or through any of the following programs:
 - a. Supplemental Nutrition Assistance Program, administered by the State of Alaska through the local Division of Public Assistance office in association with the United States Department of Agriculture (USDA) Food and Nutrition Services.
 - b. Medicaid administered by the State of Alaska through the local Division of Public Assistance
 - c. Low income housing programs provided and/or administered by or through a US Government Agency, the State of Alaska, Bureau of Indian Affairs or a local Tribal or Housing Authority.
 - d. Senior Benefits Program, funded by the State of Alaska

The applicant must provide documentary evidence satisfactory to the finance director that he or she is currently receiving assistance from one of the above programs. If assistance from the program identified by the applicant for eligibility is discontinued to the applicant for any reason prior to the close of the processing period, the applicant shall no longer be eligible for the rebate. An applicant shall immediately notify the finance director in the event participation in the identified program is discontinued.

3. Have no past-due obligation or debt owed to the borough as of the close of the processing period. On a case-by-case basis, the borough manager may waive, reduce or create a payment plan for past due obligations or debts in order for an applicant to be eligible for a rebate.

C. Penalties for receiving rebate under false pretenses.

1. It is unlawful for any person to apply for and receive a rebate under this section under false pretenses.
2. Upon the determination that an unlawful act may have occurred in which a rebate was received under false pretenses, the borough may notify the appropriate law enforcement agency so that a criminal investigation may be initiated.

E. Petersburg Borough Code, Section 4.28.160, Use of Proceeds, Subsection A, is amended to include item #6: "To pay annual rebates to qualified senior citizens under Section 4.28.155."

Section 4. Severability: If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstance shall not be affected.

Section 5. Submission to Voters:

A. In accordance with subsection 12.02B the Borough Charter, the Borough Clerk shall submit this ordinance, as a single proposition to the voters of the borough at the next regular election, to be held on October 2, 2018.

B. The proposition to be submitted to the voters shall read substantially as follows:

Proposition # __

Repealing the Senior Citizen Sales Tax Exemption and Providing for an Annual Sales Tax Rebate to Qualified Senior Citizens

Shall the Petersburg Borough Code Chapter 4.28, entitled Sales Tax, be amended to eliminate the senior citizen sales tax exemption and provide for an annual sales tax rebate to certain qualified senior citizens, as prescribed in Ordinance #2018-16?

- ☐ Yes
☐ No

A "Yes" vote means the current senior citizen sales tax exemption provision will no longer be in existence and an annual sales tax rebate program for certain low to moderate income seniors will be implemented January 1, 2019.

A "No" vote means the current senior citizen sales tax exemption provision will continue.

Section 6. Effective Date: This ordinance is effective upon adoption. The proposed borough code amendments set forth herein, if approved by the voters and certified by the election judges, shall become effective January 1, 2019.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this _____ day of _____, 2018.

Mark Jensen, Mayor

ATTEST:

Debra K. Thompson, Borough Clerk

Adopted:
Noticed:
Effective: