

Introduced by:	Haggerty, Mayor
Date:	01/21/14
Hearing:	02/25/14
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2014-05**

**AN ORDINANCE INCREASING THE OCCUPANCY REQUIREMENTS OF THE  
SENIOR CITIZENS AND DISABLED VETERANS EXEMPTION IN KPB 5.12.105 AND  
THE RESIDENTIAL REAL PROPERTY EXEMPTION IN KPB 5.12.115 FROM 183  
DAYS TO 185 DAYS PER YEAR TO BE CONSISTENT WITH EACH OTHER AND  
WITH PERMENANT FUND DIVIDEND RESIDENCY REQUIREMENTS**

**WHEREAS,** AS 29.45.030(e) requires that the first \$150,000 in value of eligible residential property owned and occupied as a permanent place of abode by a resident 65 years of age or older, or their surviving spouse who is at least 60 years old, be exempt from taxation; and

**WHEREAS,** AS 29.45.030(f) allows a municipality to require, by ordinance, that an individual also meet the requirements for the permanent fund dividend (PFD) in order to qualify for the senior exemption, whether or not they have applied for the PFD; and

**WHEREAS,** AS 29.45.050 authorizes a municipality to enact an optional residential property exemption not to exceed \$50,000; and

**WHEREAS,** KPB 5.12.105 establishes the senior exemption in the borough, and contains the requirements for eligibility; and

**WHEREAS,** in 1995 the assembly repealed and reenacted KPB 5.12.105 to specify requirements for eligibility, including the presumption that property is not a “primary residence and permanent place of abode” if the applicant occupied it for less than 183 days during the previous year unless the applicant could demonstrate otherwise, and defined “resident” as a person who has a fixed habitation in the State of Alaska for at least 183 days per calendar year; and

**WHEREAS,** in 2006 the assembly amended KPB 5.12.105 to require that exemption applicants also demonstrate eligibility for the PFD whether or not they applied for the PFD as a way to verify residency, in accordance with AS 29.45.030(f); and

**WHEREAS,** AS 43.23.008(a)(17), which addresses allowable absences for PFD eligibility provides that Alaska residents may be absent from the state not more than 180 days unless an exception is demonstrated, meaning residents must be present in state at least 185 days; and

**WHEREAS,** KPB 5.12.105 and AS 43.23.008 are currently inconsistent in terms of how the laws define residency; and

**WHEREAS,** amending KPB 5.12.105 to require applicants to be present in the state at least 185 days will create consistency between borough code and the statutes that are cited by the code; and

**WHEREAS,** KPB 5.12.115 establishes an exemption of the first \$50,000 of assessed value of “a single piece of residential property owned and occupied by the owner of record as the owner’s permanent place of residence in the borough;” and

**WHEREAS,** also amending KPB 5.12.115 to require applicants for the residential exemption to occupy their home for 185 days will create internal consistency within borough code, which is especially important when the assessor is evaluating an applicant’s eligibility for multiple exemptions; and

**WHEREAS,** this amendment does not modify or negate the effect of Initiative Ordinance 2013-001 which increased the residential exemption from \$20,000 to \$50,000; and

**WHEREAS,** this ordinance will not require those who already qualify for the residential property tax exemption to reapply as long as they continue to meet the requirements including the new 185 day occupancy requirement;

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

**SECTION 1.** That KPB 5.12.105(F) is hereby amended as follows:

**5.12.105. Real property tax—Exemptions—Senior citizens, disabled veterans and surviving spouses thereof.**

...

F. The assessor may presume that property has not been occupied as a primary residence and permanent place of abode if the applicant occupied it for less than 185 [183] days during the previous year unless the applicant provides satisfactory evidence that he or she meets the statutory criteria for an allowable absence under AS 43.23.008 as now enacted or may be hereinafter amended.

**SECTION 2.** That KPB 5.12.105(G)(6) is hereby amended as follows:

**5.12.105. Real property tax—Exemptions—Senior citizens, disabled veterans and surviving spouses thereof.**

...

G. Definitions

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6. For purposes of this section, "*resident*" means an applicant who has a fixed habitation in the State of Alaska for at least 185 [183] days per calendar year, and, when absent, intends to return to the State of Alaska.

**SECTION 3.** That the second sentence of KP.B 5.12.115(A) is hereby amended as follows:

**5.12.115. Real property tax—Exemptions—Residential real property.**

- A. The first \$50,000 of assessed valuation of a single parcel of residential property owned and occupied by the owner of record as the owner's permanent place of residence in the borough, shall be exempt from the borough tax levy on real property within the Kenai Peninsula Borough.

The assessor may presume that the property has not been occupied as the owner of record's primary residence and permanent place of abode, if the owner of record occupied it for less than 185 [183] days during the previous year. If the current owner of record can provide the assessor with satisfactory evidence that the lack of occupancy was for medical reasons, the exemption may be granted.

**SECTION 4.** Taxpayers who currently receive the residential property exemption under KP.B 5.12.115 are not required to reapply for the exemption provided the property continues to qualify based on information made available to the Assessor. Nothing in this section shall preclude the assessor from exercising his discretion to require an owner to file an application for this exemption.

**SECTION 5.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 25TH DAY OF FEBRUARY, 2014.**

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Hal Smalley, Assembly President

ATTEST:

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Johni Blankenship, MMC, Borough Clerk

Yes: Bagley, Haggerty, Johnson, McClure, Ogle, Pierce, Smith, Wolf, Smalley  
No: None  
Absent: None