

Kenai Peninsula Borough

Legal Department

MEMORANDUM

TO: Peter Ribbens, Assembly President
Members, KPB Assembly

FROM: Sean Kelley, Borough Attorney *SK*
Adeena Wilcox, Assessing Director *AW*

CC: Peter A. Micciche, Mayor

DATE: October 2, 2025

RE: Ordinance 2025-21, **Sectional Analysis** (Revised)

The following provides a sectional analysis of 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:

Section 2: New KPB Chapter 5.11 – Personal Property Tax and General Provisions

In general terms, due to this being a new chapter of KPB code all text is underlined to show it will be in a new chapter. However, the substantive provisions of the proposed new chapter KPB 5.11 already exist in current KPB Chapter 5.12 and is simply being moved over to a new chapter specific to personal property.

KPB 5.11.010 – provides the tax levy and responsible party (owner) for the tax. The comparable section in current code is KPB 5.12.120. This section recognizes that the KPB collects tax on behalf of its cities but does not mandate or authorize filing lawsuits on behalf of the cities.

KPB 5.11.020 – exempts household personal property. The comparable section of current code is KPB 5.12.125 and KPB 5.13.130. The exemption for household personal property tracks with historical practice in that the Assessing Department.

KPB 5.11.030 – declaration forms. The comparable section of current code is KPB 5.12.140. No substantive change.

KPB 5.11.040 – personal property tax on watercraft. The comparable section of current code is KPB 5.12.150. The proposed new section will exempt personal use sea kayaks, paddle boards, canoes, rafts, of any length. No other substantive changes are proposed.

KPB 5.11.050 – personal property tax on aircraft. The comparable section of current code is KPB 5.12.155. No substantive changes are proposed.

KPB 5.11.055 - personal property tax on motor vehicle registrations. The comparable section of current code is KPB 5.12.245. No substantive changes are proposed.

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KPB 5.11.060 – mobiles homes classified as real property. The comparable section of current code is KPB 5.12.160. No substantive changes are proposed.

KPB 5.11.070 – business inventories. The comparable section of current code is KPB 5.12.170. No substantive changes are proposed.

KPB 5.11.080 – exemption for first \$100,000 of business personal property. The comparable section of current code is KPB 5.12.125. No substantive changes are proposed.

KPB 5.11.090 - exemption for business inventory held for resale. The comparable section of current code is KPB 5.12.175. No substantive changes are proposed.

KPB 5.11.100 – personal property tax returns. The comparable section of current code is KPB 5.12.180. No substantive changes are proposed.

KPB 5.11.110 – penalty for late-filed returns; extensions. The comparable section of current code is KPB 5.12.190. No substantive changes are proposed.

KPB 5.11.120 – assessment, levy, and collection procedures. The comparable section of current code is KPB 5.12.220. No substantive changes are proposed.

KPB 5.11.130 – fine and penalty for false statement. The comparable section of current code is KPB 5.12.210. The new section makes a violation a fine and does not impose possible criminal penalties for a violation. Rather, similar to real property tax code it provides that an exemption granted on the basis of false representation will be revoked, the original tax, penalty, interest would be due and owing and a person would be prohibited from reapplying for the same exemption for a five-year period.

KPB 5.11.140. Personal property delinquent tax list. The comparable section of current code is KPB 5.12.260 and KPB 5.12.350. Improved for readability and to align with current practice and state law.

KPB 5.11.150 – enforcement of personal property tax lien by distraint and sale. The comparable section of current code is KPB 5.12.240. The proposed changes set out a more complete process to align with requirements for seizing and selling personal property subject to lien. In practice, this section is rarely used as the delinquent flat tax is typically pursued via small claims judgment.

KPB 5.11.160 – disposition of proceeds. The comparable section of current code is KPB 5.12.360.

KPB 5.11.170 – definitions applicable to KPB Chapter 5.11.

Section 3 Repeal and Reenact KPB Chapter 5.12 – Real Property Tax and General Provisions

KPB 5.12.010 – Real property tax levy. The comparable section of current code is KPB 5.12.010 and KPB 5.12.065. Subsection (A) clarifies that the taxable status of real property is determined as of January 1 and that real property tax levied by a city will be collected in accordance with applicable law. There are no substantive changes to subsection (B) when compared to subsection (B) of current KPB 5.12.010. Subsection (C) provides the June 15 date for setting the rate of levy in accordance with AS 29.45.240.

KPB 5.12.020 – assessing standards. The comparable section of current code is KPB 5.12.020. AS 29.45 requires real property that is not oil and gas production property to be assessed at full and true value as of January 1. AS 29.45.110 was amended in 2025 to require the State to adopted standards for full and true value assessments. This section mirrors AS 29.45.110 requirements.

KPB 5.12.030 – assessment roll. The comparable section of current code is KPB 5.12.030. No changes are proposed.

KPB 5.12.040 – notice of assessment. The comparable section of current code is KPB 5.12.035. No substantive changes are proposed.

KPB 5.12.050 – errors or omissions; adjustment meetings. The comparable section of current code is KPB 5.12.040. No substantive changes to subsection (A). Added approved tax adjustment requests to subsection (B). No substantive changes to subsection (C).

KPB 5.12.060 – tax adjustment requests. The comparable section of current code is KPB 5.12.042(A)(2) and KPB 5.12.119(D). No substantive changes are proposed.

KPB 5.12.065 – manifest clerical error; refund. The comparable section of current code is KPB 5.12.042. Per State law, taxpayers are under a duty to advise the Assessor of errors in the assessment notice and a claim for a refund is forever barred after one year. The proposed changes are to mirror state law.

KPB 5.12.070 – certification of assessment roll; supplementary assessments. The comparable section of current code is KPB 5.12.065. The establishment of the levy date was moved to KPB 5.12.010. No other substantive changes are proposed.

KPB 5.12.080 – tax statements. The comparable section of current code is KPB 5.12.070. No substantive changes are proposed.

KPB 5.12.090 – tax due date; rates of penalty and interest. The comparable section of current code is KPB 5.12.080. Reorganized for readability. No substantive changes are proposed.

KPB 5.12.100 – method of determining full and true value of property that qualifies for a low-income housing credit under 26 USC 42. The comparable section of current code is KPB 5.12.085. The substantive change is to delete the requirement in current subsection (A) regarding valuation

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of properties prior to 2001. No such properties exist in 2025. No other substantive changes are proposed.

KPB 5.12.110 – method of determining full and true value of contaminated property. The comparable section of current code is KPB 5.12.090. Proposed changes for efficiency and readability to center on definition of contaminated property. There are no substantive changes proposed.

KPB 5.12.120 – farm or agricultural use. No comparable section in current KPB 5.12. Proposed section recognizes AS 29.45.060 assessments specific to farm or agricultural use.

KPB 5.12.130 – levy to meet debt or natural disaster. The comparable section of current code is KPB 5.12.250. No changes are proposed.

KPB 5.12.140 – foreclosure list; publication and notice . The comparable section of current code is KPB 5.12.260. Minor changes are proposed to mirror AS 29.45.330 governing municipal tax and foreclosure of real property.

KPB 5.12.150 – property interest subject to tax foreclosure. The comparable section of current code is KPB 5.12.260 and KPB 5.12.270. Increased the foreclosure threshold to \$500. No other substantive changes are proposed.

KPB 5.12.160 – Statutory compliance. Not currently in KPB code. Will act as a catch-all and to inform taxpayers that the foreclosure requirements are governed by State law.

KPB 5.12.170 – application of property tax payments. The comparable section of current code is KPB 5.12.295. No changes proposed.

KPB 5.12.180 – redemption period; disposition of foreclosed property. The comparable section of current code is KPB 5.12.300. Subsection (A) adds information regarding the redemption period in accordance with state law. No substantive changes to subsection (B).

KPB 5.12.190 – foreclosed lands retained for a public purpose. The comparable section of current code is KPB 5.12.310. No substantive changes proposed.

KPB 5.12.200 – foreclosed lands for sale. The comparable section of current code is KPB 5.12.320. The proposed changes point to the controlling law regarding disposal of lands, AS 29.45.460 and do not add additional requirements to the controlling law. Foreclosed lands sold under this section are not subject to classification.

KPB 5.12.210 – proceeds of a tax sale. The comparable section of current code is KPB 5.12.340. The requirements of AS 29.45.480 control. Edited for readability. No substantive changes proposed.

KPB 5.12.220 – definitions.

Section 4: New KPB Chapter 5.13 – Real Property Tax Exemptions, Tax Credits, and Deferrals

Due to this being a new chapter of KPB code all text is underlined to show it will be in a new chapter. No exemptions are being removed as part of this proposal. All exemptions in current code will carry over. The purpose of this new chapter is: (1) to provide all exemptions and process and procedure related to exemption applications, in one chapter of code; (2) to set forth a clearly defined exemption application, criteria and procedure process; and (3) to provide necessary oversight and audit controls for the Assessing Department to manage exemptions.

KPB 5.13.010 – exclusive use determination date. No exact comparable section in current KPB Code. Per proposed KPB 5.12.010, date of lien is January 1 of tax year. Many places –such as senior citizen exemption—provide that eligibility must be as of January 1. To be eligible for a tax exemption property must be in use or previously used for the exempt purpose on the lien date.

KPB 5.13.020 – tax exemption, tax credit, and deferrals application procedure. No exact comparable section in current KPB Code. Subsection (A) provides general requirement to apply on a form prescribed by the borough. Subsection (B) provides that any exemption, credit or deferral granted on the basis of a false representation will be revoked. The maker of the false representation may be fined and ineligible to reapply for the exemption for a 5 year period.

KPB 5.13.030 – exclusive use; developed land. No exact comparable section in current KPB Code. Property must be developed and put to use for the exempt purpose prior to being granted a tax exemption.

KPB 5.13.035 – exclusive use; Temporal use requirement. No exact comparable section in current KPB Code. Requires use of property for a specific time period. For residential property exemptions, the use requirement mirrors the residency requirement (185 days). For entity-based exemptions, the proposed 30 days of use recognizes the seasonal nature of many activities in Alaska but also aims to establish a legislative policy declaration that property exempt from the tax base should be used more than a de minimis amount for the exempt purpose.

KPB 5.13.040 – application deadline; inability to comply. No exact comparable section in current KPB Code. Sets February 15 as the uniform application deadline, except for volunteer firefighter exemption and anadromous waters tax credits due to processing time and verifications needed for these exemptions. This section also provides for a uniform request for extension based on an inability to comply with the filing deadline.

KPB 5.13.050 – review and determination. No exact comparable section in current KPB Code. This section provides for Assessor/Assembly review, as applicable, of an exemption application.

KPB 5.13.060 – transfer of ownership or change of use. No exact comparable section in current KPB Code. This section provides a requirement to notify the Assessor of a change in ownership or use.

KPB 5.13.070 – annual audit. No exact comparable section in current KPB Code. This section provides the Assessor the ability to audit exemptions.

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KPB 5.13.080 – real property exemptions, tax credits and deferrals. No exact comparable section in current KPB Code. This section sets out all state mandated and optional exemptions or tax credits enacted by the borough. The purpose of this is to provide a single section of code that lists all available exemptions.

KPB 5.13.090 – Senior citizens and disable veteran tax exemption. The comparable section of current code is KPB 5.12.105. No substantive changes to the exemption or criteria. One change that is proposed is to get verification of residency and PFD duration requirements. This change is proposed because in the past the direct tie to PFD eligibility has resulted in applications to remain in pending status for up to 3 years and then, once approved, a supplemental assessment would be issued. The goal is to alleviate that bureaucratic hurdle and just have the applicant verify the information as true.

KPB 5.13.095 – Senior citizens and disable veteran hardship exemption. The comparable section of current code is KPB 5.12.105. This proposal breaks the exemption out into its own section and the substantive change is that to be eligible gross household income cannot exceed 120 percent of the current median family income for the Kenai Peninsula Borough.

KPB 5.13.100 – Disabled resident property tax credit. The comparable section of current code is KPB 5.12.110. Minor edits for readability but no substantive changes to the tax credit criteria or procedure. This tax credit in fact is no longer provided for under Alaska law but appears to have been "grandfathered" in prior to the 1985 rewrite of Title 29 of Alaska Statutes.

KPB 5.13.110 – Volunteer firefighters and EMS providers property tax exemption. The comparable section of current code is KPB 5.12.113. Minor edits for readability but no substantive changes are proposed.

KPB 5.13.120 – Residential real property tax exemption. The comparable section of current code is KPB 5.12.115. This proposed section incorporates the increase of the residential property tax exemption to \$75,000 – public hearing will fall after election night and based on the results of the election this section may be adjusted accordingly. No other substantive changes are proposed.

KPB 5.13.130 – Harvesting insect infested timber resources exemption. The comparable section of current code is KPB 5.12.111. No substantive changes are proposed. This is a carry over from current code that is not used in practice.

KPB 5.13.140 – Anadromous waters habitat protection areas tax credit. The comparable section of current code is KPB 5.12.112. No substantive changes are proposed.

KPB 5.13.150 – Disaster damage exemption. The comparable section of current code is KPB 5.12.114. Readability edits; no substantive changes are proposed.

KPB 5.13.155 – Residential renewable energy system exemptions. The comparable section of current code is KPB 5.12.101. No Substantive changes are proposed.

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KPB 5.13.160 – nonprofit religious, charitable, cemetery, hospital, or education property tax exemption. No exact comparable section in current KPB Code. These exemptions are mandated in the State Constitution and State law at AS 29.45.030. This proposed code section largely mirrors AS 29.45.030 regarding these exemptions. In addition, this proposed section uses caselaw language to provide broad definitional language for the term “charitable purpose”.

KPB 5.13.170 – community purpose real property tax exemption. The comparable section of current code is KPB 5.12.100. This proposed section substantially rewrites requirements and criteria for the community purpose exemption. The community purpose exemption is an optional exemption under State law, enacted by the borough in 2005.

KPB 5.13.180 – economic development property tax exemption. The comparable section of current code is KPB 5.12.100. The substantive changes in the proposed new section of code reflect changes to State law and provides criteria for Assessor review and factors for Assembly consideration. The KPB 5.13.190 definition for economic development is the same definition used in KPB 19.30.070.

KPB 5.13.190 – definitions.

Section 5: New KPB Chapter 5.15 – Tax Appeals

In general terms, due to this being a new chapter of KPB code all text is underlined to show it will be in a new chapter. This chapter process and breaks current KPB 5.12.045 – KPB 5.12.055 into a new chapter of code that should be easier for taxpayers to find and understand.

KPB 5.15.010 – valuation appeals. The comparable section of current code is KPB 5.12.050(A)-(C). Minor readability and consistency edits. No substantive changes to code or the process for taxpayers who appeal their assessments.

KPB 5.15.020 – exemption appeals; individuals or residential property. The comparable section of current code is KPB 5.12.045. The proposed substantive change is to provide a mechanism to appeal an individual or residential property exempt to either the board of equalization or the superior court. This is proposed due to the fact that individual exemption appeals typically present questions of fact – such as, is the applicant a resident? Is the property used as a primary residence and permanent place of abode.

KPB 5.15.030 – exemption appeals; entities. The comparable section of current code is KPB 5.12.045. No substantive changes are proposed. However, there is currently a case before the Alaska Supreme Court that will decide whether municipalities have to provide an administrative appeal prior to going to superior court. An argument for why entity exemptions should go directly to superior court is because entity exemptions often present questions of law.

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KPB 5.15.040 – deadline extension requests. The comparable section of current code is KPB 5.12.050(C). The proposed changes aim to provide a fair, consistent process for any taxpayer requesting an extension of time based on an inability to comply.

KPB 5.15.050 – grounds for appeal; burden of proof. The comparable section of current code is KPB 5.12.050(E) (grounds for appeal) and KPB 5.12.050(P) (burden of proof). The Clerk may reject any appeal that fails to comply with this section.

KPB 5.15.060 – Board of equalization; hearing notice; evidence motions. The comparable section of current code is KPB 5.12.055 and parts of KPB 5.12.060. The proposed changes are largely administrative and aim to improve the process for the parties and the BOE. A substantive change is that the parties, rather than the clerk, will serve motions and pre-hearing requests upon the non-moving parties.

KPB 5.15.070 – Board of equalization; hearing procedure. The comparable section of current code is KPB 5.12.055 and KPB 5.12.060. Minor edits to improve readability. No substantive changes are proposed.

KPB 5.15.080 – Board of equalization; organization. The comparable section of current code is KPB 5.12.052. The only substantive change to BOE's organization is a proposed increase to the per diem rate to mirror the recent increases to the Planning Commission's per diem.

KPB 5.15.090 – Definitions.