

Introduced by:	Mayor
Date:	09/02/25
Hearing:	10/14/25
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2025-21**

AN ORDINANCE 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

WHEREAS, current KPB 5.12 relating to real and personal property tax, tax appeals, and appeal hearings before the Board of Equalization contains a lot of information and requirements in a single chapter which can make it difficult for the public to comply with and difficult to administer; and

WHEREAS, this ordinance creates four distinct chapters of code: KPB 5.11 relating to personal property tax, KPB 5.12 relating to real property tax, KPB 5.13 relating to tax exemptions, credits, or deferrals, and KPB 5.15 relating to tax appeals; and

WHEREAS, four chapters of code on each distinct subject will improve readability and utility of the code provisions;

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

SECTION 1. That this ordinance amends KPB Code and will be codified.

SECTION 2. That the KPB Code of Ordinances is hereby amended by adding a new chapter to be numbered KPB 5.11, Personal Property Tax and General Provisions, which shall read as follows:

CHAPTER 5.11. - PERSONAL PROPERTY TAX AND GENERAL PROVISIONS

5.11.010. - Personal property tax levy.

All personal property within the corporate limits of the borough which is not exempt from taxation by law or ordinance, is subject and liable to an annual tax, for school and borough purposes, of not more than 8 mills on the assessed valuation of such property, unless the people of the borough authorize a tax levy at a higher

rate and except as authorized by KPB 5.12.130. The listed owner of the property is liable for payment of the tax and it is the responsibility of the listed owner to provide accurate ownership information to the borough for purposes of this chapter. This levy rate does not apply to property subject to a flat tax and exempted from the ad valorem tax in this chapter. The borough will collect such tax as is levied on the property within a city by the city council pursuant to law or charter. This section shall not be interpreted to authorize or require the borough to file debt collection lawsuits on behalf of cities within the borough.

5.11.020. - Exemptions—Household personal property.

In addition to exemptions required by law, except for motor vehicles, private airplanes and registered watercraft as provided in this chapter, personal property not used for commercial business purposes is exempt from the tax levy under this chapter.

5.11.030. - Declaration forms.

On or before January 1 of each year, the assessor may mail out or otherwise distribute personal property assessment forms or information regarding the forms to all persons listed or known to own personal property in the borough. The failure of the assessor to mail or distribute such forms to any person will not relieve that person of the duty of making a return.

5.11.040. - Personal property tax—Watercraft.

(A) All watercraft subject to taxation under this chapter shall be taxed in accordance with the following flat tax schedule. To be eligible for the flat tax schedule, watercraft must have a USCG certificate of number, U.S. or foreign documentation or State of Alaska Department of Motor Vehicles boat registration, or the ADF&G number have been issued. Watercraft will be measured according to length overall.

Watercraft Flat Tax Schedule

<u>Class</u>	<u>Watercraft Length Overall</u>	<u>Annual Tax</u>
<u>1</u>	<u>Less than 15 feet</u>	<u>\$0</u>
<u>2</u>	<u>15 to less than 20 feet</u>	<u>0</u>
<u>3</u>	<u>20 to less than 25 feet</u>	<u>50</u>
<u>4</u>	<u>25 to less than 36 feet</u>	<u>150</u>
<u>5</u>	<u>36 to less than 60 feet</u>	<u>250</u>
<u>6</u>	<u>60 to less than 100 feet</u>	<u>500</u>
<u>7</u>	<u>100 or more feet in length</u>	<u>1,000</u>

(B) Exemptions.

- (1) Vessels having a home port in a location outside the borough boundaries brought into and remaining in the borough solely for the purposes of repair, servicing or seasonal storage in a boatyard licensed to collect sales tax shall not be deemed to have established a taxable situs in the borough. The assessor may make inquiry and gather information necessary to determine whether a vessel meets the conditions of this section and failure of the vessel owner to supply information necessary to the assessor to decide will preclude the owner from claiming nontaxable status for borough taxes. Determination of tax situs under this section only applies to borough and service area tax levies. Taxability of a vessel within a city will be governed by the provisions of that city's tax ordinances and AS 29.45. Vessels that fish in or deliver their catch within the borough shall not be entitled to any exemption under this ordinance. If a vessel owner owns a limited entry fishing permit for waters in the borough, the borough assessor may presume that the vessel was in the borough for fishing purposes and is not eligible for this exemption, provided that this presumption may be rebutted by proof to the contrary provided to the assessor by the owner. To be eligible for this exemption, the owner must file with the borough assessor an application, on a form approved by the borough assessor, on or before February 1 of each year.
- (2) Personal use sea kayaks, paddle boards, canoes, and rafts, of any length, are exempt from taxation under this chapter.
- (C) Watercraft for which all certificates of number, registration, or documentation, or other form of maritime licensing or registration and the ADF&G number, if applicable, have been surrendered to the issuing authority by January 1 of the tax year shall be taxed on an ad valorem basis. Vessels for which such registration or licensing has lapsed but has not been surrendered shall not qualify for ad valorem taxation.
- (D) Definitions: For purposes of this section:
- (1) "Home port" means a vessel's normal base of operation, which is presumed to be the vessel's permitted fishing area for commercial fishing vessels.
- (2) "Seasonal storage" means storage in a boatyard licensed to collect sales taxes, at any time between September and June of each year. Vessels remaining in the borough in the remaining months will not be eligible for the seasonal storage exemption.
- (3) "Repairs/servicing" means a vessel brought into a boatyard licensed to collect sales taxes for the purpose of repairs or servicing at any

time between September and June of each year. Vessels remaining in the borough in the remaining months will not be eligible for the repair/servicing exemption.

(4) "Boatyard" means an out-of-water location where boats or watercraft are built, repaired, and stored.

(E) A vessel owner may appeal the determination of the borough assessor under this section using the procedures set out in KPB Chapter 5.15, Tax Appeals.

5.11.050. - Personal property tax—Aircraft—Appeal.

(A) Flat tax. For purposes of taxation, aircraft that have been issued an N number by the Federal Aviation Administration ("FAA") by January 1 of the tax year shall be totally exempted from ad valorem taxes and shall be taxed in accordance with the following flat tax schedule:

<u>AIRCRAFT FLAT TAX SCHEDULE BASED ON (MGWIL)</u> <u>Manufacturers Gross Weight with an Internal Load</u>					
<u>Fixed Wing</u>			<u>Rotorcraft/Rotary Wing</u>		
<u>Class</u>	<u>Weight</u>	<u>Annual Tax</u>	<u>Class</u>	<u>Weight</u>	<u>Annual Tax</u>
<u>1</u>	<u>Less than 2,000 lbs</u>	<u>\$50</u>	<u>1</u>	<u>Less than 1,500 lbs</u>	<u>\$100</u>
<u>2</u>	<u>2,000 to less than 4,000 lbs</u>	<u>\$100</u>	<u>2</u>	<u>1,500 to less than 3,500</u>	<u>\$600</u>
<u>3</u>	<u>4,000 to less than 6,000 lbs</u>	<u>\$300</u>	<u>3</u>	<u>3,500 or more in weight</u>	<u>\$1,000</u>
<u>4</u>	<u>6,000 to less than 12,500 lbs</u>	<u>\$600</u>			
<u>5</u>	<u>12,500 or more in weight</u>	<u>\$1,000</u>			

(B) Ad valorem exception. The owner of record of an aircraft that has been dismantled, destroyed or crashed and the FAA N number has been retained by the aircraft's owner of record may submit to the assessor on an approved form an "Aircraft Statement of Condition" that would allow for ad valorem taxation of that aircraft if approved. Aircraft for which such registration or licensing has lapsed or that has not passed the annual inspection required by the FAA shall not qualify on this basis alone for ad valorem taxation unless it has been dismantled, destroyed or crashed.

- (C) Commercial aircraft. Commercial aircraft operated under a regular schedule by a scheduled airline shall be exempt from the flat tax and shall be taxed on an ad valorem basis in accordance with the borough landing schedule formula. The borough landing schedule formula provides for the prorated calculation of scheduled aircraft by dividing the total hours per year into the total time aircraft operated by a scheduled carrier are in the borough, and multiplying the result by the assessed value of each aircraft.
- (D) Appeal. An aircraft owner may appeal the determination of the borough assessor to the board of equalization in accordance with KPB 5.15, Tax Appeals.

5.11.055. - Personal property tax—Annual motor vehicle registration tax—Levy—Distribution.

- (A) Registration tax. There is levied a biennial motor vehicle registration tax within the borough pursuant to the provisions of AS 28.10.431 and as such statute may be hereafter amended, revised or replaced, based on the age of the vehicle as determined by model year in the first year of the biennial period, according to the following schedule. The categories under "Type" are intended to coincide with the categories provided in AS 28.10.431(b), as now enacted or as may be hereinafter amended. The annual motor vehicle tax on commercial vehicles is one-half the rate of the biennial tax.

MOTOR VEHICLE TAX SCHEDULE BIENNIAL SCHEDULE

Tax according to age of vehicle since model year:

Type	1st	2nd	3rd	4th	5th	6th	7th	8th or over
(1) Motorcycle	\$20	\$18	\$16	\$14	\$12	\$10	\$10	\$10
(2) Passenger	140	120	100	80	60	50	40	30
(3) Taxicab	150	130	110	90	70	60	50	40
(4) Comm Veh (<5k lbs)	150	130	110	90	70	60	50	40
Comm Veh (>5k, ≤12k)	200	180	160	140	120	100	75	50
Comm Veh (>12k, ≤18k)	300	260	220	180	140	100	80	60
Comm Veh (>18k)	400	350	300	250	200	150	100	70
(5) Motor Bus	200	180	160	140	120	100	75	50
(6) Trailers (Non-Commercial)	20	18	16	14	12	10	10	10
(7) Non Applicable	—	—	—	—	—	—	—	—
(8) Pick up/Van	140	120	100	80	60	50	40	30
(9) Dealer Plates (Initial)	100	100	100	100	100	100	100	100
Dealer (Subsequent sets)	100	100	100	100	100	100	100	100

(B) Permanent registration. Optional permanent motor vehicles registration tax for non-commercial motor vehicles and trailers that are at least eight years old.

(1) Owners of non-commercial motor vehicles and trailers that are at least eight years old may elect to permanently register their non-commercial motor vehicles and non-commercial trailers.

(2) The permanent registration expires when the owner transfers or assigns the owner's title or interest in the motor vehicle or trailer and may not be renewed.

(3) The optional permanent motor vehicle registration tax for non-commercial motor vehicles is \$125 and for non-commercial trailers is \$25.

(C) Tax Allocation. Money received by the borough under this section and AS 28.10.431, and as such statute may be hereafter amended, revised or replaced, will be allocated by the borough for city, borough, and service areas using the same method as taxes are distributed, except that population will be the basis rather than assessed value. The method is as follows:

(1) The population of each tax authority group (TAG) will be determined. Population will be established by the latest figures determined by the Kenai Peninsula Borough and accepted by the State of Alaska Department of Community and Regional Affairs for allocation of state revenue sharing funds, or other reliable data. Where a TAG boundary and the boundary of the most similar area counted for population (usually a voting precinct) do not coincide, an estimate of the population of the dissimilar area shall be made to arrive at the most accurate determination of population of the TAG. The sum of the populations of all TAGs shall equal the total population of the borough.

(2) The total receipts will be apportioned to each TAG based upon its percentage of the total borough population.

(3) The receipts apportioned to a particular TAG shall be distributed to the tax authority funds (TAFs) which make up that TAG. Such distribution will be based upon the mill rates of the TAFs compared to the total mill rate of the TAG. The percentage will be equal to the TAFs mill rate divided by the total mill rate for the TAG.

(D) Exemption. One motor vehicle per household owned by a resident 65 years of age or older on January 1 of the assessment year is exempt from the registration tax under AS 28.10.431. An exemption may be granted under

this subsection only upon written application on a form prescribed by the department of public safety.

5.11.060. - Mobile homes—Classified as real property.

Mobile homes, trailers, trailer coaches, and similar property including portable structures, which are set up and skirted, or otherwise attached to the land as permanent owned or occupied residences or used for office or commercial purposes, are classified as real property. The property taxes levied against mobile homes, trailers, trailer coaches, and similar property including portable structures, classified as real property may be collected in accordance with the procedures established for the collection of personal property taxes within the borough.

5.11.070. - Business inventories.

Business inventories of personal property shall be assessed at the full and true value as of January 1 of the assessment year.

5.11.080. - Exemption—First \$100,000 of business personal property.

In addition to other exemptions required or allowed by law, the first \$100,000 of assessed valuation of personal property used for business purposes, other than motor vehicles and watercraft, owned by each taxpayer shall be exempt from the borough tax levy on personal property within the borough. For taxpayers with more than one personal property tax account, the \$100,000 exemption shall be distributed pro rata amongst all of the taxpayer's accounts based on the proportion of the assessed value in each account to the total assessed value of that taxpayer's personal property.

5.11.090. - Exemption—Business inventory held for resale.

In addition to exemptions presently authorized by the borough, the inventory of a business, such as merchandise, held solely for resale purposes, and in the normal course of that business, is exempt from taxation by the borough.

5.11.100. - Returns—Due date.

Every person owning or having an interest in or holding or controlling personal property subject to personal property tax in the borough, must file a return with the assessor on or before February 15 of each year, on a form prescribed by the assessor. It is the responsibility of the person, who sold or transferred ownership in personal property subject to the tax levied under this chapter, to notify the assessor of the sale or disposition of the property and provide a bill of sale or similar statement including the name and address of the new owners before February 15. The mayor is authorized to adopt regulations, subject to assembly approval, for the administration and enforcement of this provision. A copy of any form required under this section will be provided to the filer at no charge.

5.11.110. - Penalty for late filing or failure to file tax return.

- (A) Late-file penalty. Except as provided below in this section, if the return required by KPB 5.11.100 is not filed by the due date, a penalty of 10 percent of any personal property tax thereafter levied shall be added, plus interest on the tax at 10 percent from the date the taxes would ordinarily come due. Owners of personal property acquired during the previous year who were not the owners of records for the previous year, and did not receive an annual reporting form from the assessor and subsequently failed to file a return with the assessor by February 1, shall have 30 days from the date of the first notification from the assessor before the 10 percent penalty is levied.
- (B) Extension. Upon taxpayer request on a borough form, the assessor may, grant extensions of time for filing for good cause shown.

5.11.120. - Assessment, levy and collection procedures.

Assessment, levy and collection of taxes shall be in accordance with Alaska Statutes governing municipal taxation and in accordance with this chapter, KPB chapter 5.12, and KPB 5.15, as applicable.

5.11.130. - Fine and penalty for false statements.

- (A) Fine. A person who, either individually, as an agent, or on behalf of a corporation, makes a false statement on a return, exemption application, or other form required under this chapter, and fails to correct the false statement within sixty days of filing, is guilty of a violation of this chapter. Any violation of this chapter is an infraction and is subject to the fine provided in KPB 1.24.070.
- (B) Penalty. Any exemption granted on the basis of any false representations will be revoked, and the liability for all taxes, penalties and interest will remain and the person may be prohibited from reapplying for the same exemption for a five-year period.

5.11.140. - Personal property delinquent tax list.

The finance director will compile a list of persons delinquent in personal property taxes or taxes on property the fee title to which rests in the United States, the state or a political subdivision thereof, together with a statement of the amount owing, as soon as possible after January 1 of each year. A copy of the delinquency list will be published in the manner prescribed by KPB 5.12.140. Taxpayers will be provided notice of the date collection actions will commence if the debt remains unpaid and after the expiration of said date, the borough, at its discretion, will proceed with collection actions against the delinquent taxpayer(s).

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

- (A) Distraint and Sale. The lien of personal property taxes may be enforced by distraint and sale of property. The procedure for distraint and sale of property shall be as follows:
- (1) A seizure, levy, or distraint is not legal unless demand is first made of the person assessed for the amount of the tax, penalty, and interest. The demand may be sent by ordinary mail to the person's last known address.
 - (2) In consultation with the borough attorney, the borough clerk will issue a distraint warrant to a peace officer. The warrant must include a description of the property subject to distraint, the amount and year of the taxes, penalty and interest, costs to date, and total amount then due, and the date, time and place of sale.
 - (3) The borough clerk must cause at least 1 notice to be published in a newspaper of general circulation within the borough, setting out the description of the property distrained, and the time and place of sale or, if there is no newspaper of general circulation distributed in the borough, post the list at three public places for at least 30 days.
 - (4) The sale will be by public auction set not less than 15 days after the date of the first publication, nor more than 60 days after the date of seizure. The borough may adjourn the sale from time to time, but not for more than 90 days in all after seizure. The property may to the owner upon payment of taxes, penalty, interest and total cost, providing the payment is made prior to the time of sale, and by cash. Property under distraint will be sold at public auction to the highest bidder by cash.
- (B) Proceeds of sale. The former owner of the property must be sent, by regular mail, at the last known address, with the results of the sale. The actual proceeds of the sale will be applied first to costs, including costs of sale, then to interest, then to penalty, and then to taxes. In accordance with AS 29.45.310, if the property is sold for more money than is needed to satisfy the tax, the borough shall remit the excess to the former record owner upon presentation of a proper claim. A claim for the excess filed after six months of the date of sale is forever barred.
- (C) Additional property. If the personal property sold is not sufficient to satisfy the tax, penalty, and interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest, and costs of sale.

5.11.160. - Disposition of proceeds.

The borough attorney will remit the net proceeds from collection actions under this chapter and chapter KPB 5.12 to the general fund of the borough.

5.11.170. - Definitions.

Unless the context clearly requires a different meaning, in this chapter:

"Aircraft" means any engine powered contrivance invented, used, or designed to navigate, or fly in, the air and that is capable of being manned and is required by the FAA to be registered and certified in order to be manned.

"Commercial aircraft" means any aircraft transporting passengers and/or cargo for some payment or other consideration, including money or services rendered.

"Crashed" means aircraft for which only parts remain that, due to their condition, can no longer be assembled to create any contrivable aircraft. This shall be evidenced by an FAA accident report and/or copy of an insurance claim that determines the aircraft to be a total loss.

"Destroyed" means aircraft that have been damaged by age, weather, neglect and/or external influences outside the owner's control, and only unusable parts remain that, due to their condition can no longer be assembled to create any contrivable aircraft. This shall be evidenced by photographs and a physical inspection by the KPB Assessing staff appraiser if deemed necessary by the borough assessor.

"Dismantled" means aircraft that have been voluntarily disassembled and only parts remain that can no longer be assembled to create any contrivable aircraft. Evidence such as photographs and a physical inspection by the borough assessing staff appraiser shall be provided or allowed if deemed necessary by the borough assessor.

"Good cause" means adequate grounds based on a serious condition or event beyond a party's control to justify a party's request or failure to act.

"Scheduled airline. A "scheduled airline" is any individual, partnership, corporation or association:

- (1) Engaged in air transportation under regular schedules to, over, away from, or within the U.S.; and
- (2) Holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity, issued by the Department of Transportation pursuant to 14 CFR Parts 201 and 213.

SECTION 3. That KPB chapter 5.12, Real Property Tax and General Provisions, is hereby repealed and reenacted to read as follows:

CHAPTER 5.12. - REAL PROPERTY TAX AND GENERAL PROVISIONS

5.12.010. - Real property tax levy.

- (A) Levy. The taxable status of real property will be determined by its status on January 1 of that assessment year. All real property within the corporate limits of the borough which is not exempt from taxation by law or ordinance is subject and liable to an annual tax, for school and borough purposes, of not more than 8 mills on the assessed valuation of such property, unless the qualified voters of the borough authorize a tax levy at a higher rate and except as authorized by KPB 5.12.130. The borough will collect such tax as is levied on the property within a city by the city council pursuant to applicable law.
- (B) Surface estate owner. Real property taxes shall be assessed and levied against the owner of the surface estate without regard to the value of subsurface mineral rights. Separate ownership of unexploited subsurface mineral rights may be established via a conveyance of such subsurface rights or reservation from conveyance of such subsurface rights by deed or other instrument of conveyance.
- (C) Rate of levy date. The assembly shall annually determine the rate of levy by resolution before June 15.

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

5.12.030. - Assessment roll.

On or before April 1 of each year, the assessor shall prepare an annual assessment roll. The roll shall contain a description of all taxable property in the borough, the assessed value of the taxable property, and the names and addresses of all the persons who own the taxable property.

5.12.040. - Notice of assessment.

On or before April 1 of each year, the assessor shall give notice of assessment to each person named in the assessment roll. The notices must include: (1) a statement that the described property is taxable and the assessed value; (2) the deadline to appeal; (3) the anticipated dates when the board of equalization will sit; and (4) the date when taxes are payable, delinquent, and subject to penalty and interest.

Assessment notices will be sent by first-class mail, at least 30 days before equalization hearings begin. Notice is effective on the date of mailing.

5.12.050. - Errors or Omissions—Adjustments to the Roll—Administrative adjustment meeting.

- (A) Assessment notice. A person receiving an assessment notice must advise the assessor of errors or omissions including taxable status determinations, in the assessment of the person's property within 30 days after the date of mailing a notice of assessment.
- (B) Adjustments to roll. The assessor may adjust the roll to correct errors or omissions in the roll, or to make changes in valuation or taxable status of property on the roll, and shall mail a notice of assessment, reflecting the assessor's decision, allowing 30 days to appeal to the board of equalization or superior court, as applicable. The assessor may not make changes to the roll after June 1 when the roll is certified, except the assessor may make changes after certification if the changes is due to: (1) a board of equalization decision; (2) a supplementary assessment; (3) a reassessment following a disaster as provided in this chapter; (4) a manifest clerical error; (5) an approved tax adjustment request as provided in this chapter; or, (6) a court-order from a court with jurisdiction over the matter.
- (C) Adjustment meeting. The assessor, or designee, shall provide, upon request, an informal adjustment meeting between the assessor, or designee, and the person receiving an assessment notice, for the purpose of resolving a valuation or tax exemption dispute. The meeting must be requested within 30 days of the mailing of the notice of assessment.

5.12.060. - Tax adjustment requests.

A tax adjustment request change to the tax assessment roll must be approved by the mayor upon request of the borough assessor.

5.12.065. - Manifest clerical error—Refund.

- (A) Correction. Per AS 29.45.180, a person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of the person's property. The assessor may correct a manifest clerical error within one year of the date the tax is paid subject to the error and recommend the borough process a refund in accordance with subsection (B). The assembly may correct manifest clerical errors at any time.
- (B) Refund. If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the borough, on audit of the account in question, is satisfied that this is the case, the borough

shall refund the excess to the taxpayer with interest at eight percent from the date of payment. In accordance with AS 29.45.500, a claim for refund filed one year after the due date of the tax is forever barred.

5.12.070. - Certification of assessment roll—Supplementary assessments.

- (A) Roll certification. Upon completion of the board of equalization hearings, the assessor shall enter the assessment changes made by the board decisions on the assessment roll. Except for supplementary assessments, the assessor shall certify the final assessment roll by June 1, and shall immediately thereafter notify each city in the borough authorized to levy a tax of the total assessed value for the city. Before June 15, each city in the borough authorized to levy a tax shall notify the borough clerk of the rate of levy of the tax for city purposes, by delivering a certified copy of the resolution adopted by the city council to the borough clerk.
- (B) Supplementary assessments. The assessor will include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll.

5.12.080. - Tax statements.

By July 1 of the tax year, the finance director shall mail tax statements to the persons listed as owners of record on the tax rolls setting out the levy, dates when taxes are payable and delinquent, and penalties and interest.

5.12.090. - Tax due date—Rates of Penalty and Interest.

- (A) Due date. Taxes are payable when billed. Payment in full is due on or before October 15 and becomes delinquent thereafter. At the option of the taxpayer, taxes may be paid in two equal installments. If the taxpayer elects this option, the first one-half of the taxes payable must be paid on or before September 15. The second one-half taxes then become due on or before November 15 and become delinquent thereafter. If the first one-half of the taxes payable is not paid by September 15, payment of the taxes in full becomes due on or before October 15.
- (1) If September 15, October 15, or November 15 falls on Saturday, Sunday, or a legal holiday, the taxes normally due on such date shall be due on the next business day and shall be delinquent thereafter.
- (2) A payment of taxes received by the borough on the first business day after the normal due date will not be considered delinquent. A payment of taxes made by mail will not be considered delinquent if the postmark on the envelope indicates the date of mailing to be on

or before the first business day following the date on which the taxes become due pursuant to other provisions of this section.

(B) *Penalty and interest.* If the taxes are not in full when due penalty and interest accrue as follows:

(1) A penalty of 5 percent of the taxes due shall be added to all delinquent taxes on the day they become delinquent and an additional penalty of 5 percent of the taxes due shall be added to any tax more than 30 days delinquent.

(2) Interest at a rate of 10 percent a year shall accrue upon all delinquent unpaid taxes, not including penalties, from due date until paid in full.

(C) *Supplemental assessment bills.* On supplemental billings where there is only one installment, a late payment penalty of 5 percent of the taxes due shall be added to all delinquent taxes on the day they become delinquent and an additional penalty of 5 percent of the taxes due shall be added to any tax more than 30 days delinquent. Interest shall be calculated at 10 percent per year from the date that the taxes would have ordinarily come due.

5.12.100. - Method of determining the full and true value of property that qualifies for a low-income housing credit under 26 USC 42.

(A) *Appraisal Method.* Pursuant to AS 29.45.110(d)(2), the full and true value of all property within the Kenai Peninsula Borough that first qualifies for a low-income housing credit under 26 U.S.C. § 42 on or after January 1, 2001, shall be exempt from the requirement that the value be based on the actual income derived from the property. For property that first qualifies for a low-income housing credit under 26 U.S.C. § 42 on or after January 1, 2001, the assembly may determine, by parcel, whether the property shall be assessed based on the estimated price that it would bring in an open market and under the then-prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels, or on the basis of actual income derived from the property without adjustment based on the amount of any federal income tax credit given for the property. Once the manner of assessment of the property has been determined under this subparagraph, the assembly may not change the manner of assessment of that parcel of property if debt relating to the property incurred in conjunction with the properties qualifying for the low-income housing tax credit remains outstanding.

(B) *Assembly resolution.* To secure an assessment based upon the actual income derived from the property under this section, an owner of property that qualifies for the low-income housing credit shall apply to the assessor before May 15 of each year in which the assessment is desired. The property

owner shall submit an application on forms prescribed by the assessor and shall include information that may reasonably be required by the assessor to determine the entitlement of the applicant. All such applications shall be forwarded to the assembly by resolution for a determination of the assessment manner.

5.12.110. - Method of determining the full and true value of contaminated property.

- (A) Appraisal method. The assessor shall apply any lawful, reasonable and recognized appraisal approach in the determination of the full and true value of contaminated property in accordance with this section. Real property on which hazardous substances may legally be stored, disposed of or released is not considered to be contaminated for purposes of reducing an assessment.
- (B) Definitions. In this section, unless the context otherwise requires:
- (1) "Contaminated property" means all or a portion of a parcel of real property that on January 1 of the assessment year is either:
- (a) On the National Priority List of the Environmental Protection Agency and supported by either a Phase II report or a report determined to be substantially equivalent by the assessor;
- (b) Included in the State of Alaska, Department of Environmental Conservation Contaminated Sites Data Base (Contaminated Site List) and supported by either a Phase II Report or a report determined to be substantially equivalent by the assessor; or
- (c) A property not on either of the above lists but proven to be contaminated through the submission of either a Phase II Report or a report determined to be substantially equivalent by the assessor, containing reliable and valid data sufficient to permit independent scientific verification of the conclusions reached. The data may include such information as engineering studies, environmental audits, laboratory reports and other valid scientific data.
- (2) "Hazardous substance" has the meaning ascribed in AS 46.08.900(6), as now enacted or as may be hereinafter amended.
- (3) "Phase II Report" means an Environmental Assessments Phase II Report that verifies contamination and delineates the area and

concentration of contaminants through analysis of soil, air or water samples and includes the cost to cure or contain the contamination.

5.12.120. - Farm or agricultural use—Assessment.

Full and true value for farm use land will be determined by the assessor in accordance with the requirements set forth in AS 29.45.060, as amended.

5.12.130. - Levy to meet debt or natural disaster authorized.

All real and personal property of the borough is subject to and liable for a tax levy at the maximum rate allowed by law without referendum, when a levy in excess of 8 mills is necessary to meet the obligation of a debt contracted for capital improvements and ratified by a majority vote of those qualified to vote and voting on the question, or to meet an emergency threatening the public peace, health or safety.

5.12.140. - Foreclosure list—Publication and notice.

(A) Foreclosure list. In accordance with AS 29.45.330, the borough will:

- (1) annually present a petition for judgment and a certified copy of the foreclosure list for the previous year's delinquent taxes in the superior court for judgment; and
- (2) publish the foreclosure list for four consecutive weeks in a newspaper of general circulation distributed in the municipality or, if there is no newspaper of general circulation distributed in the borough, post the list in at three public places for at least 30 days;
- (3) within 10 days after the first publication or posting, mail to the last known owner of each property as the owner's name and address appear on the list a notice advising of the foreclosure proceeding in which a petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.

(B) The assembly will annually determine if there is a newspaper of general circulation in the borough and, if so, by resolution designate the newspaper in the borough in which the roll will be published, together with the days of publication. The foreclosure list must be arranged in alphabetical order as to the last name and, in accordance with AS 29.45.330, include: (1) the last known owner; (2) the property description as stated on the assessment roll; (3) years and amounts of delinquency; (4) penalty and interest due; (5) a statement that the list is available for public inspection at the clerk's office; (6) a statement that the list has been presented to the superior court with a petition for judgment and decree.

5.12.150. - Property interests subject to tax foreclosure.

- (A) Threshold. No real property will be subject to foreclosure unless the delinquent balance due is greater than \$500.00 or, if the delinquent balance is less than \$500 and at least two years of taxes are delinquent.
- (B) Surface and subsurface interests. Foreclosure proceedings are instituted against the surface estate, and real property interests subject to tax foreclosure shall include each and every interest in the surface estate. Subsurface interests and rights that have not been severed from the surface estate will be considered to run with the land and transfer upon deed conveyance.

5.12.160. - Statutory compliance.

Enforcement of borough real property and personal property tax liens, including foreclosure proceedings, will be in accordance with AS 29.45.290 to AS 29.45.500.

5.12.170. - Application of property tax payments.

- (A) Application of payments. Payments on property tax accounts shall be applied to the oldest balance due, by tax year, in the following order: first to accrued fees and costs, then accrued interest, then accrued penalty, then to the tax principal; and then the next oldest balance due, in the above order, and so forth, until the payment is applied in full; except as otherwise provided in this section.
- (B) Variance. The borough may by written agreement, or shall by court order, vary the application of payments.

5.12.180. - Redemption period—Dispositions of tax foreclosed property.

- (A) Redemption period. In accordance with AS 29.45.390 and AS 29.45.400, foreclosed property is transferred to the borough for the lien amount. Properties transferred to the borough are held by the borough for at least one year. A party having an interest in the property may redeem the property in accordance with AS 29.45.400. At least 30 days before the expiration of the redemption period the clerk or the clerk's designee must publish a redemption period expiration notice containing all the information required by AS 29.45.440.
- (B) Disposition. In accordance with AS 29.45.460, the assembly will designate by ordinance whether foreclosure property deeded to the borough will be retained for a public purpose, as provided in KPB 5.12.190. Tax-foreclosed property conveyed to the borough and not required for a public purpose may be sold, as provided in KPB 5.12.200.

5.12.190. - Foreclosed lands retained for a public purpose.

The mayor will cause a review of the foreclosed properties to determine if any of the tax-foreclosure lands are suitable for a public purpose and, following the review, recommend to the assembly which lands should be retained for a public purpose and classified accordingly. The assembly will determine by ordinance whether foreclosure property deed to the borough will be retained for a public purpose. The ordinance must contain the legal description of the property, the address or a general description of the property sufficient to provide the public with notice of its location, and the name of the last record owner of the property as the name appears on the assessment rolls.

5.12.200. - Foreclosed lands for sale.

- (A) Foreclosed properties not retained for a public purpose may, by ordinance, be approved for sale and disposal.
- (B) Upon determination by ordinance that a public need no longer exists, foreclosed properties retained for a public purpose, may be sold in accordance with the requirements of AS 29.45.460.
- (C) Foreclosed lands sold under the provisions of this section are not subject to the classification procedures contained in KPB Chapter 17.10.

5.12.210. - Repurchase—Proceeds of tax sale.

- (A) *Repurchase.* Upon satisfactory identification, the record owner at the time of tax foreclosure, or the record owner's assigns, may at any time before the sale, or contract for sale, of tax foreclosed property repurchase that property for the full amount due to the borough and any city under the judgment and decree of foreclosure, plus accrued interest and associated costs of collection, and delinquent taxes assessed and levied as though it had continued in private ownership, together with recording fees. Any person asserting to be an assignee of the record owner must provide an abstract of title, title opinion or title report, at no cost to the borough, establishing the right to repurchase.
- (B) *No repurchase of public purpose lands.* All rights of repurchase of the property cease upon enactment of an ordinance providing for the retention of one or more parcels of tax foreclosed property by the borough for a public purpose, unless the ordinance provides otherwise.
- (C) *Proceeds for property within a city.* If the borough or a city sells any parcel situated within a city levying a real property tax for municipal purposes, then the proceeds of the borough and city real property taxes, penalties,

interests and costs shall be divided between the borough and the city in proportion to their respective tax rates.

- (D) Proceeds. The borough will retain from the proceeds of the sale of each parcel of tax foreclosed land only that amount attributable to delinquent borough taxes accrued through the date of sale, together with all applicable penalties, interests and costs, including the costs of collection, sale, and attorney fees.
- (E) Proceeds subject to claim by former owner. All proceeds received by the borough from the sale of each parcel of tax foreclosed land which are in excess of the amounts of real property taxes, penalties, interest and applicable costs accruing through the date of sale shall be held by the borough on behalf of the former record owner for 6 months from the date of sale.
- (F) Excess proceeds. The former record owner of tax foreclosed real property which has been held by the borough for less than 10 years after the close of the redemption period, which has never been designated for retention of public purpose, and which is sold by the borough at a tax foreclosure sale is entitled to that portion of the proceeds of the sale which exceeds all sums due to the borough and city. If the proceeds of the sale of the tax foreclosed property sold by the borough exceeds the sums due to the borough and city, written notice will be sent to the former notice stating the amount of the excess and the manner in which a claim for the balance of the proceeds may be submitted. This notice will be mailed to the former owner's last address of record according to assessing department records. Upon presentation of a proper claim, the borough will remit the excess proceeds to the former record owner.
- (G) Barred claims under State law. Per AS 29.45.480, a claim for the excess filed after six months of the date of sale is forever barred. Unclaimed excess proceeds will be transferred to the Land Trust Fund of the borough.

5.12.220. - Definitions.

"Manifest clerical error" means a typographical, computational or other similar error apparent from the assessment notice, tax statement or other borough tax record created by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties.

"Real Property" means land and interests in land and includes:

- (1) Land and all buildings, structures, improvements, and fixtures thereon, and appurtenances thereto;
- (2) Mobile homes, trailers, house trailers, trailer coaches, motor homes, and similar property used or intended to be used for residential,

office or commercial purposes and attached or connected to water, gas, electric facility, or sewage facility; excepting, such vehicles which are unoccupied and held for sale by persons engaged in the business of selling such vehicles; or

- (3) Leases and possessory interests in the above.

SECTION 4. That the KPB Code of Ordinances is hereby amended by adding a new chapter to be numbered KPB 5.13, relating to Real Property Tax Exemptions, Credits and Deferrals, which shall read as follows:

CHAPTER 5.13. - REAL PROPERTY TAX EXEMPTIONS, TAX CREDITS, AND DEFERRALS

5.13.010. - Date for determination of use.

Real property tax exemptions are based on the use and situs of property as of January 1 of a tax year and may only be approved for the current tax year. Proration of a real property tax exemption is prohibited.

5.13.020. - Tax exemption, tax credit, and deferrals application procedure.

- (A) A tax exemption, tax credit, or deferral under this chapter and KPB Chapter 5.12 may not be processed unless the applicant submits a complete application, and provides such additional information as may be requested by the assessor, mayor, or assembly. The assessor is hereby authorized to prescribe each application form that will provide sufficient information to determine whether any tax exemption or deferral should be granted. The accuracy of the information provided in the application must be verified by the applicant or an authorized officer of the applicant.
- (B) Any exemption, tax credit, or deferral granted on the basis, in full or in part, of a false representation will be revoked, and the liability for all taxes, penalties and interest will remain. An applicant who makes a false representation in any submission to the borough related to application for, or review of, a tax exemption or deferral under this chapter or KPB Chapter 5.12 is subject to a fine as set forth in KPB 1.24.070 and may be prohibited from reapplying for the same exemption for a five-year period.

5.13.030. - Exclusive use—Developed land.

For the purposes of this chapter, exclusive use for an exempt purpose means the property is developed and put to use to effectuate the intent of the tax exemption, credit, or deferral. Nothing in this section requires an applicant for a tax exemption to develop the property if there is a deed restriction that runs with the land and requires the property remain undeveloped for conservation or preservation

purposes, or if it is determined that undeveloped or vacant land serves a community benefit for tax exemption purposes.

5.13.035. - Exclusive use—Temporal use requirement.

- (A) Individuals. Tax exemptions for property tax exemptions related to occupancy of the property and residency in the borough, the applicant must occupy and use the property for at least 185 days per year.
- (B) Entities. Nonprofit or other entity-based tax exemptions, credits, or deferrals, must exclusively use the property for the stated purpose for at least 30 days per year and provide proof of use if requested by the assessor.

5.13.040. - Application deadline—Inability to comply.

- (A) Filing deadline. Unless specifically provided otherwise in this chapter, all exemption applications are due on or before February 15 of the tax year. If February 15 of a tax year falls on a weekend or holiday, the application is due the next business day. An application filed after February 15 deadline will not be considered unless an extension is granted pursuant to subsection (B) below.
- (B) Request for Extension; Inability to Comply Determinations. An applicant who fails to submit an exemption, tax credit, or deferral application by the filing deadline may request a deadline extension due to an inability to comply with the deadline. The following procedure will apply to requests for a deadline extension:
 - (1) A request for an extension must include an affidavit stating the reasons for the applicant's inability to comply with the filing deadline along with any supporting documentation. A request received without proper documentation will not be considered and will be considered ineligible.
 - (2) Within 10 business days of receiving the request for a deadline extension, the assessor will issue a written decision.
 - (3) The assessor's decision is a final administrative decision. Within 30 days of the date of mailing of the decision, an applicant aggrieved by any determination of the assessor may file an appeal in a Superior Court within the Kenai Peninsula in accordance with Alaska Civil Rule 3(b).

For purposes of this section, an inability to comply determination must be based on a serious condition or event, as defined in KPB 5.13.190.

5.13.050. - Review and determination.

- (A) Except as provided in subsection (B) below, the assessor will determine whether the applicant is eligible for a tax exemption, credit or deferral under this chapter and KPB Chapter 5.12. If the application is incomplete or the applicant is otherwise ineligible for exemption or deferral, the assessor will promptly notify the applicant in writing.
- (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.

5.13.060. - Transfer of ownership or change of use.

Every person or entity granted an exemption under this chapter must notify the assessor of any change in ownership, residency, permanent place of abode, status of disability, or change in use. This requirement will be included on the exemption application form. The assessor will review all such changes and issue a determination regarding the status of the exemption following the change. Failure to notify the assessor of such a change, may result in revocation of the tax exemption or deferral and require payment of the property taxes when due. The assessor's determination under this section may be appealed in accordance with KPB Chapter 5.15, Tax Appeals.

5.13.070. - Annual audit.

An approved tax exemption, credit or deferral granted is subject to annual audit by the assessor. The assessor may request documentation or other information reasonably necessary to confirm that the exemption, credit or deferral continues to meet the requirements under the law. If the assessor determines that the property no longer qualifies for an exemption or deferral under this chapter and KPB 5.12, the assessor's determination may be appealed in accordance with KPB Chapter 5.15, Tax Appeals.

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:

(A) State mandated exemptions – Residents.

- (1) Senior Citizens' exemption. Subject to the application procedure, criteria, and eligibility requirements set forth in KPB 5.13.090.
- (2) Disabled veteran exemption. Subject to the application procedure, criteria, and eligibility requirements set forth in KPB 5.13.090.

(B) State mandated exemptions – Nonprofit Entities.

- (1) Municipal property. Subject to the criteria and requirements set forth in AS 29.45.030.
- (2) Federal property. Subject to the criteria and requirements set forth in AS 29.45.030.
- (3) Property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes. Subject to the application procedure, criteria, and eligibility requirements set forth in KPB 5.13.160.
- (4) Armed forces. Subject to the criteria and requirements set forth in AS 29.45.030.
- (5) Real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d) (ANCSA).

(C) Optional tax exemptions, credits, or deferrals adopted by the Borough pursuant to AS 29.45 – Residents.

- (1) Senior Citizens' exemption. Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.090. The maximum combined senior exemption under subsection (A), of this subsection, and KPB 5.13.080(C)(5) is \$350,000 of assessed value, unless a hardship exemption is granted. For the purposes of this chapter and KPB 5.13.090(C), the required state senior exemption and the optional borough exemption are considered one exemption.
- (2) Disabled veteran exemption. Subject to the application procedure, criteria, and eligibility requirements set forth in KPB 5.13.090. This exemption is in addition to the exemption under subsection (A) above and in an unlimited amount.

- (3) Disabled residents. Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.100.
- (4) Volunteer firefighters/EMS. Subject to the maximum exemption amount application procedure, criteria, and eligibility requirements set forth in KPB 5.13.110.
- (5) Residential real property. Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.120.
- (6) Senior and disabled veteran hardship exemption. Subject to the application procedure, criteria, and eligibility requirements set forth in KPB 5.13.
- (D) Optional tax exemptions, credits or deferrals adopted by the borough pursuant to AS 29.45 – Nonprofit entities.
 - (1) Community Purpose property. Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.170.
- (E) Optional Exemptions and tax credits adopted by the Borough 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 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) Economic development property exemption. Subject to the maximum exemption amount, application procedure, criteria, and eligibility requirements set forth in KPB 5.13.180.

5.13.090. - Senior Citizens and Disabled Veteran Tax Exemption—Application Requirements and Criteria

- (A) Exemption. Pursuant to KPB 5.13.080(A) and (C), a single parcel of real property owned and occupied as the primary residence and permanent place of abode of the applicant is exempt up to \$300,000 for an eligible senior citizen and an unlimited amount for an eligible disabled veteran, as set forth in KPB Chapter 5.12 and this chapter. Any exemption granted under this section may only include the primary parcel.
- (B) Senior Citizens Exemption Criteria. To be eligible for the senior citizens exemption the following criteria must be met:
- (1) The applicant was a resident of the State of Alaska prior to January 1 of the tax year.
 - (2) The applicant owns and occupies the property as the applicant's primary residence and permanent place of abode.
 - (a) An applicant may rebut the presumption that property has not been occupied as a primary residence and permanent place of abode if the applicant occupied it for less than 185 days during the previous year by providing proof that the applicant meets the statutory criteria for an allowable absence under AS 43.23.008, as amended, relating to Permanent Fund Dividend allowable absences.
 - (b) An applicant must provide proof of residency and verify that the individual is not a resident of any other state, that the applicant occupies the property for at least 185 days a year, and that the individual meets the residency duration requirements to be eligible for a permanent fund dividend under AS 43.23.005.
 - (3) The applicant is 65 years of age or older as of January 1 of the tax year in which the exemption is sought, or at least 60 years old who is the widow or widower of a person who previously qualified for this exemption.
 - (4) For residents 65 years of age or older or residents at least 60 years old who are the widow or widower of a resident 65 years of age or older to be eligible for an exemption.
 - (5) The applicant must own the property and occupy the property. In the event an individual qualifies for the exemption after January 1 of the tax year then that individual may apply the following year.
- (C) Disabled Veteran Exemption Criteria. To be eligible for the disabled veteran exemption the following criteria must be met:

- (1) The applicant was a resident of the State of Alaska prior to January 1 of the tax year.
- (2) The applicant provides a letter from the U.S. Department of Veteran Affairs (VA) showing the applicable is a disabled veteran. If the disability is less than a permanent disability, the applicant must submit an official disability percentage letter from the VA each year prior to February 15 showing a 50 percent or greater disability.
- (3) The applicant is at least 60 years old who is the widow or widower of a person who previously qualified for this exemption.
- (4) The applicant owns and occupies the property as the applicant's primary residence and permanent place of abode.
 - (a) An applicant must provide proof of residency and verify that the applicant is not a resident of any other state, that the applicant occupies the property for at least 185 days a year, and that the individual meets the residency duration requirements to be eligible for a permanent fund dividend under AS 43.23.005.
- (D) *Spatial apportionment.* This exemption applies only to the portion of the property owned and occupied by the eligible applicant. If the property is owned or occupied by any other adult persons, other than the eligible applicant and the applicant's spouse, the assessor will apply spatial apportionment.
- (E) *One exemption per parcel.* One senior or disabled veteran exemption per primary parcel. Only one senior or disabled veteran exemption may be granted for the same property and, if two or more persons are eligible for an exemption for the same property, the parties must decide among themselves who is to receive the benefit of the exemption. Notwithstanding this subsection, an applicant who is eligible for both this exemption and a residential real property tax under KPB 5.13.060 may be granted multiple exemptions, up to a maximum of \$350,000 for the senior citizen exemption, for the same property.
- (F) *Application deadline.* The application form 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. A qualified senior citizen, disabled veteran, or surviving spouse of either, need not file an application for successive tax years if there is no change in ownership, no change in permanent place of abode by the owner of record, or no change in status of disability if the owner is a disabled veteran. However, a qualified senior citizen or qualifying surviving spouse must meet the residency requirements

as described above in subsection (B) in order to continue to be qualified without filing an application for successive tax years. Property owners must notify the borough when the requirements for exemption are no longer met.

- (G) *Other residency.* An applicant under this section is ineligible to receive the exemption if the applicant has applied for or received a similar residency-based exemption for the same year for property located in another jurisdiction outside the borough.

5.13.095. - Senior citizen and disabled veteran hardship exemption.

- (A) *Exemption.* An individual who otherwise qualifies for a senior citizen or disabled veteran property tax exemption under this state law and this chapter, is eligible for a hardship exemption if the criteria set forth in this section are met. If allowed, a hardship exemption will be granted only for that portion of an eligible applicant's real property tax liability in excess of two percent of the applicant's gross household income as calculated after the senior citizen and disabled veteran property tax exemption required by state law is applied. Only one hardship exemption may be granted for the same property, and if two or more persons are eligible for an exemption for the same property, the parties shall decide among themselves who is to receive the benefit of the exemption. No exemption may be granted if the assessor determines, after notice and an opportunity for a hearing to the parties, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption. The hardship exemption determination of the assessor is a final administrative decision and may be appealed to the superior court within 30 days of the date of the decision.

- (B) *Criteria.* The following criteria must be met in order for an applicant to be eligible for a hardship exemption:

- (1) The applicant must qualify for a senior citizen or disabled veteran property tax exemption in accordance with KPB 5.13.090 and state law; and
- (2) The applicant's gross household income, from all sources in the prior year, may not exceed 120 percent of the most current Median Family Income for Kenai Peninsula as set by the U.S. Department of Housing and Urban Development for a similar sized household except as follows:
 - (a) An applicant whose household gross income exceeds 120 percent of the Median Family Income for Kenai Peninsula Borough as set by the U.S. Department of Housing and Urban Development may nevertheless qualify for an

exemption in the case of a documented extenuating or extraordinary circumstance that results in a one-time expense that, when subtracted from the applicant's household gross family income, results in the applicant's gross family income falling below 120 percent of the Median Family Income for Kenai Peninsula Borough for the year in question.

(C) *Procedure.* In applying for a hardship exemption, the applicant must submit the following documentation no later than April 30 of the assessment year for which the exemption is sought:

- (1) Form 21-400c;
- (2) A Federal Income Tax Return filed in the same year in which the exemption is sought, for all occupants in the applicant's home who are required to file federal income tax; and
- (3) A hardship exemption application supplied by the assessor's office, including any necessary attachments or additional documentation as may be required by the assessor.

5.13.100. - Disabled resident property tax credit—Application requirements and criteria.

- (A) *Exemption.* Pursuant to KPB 5.13.080, a single parcel of residential real property, owned or partly owned, and occupied as a primary residence and permanent place of abode by a disabled resident applicant may be eligible for a tax credit up to a maximum amount of \$500 of such tax, as set forth in KPB Chapter 5.12 and this section.
- (B) *Criteria.* To qualify for this exemption, the applicant must be determined to be totally and permanently disabled. The determination must be in writing and issued by the administrator, board or other appropriate authority of the U.S. Social Security Program or other government agency. A property granted an exemption under KPB 5.13.090 or AS 29.45.030(e) is not eligible to receive an exemption under this section.
- (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.

5.13.110. - Volunteer firefighters and providers of emergency medical services property tax exemption—Application requirements and criteria.

- (A) Exemption. Pursuant to KPB 5.13.080(C), a single parcel of residential real property, owned or partly owned, and occupied as a primary residence and permanent place of abode by a borough resident who provides volunteer firefighting services or volunteer emergency medical services is eligible for a general taxation exemption not to exceed \$10,000 of the assessed value as set forth in KPB Chapter 5.12 and this chapter.
- (B) Criteria. To qualify for this exemption, on January 1 of the assessment year a person must be certified as:
- (1) A current and active volunteer of a State of Alaska recognized first responder service, registered fire department or a certified ambulance service located within the borough; and
 - (2) If providing volunteer firefighting services, be certified as a firefighter by the Alaska Department of Public Safety; or
 - (3) If providing volunteer emergency medical services, be certified under AS 18.08.082.

The fire or EMS chief as appropriate for each department shall be responsible for certifying that the volunteer has met the criteria established for this exemption and will submit the names to the Kenai Peninsula Borough annually on or before February 15. If two or more individuals are eligible for an exemption for the same property, not more than two exemptions may be granted.

- (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 January 15 of the tax year for which the exemption is sought.

5.13.120. - Residential real property tax exemption—Application requirements and criteria.

- (A) Exemption. Pursuant to KPB 5.13.080(C), the first \$75,000 of the assessed valuation of a single parcel of residential real property, owned or partly owned, and occupied as a primary residence and permanent place of abode by a resident may be eligible for a general taxation exemption as set forth in KPB Chapter 5.12 and this chapter.
- (B) Criteria. To qualify for this exemption, on January 1 of the assessment year an applicant must:
- (1) Be a permanent resident of the borough and occupy the property as the applicant's primary residence and permanent place of abode.

- (2) An applicant under this section is ineligible to receive the exemption if the applicant has applied for or received a similar residency-based exemption for the same year for property located in another jurisdiction outside the borough.
- (3) Only one exemption under this section may be granted per parcel of residential real property.
- (C) *Rebuttal presumption.* If the owner of record occupied the property for less than 185 days during the previous year, the assessor may presume that the property has not been occupied as the owner of record's primary residence and permanent place of abode. The applicant may rebut this presumption by providing the assessor with satisfactory evidence that the lack of occupancy was for personal or a dependent family member's medical care and that but for the absence for medical care the applicant would have met the exemption criteria.
- (D) *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. An updated application is not required for successive years unless there is a change in ownership or occupancy of the residence, or the assessor has selected the parcel for audit.

5.13.130. - Harvesting insect infested timber resources—Application requirements and criteria.

- (A) *Exemption.* Pursuant to KPB 5.13.080(C), the increase in assessed value of property resulting from timber harvest and related actions is exempt from taxation as follows: (1) the harvested area of land significantly infested or at risk of being significantly infested with insects due to an infestation of insects in the area in which the land is located ; (2) improvements to the real property for which this exemption is sought, including personal property affixed to the improvements located on such property, if they are used for and are necessary for the harvest of the timber that is infested or in danger of being infested; and (3) to the extent the timber harvest converts exempt property to taxable property, this exemption shall apply to the entire assessed value of the property.
- (B) *Criteria.* For timber to be considered harvested, the timber must be cut and removed. A significant infestation in the area in which the land is located means a widespread and intensive insect attack that will result in mortality of timber resources or has already caused large scale tree mortality. Land considered at risk of being significantly infested must have the following two characteristics: (1) the land must have a forest structure that is susceptible to significant insect infestation; and (2) a significant level of

insect population development is located immediately adjacent or within close proximity of the forested land.

- (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 application must include a copy of the detailed plan of operation (DPO) required by 11 AAC 95.220 and filed with the Division of Forestry. In the event the DPO extends beyond the initial assessment year, the applicant must file additional complete application(s) no later than February 15 of each assessment year for which an exemption is sought. The assessor must be promptly provided with a copy of any amendment of the DPO. The exemption will be for the prior calendar year harvests.
- (D) Assessor determination. The assessor is authorized to deny part or all of an exemption request if the application is incomplete or an investigation and inspection of the property reveals that the timbering does not meet the requirements of this ordinance and AS 29.45.050(q), as amended, or the area timbered is different from that stated in the exemption request.

5.13.140. - Anadromous waters habitat protection areas 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 as set forth in KPB Chapter 5.12 and this chapter.
- (B) Criteria. To qualify for this tax credit, certain improvements to the real property are exempt if:
- (1) an increase in assessed value is directly attributable to alteration of the natural features of the land, or new maintenance, repair, or renovation of an existing structure; and
 - (2) the alteration, maintenance, repair, or renovation, when completed, enhances the exterior appearance or aesthetic quality of the structure; and
 - (3) meets the criteria for a fish habitat and restoration project described in KPB 5.14.040.

An exemption may not be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or

nonresidential use in the structure or for the alteration of land as a consequence of construction activity.

- (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 January 15 of the tax year for which the exemption is sought. The assessor may require such information as is reasonably necessary to determine compliance with the requirements of this chapter and KPB 5.12. If an exemption is granted, it may continue for up to four years from the date improvement is completed, or from the date of approval for the exemption by the local assessor, whichever is later.

5.13.150. - Disaster damage exemption—Application requirements and criteria.

- (A) Exemption. Pursuant to KPB 5.13.080(C), real property damaged by a disaster or during a declared local disaster emergency may apply for reassessment of that property under this section. In addition, the assessor may initiate such reassessment where the mayor determines that within the current assessment year taxable property located in the borough was damaged by a disaster.
- (B) Criteria. Damage or a disaster caused or created by the applicant or owner of the property is not eligible for reassessment. To be eligible for reassessment, the damage to the property must have been caused by any of the following:
- (1) A disaster in an area or region declared by the mayor, the governor, or the president to be in a condition of disaster emergency.
 - (2) A disaster as that term is defined in this chapter.
 - (3) A disaster that, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted.
- (C) Application deadline. On a form prescribed by the assessor, the application must be postmarked by or hand-delivered to the assessing department within 60 days of the disaster, requesting reassessment and describing the condition and value of the property immediately before and after the damage or destruction. If no application is made and the assessor determines that within the calendar year a property has suffered damage caused by a disaster that may qualify the property owner for relief under this section, the assessor may provide the last known owner of the property with an application for reassessment. The property owner must file the completed application within 30 days of the date of the mailing of notification by the

assessor but in no case more than 60 days after the occurrence of said damage.

- (D) *Inspection.* Upon receiving the proper application, the assessor or assessor's designee will inspect the property and verify the prior year's full and true value of land, improvements, personal property, or the proposed or certified current year's value immediately before and after the damage or destruction. If an applicant has refused or failed to provide the assessor or the assessor's agent full access to property or records reasonably requested by the assessor, the applicant will be precluded from any reduction or relief, and any valuation or valuation issue affected by the lack of access will be decided in favor of the assessor.
- (E) *Damage computation.* If the sum of the full and true values of the land, improvements, and personal property before the damage exceeds the sum of the values after the damage by \$10,000.00 or more, the assessor shall also separately determine the percentage reduction in value of the land, improvements, or personal property due to the damage or destruction. The assessor shall reduce the values appearing on the assessment roll by the percentage of damage or destruction computed pursuant to this section, and the taxes due on the property shall be adjusted as provided this section. However, the amount of the reduction shall not exceed the actual loss. Any damages to land, improvements, personal property, or additions that do not appear on the assessment roll are not eligible for consideration under this section.
- (F) *Notice of reassessment.* The assessor will notify the applicant in writing of the amount of the proposed reassessment. The notice will state that the applicant may appeal the proposed reassessment to the board of equalization within 30 days of the date of mailing the notice.
- (G) *Tax adjustment.* The tax rate fixed for the property so reassessed shall be applied to the amount of the reassessment as determined in accordance with this section. The owner of record shall be liable for a prorated portion of the taxes that would have been due on the property for the current calendar year had the disaster not occurred. This proration is determined on the basis of the number of days remaining in the calendar year beginning with the date of the disaster. For purposes of applying the calculation in prorating taxes, the term "calendar year" means the portion of the current tax year used to determine the adjusted amount of taxes based on a 365-day year. If the damage or destruction occurred after January 1 and before the beginning of the next calendar year, the reassessment shall be utilized to determine the tax liability for the current year. Any tax paid in excess of the total tax due shall be refunded to the taxpayer as an erroneously collected tax within 60 days of the final determination of the adjusted tax liability.

- (H) Tax roll adjustment. Any reassessed value resulting from one or more reductions in full and true value of amounts, as determined above, shall be forwarded to the finance director. The finance director will calculate and enter the reassessed tax values on the finance roll as a tax adjustment request (TAR).
- (I) Effect of revised assessment. The assessed value of the property in its damaged condition, as determined pursuant to this section shall be the taxable value of the property until December 31 of the year in which the disaster occurred, unless the value is otherwise adjusted as allowed by law.

5.13.160. - Nonprofit religious, charitable, cemetery, hospital, or educational property tax exemption—Application requirements and criteria.

- (A) Exemption. Pursuant to the Alaska Constitution, AS 29.45, and KPB 5.13.080(B), property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes is exempt from taxation as set forth in state law, KPB Chapter 5.12 and this chapter.
- (B) Criteria. To qualify for this exemption, on January 1 of the assessment year the property must be used exclusively and developed for an exempt purpose.
- (C) Application deadline and requirements. 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. An updated application is not required for successive years unless there is a change in ownership or occupancy of the residence, or the assessor has selected the parcel for audit. The application must include:
- (1) The applicant's articles of incorporation;
 - (2) Not-for-profit status documentation for the organization (i.e., IRS determination letter or State of Alaska equivalent);
 - (3) Proof of current registration with the Alaska State Division of Corporations;
 - (4) Verification property is used exclusively for exempt purpose and description of use; and
 - (5) Any other information required by the assessor to determine eligibility, amount of exemption requested, or spatial apportionment, if applicable.

(D) Definitions. For purposes of this section, “property used exclusively for religious purposes” includes the following property owned by a religious organization:

(1) The residence of an educator in a private religious or parochial school or a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization; for purposes of this subsection, “minister” means an individual who is:

(a) Ordained, commissioned, or licensed as a minister according to standards of the religious organization for its ministers; and

(b) Employed by the religious organization to carry out a ministry of that religious organization;

(2) A structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) A lot or space required for parking near a structure defined in subsection (D)(2) above.

(E) Definitions. For purposes of this section “charitable purpose” means exclusive use that:

(1) Is done out of good will or provides a benefit to the general public;

(2) Adds to the moral, mental, and physical welfare, good will and betterment of the public; or

(3) The charity entails a gift to the general public through contributions of services or aid to society in general.

(F) Definitions. For purposes of this section, "hospital" means a public or private institution or establishment devoted primarily to providing diagnosis, treatment, or care over a continuous period of 24 hours each day for two or more unrelated individuals suffering from illness, physical or mental disease, injury or deformity, or any other condition for which medical or surgical services would be appropriate

(G) Definitions. For purposes of this section "property used exclusively for cemetery purposes" does not include a family cemetery on a property which includes other concurrent property uses.

(H) Income. Property described in this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit

religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

5.13.170. - Community purpose real property tax exemption—Application requirements and criteria.

- (A) Exemption. Pursuant to KPB 5.13.080(D), property used exclusively for community purpose is eligible for a tax exemption in an unlimited amount, as set forth in state law, KPB Chapter 5.12, and this chapter.
- (B) Criteria. To qualify for this exemption, on January 1 of the assessment year the property must:
- (1) Be owned by a non-profit entity with Employer Identification Number (EIN) issued by the IRS or a wholly-owned subsidiary of such an entity; and
 - (2) Be used exclusively for community purposes in a manner that directly and substantially benefits public welfare; or
 - (3) Be donated or devoted for use by the general public and provides a benefit to the community.
- (C) Application deadline and requirements. 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. An updated application is not required for successive years unless there is a change in ownership or use of the property, or the assessor has selected the parcel for audit. The application must include:
- (1) The applicant's articles of incorporation;
 - (2) Not-for-profits status documentation for the organization (i.e., IRS determination letter or equivalent);
 - (3) Proof of current registration with the Alaska State Division of Corporations;
 - (4) Verification property is exclusively used for exempt purpose and description of use of the property consistent with the requested exemption; and
 - (5) Any other information required by the assessor to determine eligibility, amount of exemption requested, or spatial apportionment, if applicable.

(D) Assessor determination. The assessor will determine if the applicant meets the requirements of this chapter and KPB 5.12. The assessor, in determining whether to grant an exemption and the amount of exemption to be granted, will consider whether:

- (1) The property is open to public use regardless of sex, color, race, age, marital status, religion, political affiliation, or national origin;
- (2) Any part of the net earnings of the applicant inures to the benefit of any private entity or individual;
- (3) There is evidence of a dominant financial motive such as excessive charges, excessive employee compensation or income that exceeds operating expenses;
- (4) There is evidence that the property is being used to financially benefit any officer, trustee, director, shareholder, member, or contributor of the applicant;
- (5) The property is used for the actual operation of the community activity and does not exceed an amount of property reasonably necessary for the accomplishment of the community activity;
- (6) The fees and charges for the use of the property do not effectively deny to a significant portion of the borough the privileges and benefits provided by such property;
- (7) The applicant organization is governed by a volunteer board of directors;
- (8) A tax exemption is necessary to provide the community benefit;
- (9) The existence of substantially similar community benefits through other public or private entities; or
- (10) The impact of the use on the quality of life of borough residents.

(E) Senior housing. In addition to the community purpose exemptions granted by the assessor, the property owned by the following organizations for the purposes of providing affordable housing for senior citizens is exempt from real property taxation under this section:

- (1) Cooper Landing Senior Citizen Corporation, Inc.
- (2) Homer Senior Citizens, Inc.
- (3) Nikiski Senior Citizens, Inc.

- (4) Sterling Area Senior Citizens, Inc.
- (5) Soldotna Area Senior Citizens, Inc.
- (6) Anchor Point Senior Citizens, Inc.
- (7) Ninilchik Senior Citizens, Inc.

**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.
- (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
 - (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).
- (D) Assembly determination. The assembly may by resolution grant a tax exemption, tax credit, or tax deferral at an amount 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;
 - (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) *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.
- (F) *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.

5.13.190. - Definitions.

Unless the context clearly requires a different meaning, in this chapter:

"Active volunteer" means a person meeting the training, response, and participation criteria as established by each recognized first responder service, registered fire department and/or state certified ambulance service. The criteria established by each department that defines "active volunteer" shall be on file with the Kenai Peninsula Borough assessing department. Persons serving "on-call" who are not regular borough employees as either a firefighter or emergency medical services provider shall be eligible for consideration as an active volunteer if all other criteria are satisfied.

"Assessor" means the Kenai Peninsula Borough assessor or designee;

"Damage" means harm resulting from physical injury to property, including partial or total destruction, and a diminution in the value of improvements or land resulting from restricted access to property caused by the disaster;

"Developed" means a purposeful modification of the property from its original state that effectuates a condition of gainful and productive present use without further substantial modification, including but not limited to construction, installation, or placement upon land of a structures, fixtures, roads, trails if the use for recreational purposes, or utilities;

"Disabled veteran" means a disabled person (a) separated from the military service of the United States under a condition that is not dishonorable who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as 50 percent or more by the branch of service in which that person served or by the Veteran's Administration; or (b) who served in the Alaska Territorial Guard, who is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska Territorial Guard, and whose disability has been rated as 50 percent or more;

"Disaster" has the meaning given in AS 26.23.900, as amended;

"Economic development" means an action intended to result in an outcome that causes an increase in, or avoids a decrease of, economic activity, gross domestic product, or the tax base.

"Exclusive use" means the property is being used primary or dominantly for the purpose of the exemption and not used for any other purpose;

"Gross household income" means total annual compensation, earned and unearned, from all sources, of all members of the household.

"Own and occupy" means possession of an interest in real property, which interest is recorded in the office of the district recorder, or, if unrecorded, is attested by a

contract, bill of sale, deed, or other proof in a form satisfactory to the assessor, and living on that real property as one's primary residence;

"Permanent place of abode" means a dwelling, or a dwelling unit in a multiple dwelling, including lots and outbuildings or an appropriate portion of these, that are necessary to convenient use of the dwelling unit;

"Real property" means land and rights and interests in land, including interests less than full title such as easements, uses, leases, and licenses, and includes mobile homes classified as real or for municipal tax purposes;

"Resident" means an applicant who has a fixed habitation in the State of Alaska for at least 185 days per calendar year, and, when absent, intends to return to the State of Alaska;

"Senior citizen" means a person who is 65 or older before January 1 of the exemption year;

"Serious condition or event" means a grave medical condition, out-of-state medical treatment, a family emergency requiring the presence of the party, a death in the family, or a natural disaster or emergency outside of human control;

"Spatial apportionment" means the division of a portion of real property, buildings or other property for tax exemption, tax credit or tax deferral purposes with the remaining portion being taxable;

SECTION 4. That the KPB Code of Ordinances is hereby amended by adding a new chapter to be numbered KPB 5.15, relating to Tax Appeals, which shall read as follows:

CHAPTER 5.15. - TAX APPEALS

5.15.010. - Valuation appeals.

(A) Appeal rights.

(1) Appeals by taxpayer. A person whose name appears on the assessment roll or the agent or assign of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the appellant's satisfaction.

(2) Appeals by city. A city in the Borough may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city.

(B) Appeal Deadline; Fee. No later than 30 days after the date of mailing the notice of assessment, a person contesting a property valuation must submit

to the clerk's office a written appeal specifying grounds for the appeal on a form prescribed by the Clerk. An appeal will be rejected if: (i) the appellant fails to provide a filing fee in the amount listed in borough's Schedule of Rates, Charges and Fees at the time of filing; or (ii) the appeal form is modified by the appellant. Within 3 business days of accepting the appeal, the clerk will provide each appeal to the assessor. For purposes of this section, the appeal is submitted on the date it is received in the clerk's office or, if delivered by first class mail, the date it is postmarked. An application to proceed with an appeal without a filing fee under a hardship waiver may be filed with the Clerk's office in accordance with the procedures provided in subsection (1) below. If the appeal is withdrawn before evidence is due under KPB 5.15.020 below, or if the appellant or agent of the appellant participates at hearing, then the filing fee will be fully refunded within 30 days after the hearing date.

(1) *Hardship Waiver.* An appellant may qualify for a hardship waiver if the filing fee is greater than 0.5% of the Appellant's gross household income. The request for a hardship waiver must be submitted as a sworn statement on a form prescribed by the clerk.

(2) *Returned Checks.* An appellant will be charged a fee in the amount listed in the borough's Schedule of Rates, Charges and Fees for a returned personal check on an appeal filing fee.

(3) *Agent of Property Owner.* If the party filing the appeal is an agent of the property owner, in order for an appeal to be considered timely, the appeal form must be accompanied by the property owner's notarized signature granting the authority for the agent to act on the property owner's behalf.

(C) *Request for filing deadline extension due to inability to comply.* A person who misses the 30-day valuation appeal deadline may request a deadline extension from the board of equalization by demonstrating inability to comply with the deadline. The request for extension, affidavit demonstrating an inability to comply, and the written valuation appeal must be filed with the Clerk no later than June 1 of that tax year. The board of equalization's determination will be made in accordance with KPB 5.15.040:

(1) *If the extension request is granted for a valuation appeal, the valuation appeal will be set for hearing and the appellant and the property owner will be given notice of the hearing.*

(2) *If the extension request is denied, the clerk's office shall notify the appellant and the property owner of the board's decision.*

5.15.020. - Exemption appeals—individuals or residential property.

- (A) Individuals or residential property exemptions. An applicant aggrieved by any determination of the assessor regarding an exemption applicable to residents may appeal to the board of equalization or a Superior Court within the borough.
- (B) Appeal deadline. No later than 30 days after the date of mailing of the assessor's decision, an applicant contesting a determination of the assessor regarding an individual or residential property tax exemption may submit a written appeal specifying grounds for the appeal to the clerk on a form prescribed by the clerk. An appeal will be rejected if: (i) the appellant fails to provide a filing fee in the amount listed in borough's Schedule of Rates, Charges and Fees at the time of filing for tax appeals; or (ii) the appeal form is modified by the appellant.
- (C) Request for filing deadline extension due to inability to comply. A person who missed the deadline for filing an individual or residential exemption application may request a deadline extension from the assessor by demonstrating inability to comply with the deadline. The extension request, affidavit signed by the applicant, supporting documents, and the exemption application must be filed with the clerk no later than June 1 of the year for which the exemption is sought. If the extension request is granted for the exemption application deadline, the assessor will accept the application as if timely filed.

5.15.030. - Exemption appeals—entities.

An applicant aggrieved by any determination of the assessor regarding a nonprofit religious, charitable, cemetery, hospital, educational, or community purposes exemption may file an appeal in the Kenai Superior Court within 30 days of the date of mailing of the decision.

5.15.040. - Deadline extension requests.

- (A) Inability to comply determinations. A request for an extension to a filing deadline under this chapter will be processed as follows:
- (1) An affidavit, signed by the applicant, along with any supporting documentation setting forth the reasons for the inability to comply with the appeal deadline must be filed with a request for a deadline extension based upon an inability to comply.

- (2) The assessor will be provided an opportunity to respond to the request within five business days of the clerk sending the request to the assessor.
- (3) The board of equalization chair will issue a decision on the request for an extension or may refer the request to a panel of three board of equalization members chosen by lot for a decision. The decision maker may only consider the extension request based on the documents submitted by the applicant and the assessor and may not consider any other evidence, nor consider the merits of the appeal.
- (B) Current tax year only. Determinations must be limited to the current tax year. The authority provided in this chapter to grant extensions may not be exercised so as to permit acceptance of an application or appeal other than for the current tax year. If the extension request is granted for a valuation appeal, the valuation appeal will be set for hearing and the appellant and the property owner will be given notice of the hearing. If the extension request is denied, the clerk's office shall notify the appellant and the property owner of the board's decision.
- (C) Duty of taxpayer. A failure to pick up or read mail, or to make arrangements for an appropriate and responsible person to pick up or read mail, or a failure to timely provide a current address to the office of the assessor, will not be deemed to result in an inability to comply and the appeal will not be accepted for that tax year.

5.15.050. - Grounds for appeal—Burden of proof.

- (A) Grounds for appeal. All valuation appeals to board of equalization must provide the grounds for the appeal and the appellant's opinion of value. The only grounds for appeal are: unequal, excessive, improper or under valuation of the property or an error in ownership or classification of property, based on facts that are stated in a valid written appeal.
- (B) Burden of proof. The burden of proof rests with the appellant.

An appeal that fails to comply with this section will be rejected by the clerk as being incomplete.

5.15.060. - Board of Equalization Appeal Procedure—Hearing Notice; Evidence; Motions.

- (A) Notice of hearing. The clerk, in consultation with the board chair, will notify the appellant by the method of service selected by the appellant on the appeal form, of the time and place of hearing, and will notice the assessor

by electronic service. The notices must be served no later than 25 calendar days before the date of the hearing.

(B) Evidence due date.

(1) The appellant may submit any evidence deemed relevant to the appeal. The appellant's evidence must be provided to the Clerk no later than 15 days before the appeal hearing date. Pages will be marked as "Appellant's exhibits" and numbered.

(2) The assessor will prepare for use by the board of equalization a summary of assessment data relating to each valuation assessment that is appealed. The assessor may also submit any other evidence deemed relevant to the appeal. The assessor's evidence must be provided to the Clerk no later than 15 calendar days before the appeal hearing date. Pages will be marked as "Assessor's exhibits" and numbered.

(3) The complete appeal hearing packet will include all evidence submitted by the parties. Within two business days of the evidence due date, the Clerk will serve a copy of the appeal packet to: (i) the appellant by service method selected by the appellant on the appeal form; and (ii) to the assessor.

(C) Motions. Any pre-hearing request or motion, except for a request for an extension of time under KPB 5.15.040, must be submitted to the Clerk in writing no later than seven business days before the scheduled hearing. The non-moving party will have three business days to respond to any request or motion filed with the Clerk. Any request or motion or response thereto must be accompanied by a certificate of service certifying that a true and correct copy of the filing was served on the other party to the appeal by electronic service if the party consents to email service, personal service, or U.S. mail delivery and provide the email or mailing address that was served. The following certificate of service may be used:

CERTIFICATE OF SERVICE

This is to certify that on {insert date} a true and correct copy of this document including a total of ___ pages was served via [] email [] mail [] personal delivery on the following parties at the address listed below:

[insert email, mailing, or physical address]

[Signature of individual serving documents]

[Print name of individual serving documents]

- (D) Decision. The chair of the board, or designee, is authorized to decide each submitted motion. The decision may be reviewed by the board at the discretion of the chair, or designee, as appropriate. For good cause shown, a party may submit a motion to the board no less than two business days before the scheduled hearing. In this instance, the chair, or designee, must provide the other party with a reasonable opportunity to respond to the motion prior to issuing a decision.
- (E) Appearance at hearing; requesting a continuance. A party to an appeal may appear via videoconference or teleconference, as available. A party can request a continuance of hearing only for good cause and only if the request at least 15 days prior to the hearing date unless the reason for the continuance is a serious condition or event that prevented a timely request or that arose after the deadline. A continuance may not be granted if it will cause substantial prejudice to the other party. Subject to the hearing deadline date under KPB 5.15.070(A), the chair of the board of equalization is given the discretion to determine whether to grant a request for a continuance. A continuance does not extend the evidence deadline under KPB 5.15.060.

5.15.070. - Board of Equalization—Hearing Procedure.

- (A) Hearing deadline. All appeals must be heard and decided before June 1, unless: (1) the board finds there is a good cause basis for setting a later hearing date; and (2) the later hearing date will not prejudice the appellant or the assessor.
- (B) Quorum. A quorum of the board of equalization consists of three members. A quorum must be present in order to convene and take action. Actions of the board will be by the majority of members present. The presiding officer will select the alternate member to fill a vacancy or substitute in the absence of a regular board member. If membership of the board changes while an appeal is pending the new member may participate only by making an oral or written statement on the record that the member has reviewed the record in the matter and feels qualified to render an informed and impartial decision.
- (C) Presiding officer. The board chairperson presides over the board hearing. In the absence of the chair, the vice-chairperson will preside. If both are absent, the members present will select a person to preside. The clerk will attend the hearings to record the proceedings, record votes, and administer the oaths to witnesses. An attorney will be available to advise the board.
- (D) Agenda. The presiding officer will open the board session by calling the board to order and by calling each appellant's name and asking if the appellant or agent is present. Only an agent whose name was submitted to the clerk in writing with the appellant's evidence may appear on behalf of

the appellant. The presiding officer will bring each appeal before the board in the order scheduled by the Clerk.

Each appeal hearing will be conducted in the following order:

- (1) Summary of Assessment Data (read into the record by the presiding officer);
- (2) Appellant's Opening Presentation;
- (3) Assessor's Opening Presentation;
- (4) Rebuttal by the Appellant;
- (5) Rebuttal and closing by the Assessor;
- (6) Sur-Rebuttal and closing by the Appellant.

(E) Oath. All persons presenting evidence must do so under oath, administered by the clerk.

(F) Hearing and Exhibits. The hearing will be conducted informally with respect to the introduction of evidence. Irrelevant evidence may be excluded by the presiding officer upon motion or objection of a party. Each side will have a total of no more than 15 minutes to present their case. Each side is responsible for dividing their 15 minutes between oral presentation, argument, testimony (including witness testimony), and rebuttal. The board may expand or limit the length of the hearing depending on its complexity, combine multiple parcels under appeal by the same appellant, or take other action to expedite the proceedings. Cross-examination will not be permitted during presentation of the case. If a witness testifies during presentation of either the appellant's or the assessor's case, unless excused by the board with the concurrence of the appellant and the assessor, the witness must remain available in the assembly room to be called to testify during rebuttal by the appellant and the assessor. The only exhibits that will be admitted into the record at the hearing are those exhibits provided to the clerk in accordance with KPB 5.15.020. However, at the hearing, parties may use demonstrative or illustrative exhibits, provided that all such exhibits may only be duplicates of exhibits or information provided to the board in accordance with KPB 5.15.020. Additionally, witnesses may write on a board while orally testifying to illustrate their testimony. The limitation on the use of exhibits in this section does not preclude the parties from presenting oral testimony at the hearing. The assessor may recommend changes to the existing value during the hearing.

(G) Questioning. The time required to answer questions from the board will not be charged against either party. The appellant and assessor may call and

cross-examine each other's witnesses during rebuttal. The scope of cross-examination is limited to the issues raised in direct questioning. Witness questioning or cross-examination counts against each party's total time of 15 minutes.

- (H) Access to property. If an appellant has refused or failed to provide the assessor, or designee, full access to property or records related to assessment of the property, the appellant is precluded from offering evidence on the issue or issues affected by that lack of access. Before a ruling is issued on the admissibility of such evidence, the appellant shall be provided with a reasonable opportunity by the presiding officer to present its case as to why this sanction should not be imposed, and the assessor shall have a reasonable opportunity to respond.
- (I) Closing the hearing. After the appellant and assessor have presented their cases, the hearing will be closed by the presiding officer, and no further evidence may be offered or considered in deliberations unless a member of the board of equalization asks for additional information from either party. Both parties must be given an equal opportunity to respond to any such requests for additional information.
- (J) Decision. The board may decide the appeal after the presentations, or it may defer a decision until no later than the last hearing date. The board may move to go into an adjudicative session for purposes of making a decision. Final board action will be taken by motions, after reconvening in public, that set out specific findings of fact. Final board action may not be reconsidered, amended or rescinded by the board. The motions available to the board are: motion to go into adjudicative session, motion to uphold the assessor's valuation, motion to reduce the assessment, motion to increase the assessment, motion to dismiss the appeal, motion to defer the decision, or any other motion set out in Alaska statutes and regulations governing board of equalization appeals. Only one motion may be on the floor at a time, and the board shall vote on the motions until its findings are established. The vote must be taken and entered into the permanent record of the proceedings.
- (K) Appeal. Either the appellant or the assessor may appeal the decision of the board to the superior court in the Kenai, Homer, or Seward venue district, within 30 days of the date of mailing of the board's decision, as provided by the rules of appellate procedure governing appeals from administrative agency decisions. The record on appeal is the record established at the board hearing.
- (L) Failure to appear. If, without good cause, the appellant or appellant's agent fails to appear at hearing, whether in person, telephonically or by videoconference, the board will not consider the appeal and the appeal will be dismissed and the assessor's valuation will be upheld. Good cause for

failing to appear may include a statement in writing provided by the appellant, not later than the day of the hearing, of a serious condition or event, as defined in KPB 5.15.050, that prevented the appellant or appellant's agent from appearing in person or by telephone. An appellant who fails to appear at the hearing forfeits the appeal filing fee.

5.15.080. - Board of Equalization—Organization.

- (A) Members. The board of equalization is established with five regular members selected from the public. It shall also include four alternate members who shall meet the same qualifications as a regular board member. Members of the public shall be appointed by the mayor and confirmed by the assembly on the basis of their expertise in real and personal property appraisal, the real estate market, the personal property market, and other fields related to their functions as board members. Additionally, each member shall be a resident of the Kenai Peninsula Borough. Assembly members may serve as members of the board of equalization, subject to appointment by the Assembly.
- (B) Chair. The board will select a chair and vice-chair at each first annual meeting.
- (C) Term. Board members will serve three year staggered terms.
- (D) Vacancies. A vacancy is created under the following conditions and upon a declaration of vacancy by the board, after a member:
 - (1) Fails to take office within 30 days of appointment;
 - (2) Is physically absent from the borough for a 90-day period, unless excused by the board;
 - (3) Resigns;
 - (4) Is physically or mentally unable to perform the duties of the office;
 - (5) Is removed from office;
 - (6) Misses three consecutive regular meetings unless excused;
 - (7) Is convicted of a felony or of an offense involving a violation of his or her oath of office; or
 - (8) Changes residency to a location outside of the borough for a period longer than 60 days.

A vacancy on the board will be filled by appointment as described in paragraph A of this section for the unexpired term, or for a three-year term if no unexpired term remains.

(E) Meetings. The board may be called as required for equalization matters.

(F) Compensation. Board members will be compensated at the rate of \$175.00 per day except the board chair, who will be compensated at the rate of \$200.00 per day. All requests for reimbursement will be actual expenses incurred on authorized board business. The board chair will be reimbursed at a rate of \$30.00 per hour for time spent on pre-trial requests, motions or decisions.

5.15.090. - Definitions

Unless the context clearly requires a different meaning, in this chapter:

"Assessor" means the Kenai Peninsula Borough assessor or designee

"Good cause" means adequate grounds based on a serious condition or event beyond a party's control to justify a party's request or failure to act.

"Gross household income" means total annual compensation, earned and unearned, from all sources, of all members of the household.

"inability to comply" means that the failure to timely appeal was based upon a serious condition or event beyond the taxpayer's control.

"Irrelevant evidence" means evidence or information that is not material to or does not effect a property's valuation or exemption determination.

"Serious condition or event" means a grave medical condition, out-of-state medical treatment, a family emergency requiring the presence of the party, a death in the family, or a natural disaster or emergency outside of human control.

SECTION 6. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances will not be affected

SECTION 7. That this ordinance shall become effective at 11:59 PM on December 31, 2025.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF * 2025.**

Peter Ribbens, Assembly President

ATTEST:

Michele Turner, CMC, Borough Clerk

Yes:

No:

Absent: