

Kenai Peninsula Borough

Assessing Department

MEMORANDUM

TO: Peter Ribbens, Assembly President
Members, KPB Assembly

THRU: Peter A. Micciche, Mayor *DM*
Tyson Cox, Assembly Member *TEC*

FROM: Adeena Wilcox, Borough Assessor *aw*
Sean Kelley, Borough Attorney *sk*

DATE: October 2, 2025

SUBJECT: Administrative Amendments to Ordinance 2025-21: Repealing and Reenacting KPB Chapter 5.12 Relating to Real Property Tax, Enacting a New KPB Chapter 5.11, Relating to Personal Property Tax, a New KPB Chapter 5.13, Relating to Tax Exemptions, Credits, or Deferrals, and a New KPB Chapter 5.15, Relating to Tax Appeals (Mayor, Cox)

The seven amendments are provided for your consideration to correct errors, omissions, and bring forward exemption language that was not carried forward at introduction.

(Please note the bold underlined language is new and the bracketed strikeout language is to be deleted.)

- Amend Section 2, at KPB 5.11.150(A), to make clerical edits, to read as follows:

5.11.150. - Enforcement of Personal Property Tax Lien by Distraint and Sale.

- (A) *Distraint and Sale.* The [~~LIEN-OF~~] personal property tax[~~ES~~] **lien** may be enforced by distraint and sale of property. The procedure for distraint and sale of property shall be as follows:

...

- Amend Section 3, at KPB 5.12.020(A), to make a clerical edit, to read as follows:

5.12.020. Assessing standards

In accordance with AS 29.45.110, the assessor shall assess property at its full and true value as of January 1 of the assessment year. Assessment, establishment of the rate of levy, collection of taxes and foreclosure of tax liens shall be in accordance with Alaska Statutes governing municipal

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taxation, this chapter, and standards consistent with standards adopted by the International Association of Assessing Officers.

- Amend Section 4, at KPB 5.13.050(B), to add in the residential renewable energy systems exemption and the fish habitat protection tax credit, to read as follows:

5.13.050. Review and determination.

...

- (B) For an economic development tax exemption, subject to the requirements of this chapter and KPB Chapter 5.12, the assembly will determine whether the applicant is eligible for a tax exemption. The assessor will provide the borough clerk a copy of the application and staff report containing the assessor's recommendation. The borough clerk will then schedule the matter for a public hearing before the assembly. ~~[THE DECISION TO APPROVE OR DENY AN ECONOMIC DEVELOPMENT [OR COMMUNITY PURPOSE PROPERTY TAX EXEMPTIONS IS A DISCRETIONARY LEGISLATIVE DECISION BY THE ASSEMBLY.]~~

- Amend Section 4, at KPB 5.13.080(E), to add in the residential renewable energy systems exemption and the fish habitat protection tax credit, to read as follows:

5.13.080. Real property exemptions, tax credits, and deferrals.

Pursuant to AS 29.45, and subject to the application deadlines and procedures set forth below and in KPB chapter 5.13, the following real property is exempt from general taxation:

...

- (E) *Optional Exemptions and tax credits adopted by the [B]orough pursuant to AS 29.45 – Individuals or Entities.*

- (1) *Harvesting insect infested timber resources.* Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.130.
- (2) *Anadromous waters habitat protection area.* Subject to the maximum ~~[CREDIT]~~**exemption** amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.140.
- (3) *Disaster damages.* Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.150.

(4) Residential renewable energy systems. Subject to application procedure and criteria set forth in KPB 5.13.155.

~~(4)~~**(5)** *Economic development property exemption.* Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.180.

(6) Fish habitat protection and restoration projects tax credit. Subject to the maximum credit amount, application procedure and criteria set forth in KPB 5.14.

...

- Amend Section 4, at KPB 5.13.140(A) and (B), to correct a clerical error, to read as follows:

5.13.140. Anadromous waters habitat protection areas **exemption**~~[TAX CREDIT]~~—Application requirements and criteria.

(A) *Exemption.* Pursuant to KPB 5.13.080(C), the increase in assessed value of improvements to real property located within 150 horizontal feet from the mean high tide line or ordinary high water line of the anadromous waters listed in KPB 21.18.025 is eligible for a general tax ~~[CREDIT]~~**exemption** as set forth in KPB Chapter 5.12 and this chapter.

~~(C)~~**(B)** *Criteria.* To qualify for this **exemption**~~[TAX CREDIT]~~, certain improvements to the real property are exempt if:

....

- Amend Section 4 to add a new section, KPB 5.13.155, to carry forward the residential renewable energy systems exemption in current code, to read as follows:

5.13.155. Residential renewable energy systems exemption—Application and requirements.

(A) Residential renewable energy systems that are used to develop means of energy production using energy sources other than fossil or nuclear fuel, including, but not limited to windmills and water and solar energy devices located in the borough are exempt from taxation under this chapter.

(B) No exemption under this section may be granted except upon written application on a form prescribed by the assessor. The owner must file the application no later than February 15 of the tax year for which the exemption is sought.

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(C) The assessor may require such information as is reasonably necessary to determine the type and/or nature of the renewable energy system, and the improvements or components that make up that system. The exemption in this section will not be approved unless the required information is provided to the assessor.

(D) Definitions.

(1) For purposes of this section "renewable energy" means energy which comes from natural resources such as sunlight, wind, rain, tides, geothermal heat, or other natural movements and mechanisms of the environment, or other sources that are renewable and naturally replenished in a short amount of time. Renewable energy does not include energy derived from fossil fuels.

(2) For purposes of this section "renewable energy system" means any residential real property improvement that produces renewable energy on site to provide all or a portion of the electricity, heating, cooling or other energy needs of the property.

(3) For purposes of this section "fossil fuel" means a carbon or hydrocarbon source such as coal, petroleum, or natural gas, derived from living matter of a previous geologic time and used for fuel.

(4) Notwithstanding any other provision of this section, "renewable energy" and "renewable energy systems" specifically do not include any heating or other energy producing system utilizing wood as a fuel source.

- Amend Section 2, at KPB 5.13.180, to reorder the subsections and add a new subsection related to independent power producers, as follows:

5.13.180. - Economic development property tax exemption or tax deferral—Application requirements and criteria.

(A) *Exemption, tax credit, or tax deferral.* Pursuant to KPB 5.13.080(D), property used exclusively for community purpose is eligible for a partial tax exemption, tax credit, or tax deferral as set forth in this section, KPB Chapter 5.12 and KPB Chapter 5.13.

~~(D)~~**(B) Criteria.** To qualify for this exemption, on January 1 of the assessment year the property must be used for economic development purposes, provide an economic benefit to the borough, and:

(1) A business applicant must have a current business license; and

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- (2) The property owner is in compliance with all borough, city, and state tax obligations; and
 - (3) The applicant must specify: (a) whether an exemption, tax credit, or tax deferral is requested; (b) the exemption, tax credit, or tax deferral amount and length of time being requested. The amount requested may be expressed as a percentage of the full taxable amount.
- (C) *Application deadline.* On a form prescribed by the assessor, the application must be postmarked by or hand-delivered to the assessing department on or before February 15 of the tax year for which the exemption is sought. The applicant must include a business plan and other documents requested by the assessor. If the assessor determines that the application is deemed complete and meets the subsection (B) criteria, the mayor will submit a resolution to the assembly for a determination under subsection (F).
- (~~E~~)(D) *Assembly determination.* The assembly may by resolution grant a tax exemption, tax credit, or tax deferral at an amount **up to fifty percent (50%) of the assessed value of the property** and for a length of time to be determined by the assembly. If approved under this section, a tax exemption may not exceed five years unless the assembly finds it is in the best interests of the borough to grant a longer exemption. A tax credit or tax deferral may not exceed seven years. The grant or denial of an application is a discretionary legislative act which shall not give rise to any claim against the borough or its agents. The assembly, in determining whether to grant an exemption, tax credit or tax deferral, and the amount granted, may consider various factors including, but not limited to, whether:
- (1) The proposal creates at least five full time new employment positions within the borough;
 - (2) The proposal generates sales outside of the borough of goods or services produced in the borough;
 - (3) The proposal materially reduces the importation of goods or services from outside the municipality;
 - (4) The proposal competes with a taxpaying trade or business already established in the borough;
 - (5) The proposal will enable a significant capital investment in physical infrastructure that will generate property tax revenue after the exemption, tax credit, and/or deferral expires;

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- (6) The location of the trade, industry, or business is compatible with land use and development plans of the borough;
- (7) The exemption, tax credit, and/or deferral is necessary to allow adequate time for improvements to be completed and revenue to be generated by the property; or
- (8) The exemption, tax credit, and/or deferral will provide measurable public benefits commensurate with the level of incentive granted.
- (E) *Independent power producer exception.* Notwithstanding the durational limits set forth in KPB 5.13.180(D) above, an independent power producer is eligible for an exemption for a designated period up to fifteen consecutive years if the requirements and criteria in KPB 5.12.180 are otherwise met and the assembly approves the exemption application. To qualify as an Independent Power Producer under this section, an entity must:**

 - (1) Own and operate a generation facility larger than two-megawatts;**
 - (2) Sell electricity to a public utility which is regulated by the Regulatory Commission of Alaska.**
- ~~(G)~~**(F)** *Service area taxes excluded.* This exemption will not apply to taxes levied for special services in a service area. An exemption for property used for economic development under this section may not be combined with or in addition to any other exemption required or allowed under law.
- ~~(H)~~**(G)** *Revocation.* The applicant must annually certify that the factors establishing qualification for the tax relief under this section upon which approval was granted remain in existence. If the applicant's proposal is not competed as stated in the application or if the applicant becomes delinquent in any tax obligation to the borough, the mayor will forward to the assembly a resolution revoking the tax relief granted under this section.

Your consideration is appreciated.