

Introduced by:	Mayor
Date:	06/07/16
Hearings:	06/21/16 and 07/26/16
Action:	Postponed as Amended to 07/26/16
Vote:	8 Yes, 0 No, 1 Absent
Date:	07/26/16
Action:	Enacted as Amended
Vote:	7 Yes, 1 No, 1 Absent
Election Date:	10/04/16
Certification Date:	10/11/16
Defeated by the Voters:	71.43% No, 28.57% Yes

**KENAI PENINSULA BOROUGH
ORDINANCE 2016-24**

**AN ORDINANCE AMENDING KPB 5.12.105 TO ALLOW FOR A PHASE-OUT OF
THE OPTIONAL SENIOR CITIZEN EXEMPTION FOR NEW APPLICANTS BY THE
YEAR 2024, SUBJECT TO VOTER APPROVAL**

- WHEREAS,** AS 29.45.030 contains numerous property tax exemptions that the borough is required to recognize, and AS 29.45.050 lists optional property tax exemptions that the borough is allowed to offer; and
- 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 29.45.050(i) allows a municipality to provide an optional senior citizen exemption that exempts from taxation the value of eligible residential property in excess of \$150,000 upon approval of the voters; and
- WHEREAS,** in October 1986 the Kenai Peninsula Borough voters approved an unlimited senior exemption for qualifying property under AS 29.45.050; and
- WHEREAS,** in the regular election held October 2, 2007, the voters approved a proposition that limited the combined mandatory and optional senior exemptions to a maximum of \$300,000; and
- WHEREAS,** in addition to the senior property tax exemptions, AS 29.45.050(a) authorizes a municipality to exempt up to \$50,000 of the value of residential property by ordinance ratified by the voters; and
- WHEREAS,** in the October 1, 2013, regular borough election, voters approved a citizen initiative proposition increasing the optional residential exemption in the borough from \$20,000 to \$50,000; and

WHEREAS, every parcel that qualifies for the senior citizen exemption would appear to qualify for the additional \$50,000 residential property tax exemption as the requirements are virtually identical except that the senior citizen exemption has minimum age requirements; and

WHEREAS, when the residential exemption of \$50,000 is stacked on the mandatory senior exemption of \$150,000 and the optional senior exemption of \$150,000, the total exemption is \$350,000; and

WHEREAS, the percentage of Kenai Peninsula residents age 65 and older is growing; and

WHEREAS, the State of Alaska, Department of Labor's *Alaska Population Projections 2015 to 2045*, published in April of 2016, estimates the following number of seniors and population percentage of seniors for the Kenai Peninsula Borough:

	2015	2020	2025	2030
Projected number of seniors (65 years or older)	8,594	11,325	13,720	14,880
Percent of borough population	14.8 %	18.7 %	21.8 %	23.0 %

WHEREAS, these projections show the number of borough residents age 65 and older almost doubling by 2030, to nearly one-quarter of the population; and

WHEREAS, with the decline in state programs and financial assistance to municipalities, the borough will face increasing pressure to provide public services and will need additional revenues to meet the community's needs; and

WHEREAS, the steadily increasing number of residents qualifying for the optional senior exemption shifts a growing burden of borough finances onto other borough residents; and

WHEREAS, many pre-65-year-old borough residents have factored these exemptions into their retirement planning, and an orderly phase-out of the optional senior exemption would allow time to incorporate this change into their planning; and

WHEREAS, it is reasonable for the borough to eliminate the optional senior exemption for applicants who turn 65 years old on or after January 1, 2024, while reducing the amount of the optional exemption for new applicants between January 1, 2018, and December 31, 2023.

WHEREAS, phasing out the optional senior exemption does not modify the AS 29.45.030 mandatory senior exemption of \$150,000; and

WHEREAS, the proposed phase-out of the optional senior exemption does not affect the residential property exemption of \$50,000; and

WHEREAS, qualifying seniors after 2024 would be able to apply for the residential exemption and the mandatory senior exemption for a combined total of \$200,000; and

WHEREAS, senior citizens facing a hardship in paying their property tax bills would still be able to apply for the hardship exemption set forth in KPB 5.12.105(I);

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

SECTION 1. That KPB 5.12.105 is hereby amended as follows:

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

A. Senior Citizen –Mandatory Exemption. A single parcel of real property owned and occupied as the primary residence and permanent place of abode of a resident 65 years of age or older, or a resident at least 60 years old who is the widow or widower of such person, is exempt from taxation on the first \$150,000 of assessed value. [AS SET FORTH IN SUBSECTIONS 1 AND 2 OF THIS SECTION.] The limitation to a single parcel shall apply unless the applicant has applied for and received a determination that any additional parcel proposed for exemption qualifies as a subsidiary parcel eligible for inclusion as part of the primary residence and permanent place of abode under state law. [IN NO EVENT SHALL AN EXEMPTION BE ALLOWED FOR A TOTAL VALUE IN EXCESS OF \$300,000.00 FOR ALL PARCELS INCLUDED UNDER THE EXEMPTION, UNLESS A HARDSHIP IS GRANTED AS DESCRIBED IN KPB 5.12.105(I).]

1. [QUALIFYING PROPERTY OF A RESIDENT 65 YEARS OF AGE OR OLDER, OR A RESIDENT AT LEAST 60 YEARS OLD WHO IS THE WIDOW OR WIDOWER OF SUCH PERSON, IS EXEMPT FROM TAXATION IN THE MAXIMUM AMOUNT OF \$300,000.00;]
2. [A DISABLED VETERAN, OR A RESIDENT AT LEAST 60 YEARS OLD WHO IS THE WIDOW OR WIDOWER OF SUCH PERSON, IS EXEMPT FROM TAXATION IN AN UNLIMITED AMOUNT.]

B. Senior Citizen –Optional Exemption. A parcel of real property which qualifies for the mandatory exemption set forth in KPB 5.12.105(A) is further exempt from taxation as set forth in subsections 1, 2, or 3 of this section.

1. If the exemption applicant is 65 years of age on or before December 31, 2017, the parcel shall qualify for an optional senior exemption in the amount of \$150,000; or

Commented [LP1]: Extra space

If the exemption applicant is 65 years of age on or before December 31, 2020, the parcel shall qualify for an optional senior exemption in the amount of \$100,000; or

3. If the exemption applicant is 65 years of age on or before December 31, 2023, the parcel shall qualify for an optional senior exemption in the amount of \$50,000.

If the exemption applicant turns 65 years of age on or after January 1, 2024, the parcel shall not qualify for the optional senior exemption.

- C. Disabled Veteran--Exemption. A single parcel of real property owned and occupied as the primary residence and permanent place of abode of a disabled veteran, or a resident at least 60 years old who is the widow or widower of such person, is exempt from taxation in an unlimited amount. The limitation to a single parcel shall apply unless the applicant has applied for and received a determination that any additional parcel proposed for exemption qualifies as a subsidiary parcel eligible for inclusion as part of the primary residence and permanent place of abode under state law.

- [B]D. 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 under paragraphs A or B of this section the individual applying for the exemption must also meet requirements under one of the following two paragraphs:

1. The individual shall be eligible for a permanent fund dividend under AS 43.23.005 for that same year or for the immediately preceding year; or

If the individual has not applied or does not apply for one or both of the permanent fund dividends, the individual would have been eligible for one of the permanent fund dividends identified in (1) of this subsection had the individual applied.

- [C]E. Only one 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.

- [D]E. Real property may not be exempted under this subsection if the assessor determines, after notice and hearing to the parties, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption.

[E]G. No exemption under this section may be granted except upon written application on a form prescribed by the assessor. The application must be postmarked by or hand-delivered to the assessing department no later than March 31 of the tax year for which the exemption is sought. If March 31 does not fall on a borough business day, then the application is timely filed if postmarked or hand-delivered during the next borough business day after March 31. A qualified senior citizen, disabled veteran, or surviving widow or widower of either, need not file such 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. Additionally, a qualified senior citizen or qualifying surviving widow or widower must meet the requirements for permanent fund eligibility as described above in KPB 5.12.105([B]D) in order to continue to be qualified without filing an application for successive tax years. Exemption applications filed after March 31 of the tax year must be accompanied by a signed affidavit stating good cause for failure to comply with the March 31 filing deadline. If a qualified claimant files an untimely application, the assembly may, for good cause shown, waive the claimant's failure to make timely application and authorize the Assessor to accept the application as if timely filed. An application, whether timely filed or filed after a grant of extension of time to file, may be held open for consideration through the following three years if eligibility for the exemption is contingent upon a determination by another entity. If a failure to timely file has been waived and the application for exemption is approved, the amount of tax that the claimant has already paid, if any, for the year the property would have been eligible for exemption shall be refunded to the claimant.

1. If property is occupied by a person other than the eligible applicant and his or her spouse and minor children, this exemption applies only to the portion of the property occupied by the eligible applicant and his or her spouse and minor children as a permanent place of abode.

It shall be the responsibility of every person who obtains an exemption under this section to notify the borough assessor of any change in ownership, residency, permanent place of abode or status of disability. A disabled veteran who has less than a permanent disability must submit an official disability percentage letter each year prior to March 31 showing a 50 percent or greater disability. Property owners shall notify the borough when the requirements for exemption are no longer met.

3. It shall be the responsibility of every person who obtains a property tax exemption under this chapter to notify the borough assessor of any change in ownership, property use, residency, permanent place of abode, status of disability, or other factor

affecting qualification for the exemption. If the assessor determines that the property is not eligible for this exemption, all taxes, penalty, and interest due on the property for all tax years beginning with the year the property should have been subject to taxation shall be immediately due and owing.

4. Good cause shown. If an otherwise qualified claimant is unable to comply with the March 31 deadline for filing an application, the assembly may, by resolution, waive the claimant's failure to file the application by such date for good cause shown, and authorize the Assessor to accept the application as if timely filed. For purposes of this subsection, "good cause" means an inability to comply with the March 31 deadline that was caused by a serious condition or extraordinary event beyond the taxpayer's control. A serious condition or extraordinary event may include a serious medical condition or other similar serious condition or extraordinary event. Absent extraordinary circumstances, 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 Department of Assessing will not be deemed to result in an inability to comply. This section does not create any private rights whatsoever, nor does it in any manner require the mayor or any assembly member to introduce or approve any such resolution.

[F]H. 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 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.

[G]I. Definitions.

1. For purposes of this section "real property" includes mobile homes whether classified as real or personal property for municipal tax purposes.
2. For purposes of this section, to be eligible for inclusion, a "subsidiary parcel" means the smallest portion of land which is adjacent to the primary parcel, and is necessary for the residential use of the primary parcel. Examples of a subsidiary parcel use which would qualify as necessary and beneficial for the residential use of the primary parcel include, but are not limited to, subsidiary parcels containing a well, septic system, reasonable driveway, or storage building/garage.

3. For purposes of this section a "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.
4. For purposes of this section, "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.
5. For purposes of this section, "permanent place of abode" means a dwelling in which the person resides in the year prior to the exemption year and when absent, the dwelling is not leased or rented to another. This includes but is not limited to a mobile home or condominium and includes lots or outbuildings, or an appropriate portion thereof, which are necessary for the use of the dwelling unit.
6. For purposes of this section, "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.
- [7. FOR PURPOSES OF THIS SECTION, "SENIOR CITIZEN" MEANS A PERSON WHO IS 65 OR OLDER BEFORE JANUARY 1 OF THE EXEMPTION YEAR.]

[H]J. Penalties and Enforcement: In addition to any criminal penalties imposed by law, if the borough assessor finds that an individual, in claiming a senior citizen exemption for the value of property greater than \$150,000.00 willfully misrepresents, exercises gross negligence with respect to, or recklessly disregards a material fact pertaining to, eligibility, the assessor may issue an order against the individual for the (1) forfeiture of the exemption for that year; and (2) imposition of a civil fine of up to \$1,000.00 for each violation; and (3) loss of eligibility to receive the next five years' exemptions following the forfeited exemption to the maximum extent such forfeiture is allowed by state statute.

An individual receiving an order described above may appeal the order to the Board of Equalization within thirty days of the date such order was mailed, and in accordance with the procedures contained in KPB Chapter 5.12 for appeals to the Board of Equalization

[I]K. Hardship Exemption.

1. To qualify for a hardship exemption beyond the exemptions set forth in KPB 5.12.105(A) & (B) [FIRST \$300,000.00 OF ASSESSED VALUE OF REAL PROPERTY UNDER AS 29.45.030(E)], the applicant must apply by completing State Form 21-400c and submitting the form, including necessary attachments, to the borough assessor before July 1 of the exemption year.
2. An eligible applicant may qualify for a hardship exemption beyond the exemptions set forth in KPB 5.12.105(A) & (B), [FIRST \$300,000.00 OF ASSESSED VALUE OF REAL PROPERTY] if the amount of the applicant's tax bill is greater than 2 percent of the applicant's gross household income. An exemption will be granted only for that portion of the applicant's taxes in excess of 2 percent of the gross household income. "Gross household income" means total annual compensation, earned and unearned, from all sources, of all members of the household.

SECTION 2. That a ballot proposition shall be placed before borough voters at the next regular election to read as follows:

PROPOSITION No. _____

Shall Ordinance 2016-24, amending KPB 5.12.105 to allow for a phase-out and eventual elimination of the optional senior citizen property tax exemption of \$150,000 for applicants who turn 65 years of age on or after January 1, 2024, be ratified? This ordinance would not change the senior exemption currently being received by eligible senior citizens provided they remain eligible.

Commented [LP2]: yphenate, the match the rest of the document.

Commented [TM3R2]:

YES _____

A "yes" vote means that the optional senior exemption of \$150,000 will be eliminated for any applicant who turns 65 years of age on or after January 1, 2024, and that the amount of the exemption will be reduced in two steps for seniors who reach age 65 between January 1, 2018, and December 31, 2023.

NO _____

A "no" vote means that the amount of optional senior exemption shall not be phased out over a seven-year period and eliminated for seniors who reach age 65 on or after January 1, 2024.

SECTION 3. That Section 2 shall become effective immediately upon enactment of this ordinance. Section 1 of this ordinance shall become effective January 1, 2017, only if the proposition contained in Section 2 is approved by a majority of voters voting on the question in the regular election of October 4, 2016.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 26TH DAY OF JULY, 2016.

Blaine Gilman, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

06/21/16 Vote on motion to postpone as amended to 07/26/16:

Yes: Bagley, Cooper, Dunne, Holmdahl, Johnson, Knopp, Ogle, Gilman

No: None

Absent: Welles

07/26/16 Vote on motion to enact as amended:

Yes: Bagley, Cooper, Dunne, Holmdahl, Johnson, Knopp, Gilman

No: Ogle

Absent: Welles