

Introduced by:	Mayor
Date:	07/26/16
Hearing:	08/23/16
Action:	Enacted
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2016-28**

**AN ORDINANCE AMENDING SECTIONS OF KPB CHAPTER 5.12 TO IMPROVE
EFFICIENT AND EQUITABLE ADMINISTRATION OF THE BOROUGH PROPERTY
TAX CODE**

- WHEREAS,** efficient and equitable administration of the borough property tax code is in the public's best interests; and
- WHEREAS,** efficient administration includes keeping current in best practices, such as allowing communication and document submittals by electronic transmission such as e-mail and e-mail attachments, rather than mandating the U.S. mail or fax machines or physical delivery to borough offices; and
- WHEREAS,** efficient administration includes allowing a larger pool of alternates for the Board of Equalization, and an amended definition of a quorum, to better ensure timely adjudication of appeals to the board; and
- WHEREAS,** clear definitions in code provide the public with the information needed to determine their rights and responsibilities for property taxes and equitable treatment of taxpayers, such as an improved definition of "community purpose" to qualify for a property tax exemption; and
- WHEREAS,** it is in the public's interest that recipients of a residency-based property tax exemption in the borough are not also receiving a similar residency-based tax exemption and financial benefit in another city, borough, county or state; and
- WHEREAS,** equitable assessment and collection of personal property taxes would be enhanced if property owners would report such sales to the borough assessing office, to help ensure that the new owner of the property receives proper notice of any tax liability in a timely manner; and
- WHEREAS,** buyers of personal property should be allowed a reasonable period to pay their tax liability after they are first notified of the tax due, if they did not receive an annual tax reporting form from the borough within the normal schedule due to the borough's lack of knowledge of the property sale; and

WHEREAS, the \$20 tax delinquency threshold in borough code for commencing property tax foreclosures is too low when measured against the borough expense of such legal actions, and it would be more appropriate and efficient to direct borough resources to cases with at least two years of tax delinquency or more than \$200 owed;

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

SECTION 1. That KPB 5.12.050(F) is hereby amended as follows:

5.12.050. Valuation and flat tax appeal procedure.

...

- F. After the time for filing valuation appeals has expired and after consultation with the assessor, and at the direction of the chair of the board of equalization, the borough clerk shall schedule meetings of the board of equalization. The clerk on behalf of the assessor shall schedule meetings of the board of equalization. The clerk on behalf of the assessor shall notify each appellant by electronic transmission, if the appellant consents to electronic notice, or first class mail of the time and place of hearing and board of equalization procedures at least 15 days before the evidence or documents required by KPB 5.12.055(A) and (B) must be provided to the borough clerk. A party can request a continuance of hearing only for good cause and the continuance must be requested no later than 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. For the purposes of this subsection, a serious condition or event may include a serious medical condition, a serious family emergency requiring the presence of the party, a death in the family, or other similar serious condition or event. Additionally, a continuance shall not be granted if it will cause substantial prejudice to the other party. The chair of the board of equalization is given the discretion to determine whether to grant a request for a continuance. A continuance, however, does not extend the deadline for any party to file any documents or evidence under KPB 5.12.055(A) or (B), if the application was not filed with the borough clerk before the original deadline for filing such documents or evidence. If the application for a continuance was filed before the original deadline for filing documents and the application is denied, the application for a continuance will not extend the original deadline for filing documents. A hearing shall be scheduled for all notices of appeal unless the notice is clearly not based on one or more of the grounds stated in KPB 5.12.050(E) as determined by the BOE chair. When a hearing is not scheduled, the

borough clerk shall notify the person who submitted the notice that a hearing will not be scheduled.

...

SECTION 2. That KPB 5.12.052(A) is hereby amended as follows:

5.12.052. Board of equalization.

- A. The board of equalization is established with five regular members selected from the public. It shall also include [TWO] 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.

SECTION 3. That KPB 5.12.055 is hereby amended as follows:

5.12.055. Record—Discovery—Motions—Written presentation—On appeal.

- A. *Discovery:* No more than 20 days after a written appeal is filed, the assessor and the appellant may submit interrogatories and requests for production to the other party. All such interrogatories and requests must seek information relevant to the valuation or, in the case of a flat tax appeal, an alleged error in ownership or classification of property. A party may not submit more than ten interrogatories and ten requests for production, including all discrete subparts of each interrogatory and request for production, to the opposing party. Responses shall be due no later than ten days after the request has been served by fax, in person, or mail upon the opposing party. For good cause shown the board chair may grant additional time to respond and authorize additional interrogatories and requests for production. In determining good cause for this purpose, the chair shall consider the burden and expense on the party to timely produce the requested information, whether the party seeking the extension has exercised due diligence in attempting to respond timely, whether the party seeking additional information has exercised due diligence in attempting to gain the necessary information from other sources, the complexity of the case, prejudice to the other party for allowing additional time and/or requests for information, and other factors

deemed relevant by the chair. Any request for an extension or for additional discovery that is granted to one party shall also be equally granted to the other party. In any event, all responses must be delivered to the requesting party no later than 20 days before the board hearing on the appealed assessment.

- B. Upon receipt of a written appeal, the assessor shall provide documents or evidence relating to each assessment that is appealed, including a summary of assessment data, to the borough clerk, for the board of equalization, no later than 15 days before the board hearing on the appealed assessment. Pages shall be marked as assessor's exhibits and numbered. The borough clerk shall mail a copy of the documents or evidence to the appellant by first class mail or email, if appellant consents to electronic service, within [ONE] two business days of receipt.
- C. The appellant shall provide a copy of any documents or evidence relating equalization, no later than 15 days before the board hearing on the appealed assessment. Pages shall be marked as appellant's exhibits and numbered. The clerk shall provide a copy of the appellant's documents to the assessor within two business days of receipt.
- D. The appellant's case may be made by written presentation, if the appellant so elects, the pages shall be marked as appellant's brief and numbered. The written presentation, along with any documents and evidence referred to in 5.12.055(B), must be provided to the borough clerk, for the board of equalization, no later than 15 days before the board hearing on the appealed assessment. The clerk shall provide a copy of appellant's filings to the assessor upon receipt.
- E. Except as provided below, all motions submitted by either party to the board of equalization must be submitted to the borough clerk in writing no later than seven days before the scheduled hearing. The opposing party shall have three business days to respond to any motion filed with the clerk. Any motion or opposition thereto must be accompanied by a certificate of service certifying that a true and correct copy of the motion or opposition was served on the opposing party by fax, electronic transmission if the party consents to electronic transmission, in person, or first-class mail at the last known mailing address, email address, or fax number. The chair of the board, or in his or her absence, the vice-chair, is authorized to decide each submitted motion. The decision may be reviewed by the board at the discretion of the chair or vice-chair, as appropriate. For good cause shown, including without limitation the bad faith conduct of the other party or new evidence which could not reasonably be obtained before the seven-day deadline with the exercise of due diligence, 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 in the chair's absence the vice-chair, shall provide the opposing party with a reasonable opportunity to oppose the motion prior to issuing a decision.

SECTION 4. That KPB 5.12.060 is hereby amended as follows:

5.12.060. Board of equalization procedure.

- A. All appeals must be heard and decided before June 1, unless the board finds a hearing after this date will not prejudice the appellant and the delay is administratively justified or the appellant has requested a later hearing date. The board must also find that the proposed hearing date will enable the assessor to substantially comply with the requirement that the assessment roll be certified by June 1. The meetings of the board may be scheduled either on weekends, during business hours, or during evening hours. In no event may an appeal hearing begin after midnight.
- B. A quorum of the board must be present in order for the board of equalization to convene and take action. Actions of the board shall be by the majority of members present. A quorum consists of [FIVE] three members. The presiding officer shall 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 and proceedings thus far and feels qualified to render an informed and impartial decision.
- C. The chairperson shall preside over the board hearing. In the absence of the chairperson, the vice-chairperson shall preside. If both are absent, the members present shall select a person to preside. The borough clerk shall attend the hearings to record the proceedings, record votes, and administer the oaths to witnesses[, AND PREPARE THE DECISION FORMS]. The borough attorney or designee shall attend the hearing to advise the board.
- D. The [PRESIDENT] presiding officer shall open the board session by calling the board to order[, READING A SUMMARY OF PROCEDURES FOR THE BOARD,] and by calling each appellant's name and asking if the appellant or representative is present. The [PRESIDENT] presiding officer shall bring each appeal before the board in the order scheduled by the borough clerk.

Agenda. Each appeal shall be conducted in the following order:

- 1. Summary of Assessment Data (read into the record by the presiding officer);

- 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. If the appellant or representative is not present when called, the board shall consider any written presentation, evidence, and documents presented to it pursuant to KPB 5.12.055 and thereafter proceed according to the remaining applicable provisions of this chapter.
- F. All persons presenting evidence shall do so under oath, administered by the borough clerk.
- G.
 1. *Hearing:* The hearing shall be conducted informally with respect to the introduction of evidence. Irrelevant evidence may be excluded by the presiding officer. Each side shall have a total of no more than [30] 15 minutes to present their case. Each side shall be responsible for dividing their [30] 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, 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.
 2. *Exhibits:* The only exhibits that shall be admitted into the record at the hearing are those exhibits provided to the clerk in accordance with KPB 5.12.055(B) through KPB 5.12.055(D). 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 5.12.055(B) through KPB 5.12.055(D). Additionally, witnesses may write on a board while orally testifying to illustrate their testimony. The limitation on the use of exhibits in this section shall not preclude the parties from presenting oral testimony at the hearing.
 3. *Failure to respond to requests:* Failure to timely provide information requested pursuant to these rules without good cause shown shall, upon notice from the requesting party to the clerk and the other party, prevent the party failing to provide the information from including such information in the written evidence or using such evidence at the hearing. Before a ruling is issued on this matter, the party failing to

provide the requested information shall be provided with a reasonable opportunity by the board chair to present its case as to why this sanction should not be imposed, and the opposing party shall have a reasonable opportunity to respond.

- H. The presiding officer shall first present a brief, factual summary of assessment data concerning the appealed property. This summary is not charged against the time allowed the assessor to present his or her case.
- I. The appellant or representative then presents the appellant's case when called by the presiding officer. At this time the appellant may call the assessor or appropriate appraiser or any other witnesses the appellant intends to present as a witness at this time. The scope of direct questioning is limited to the issues in dispute. Should the appellant wish, and prior to beginning the presentation, a portion of the [30] 15 minutes allowed may be reserved for rebuttal, sur-rebuttal, and closing arguments. At the conclusion of the appellant's presentation, board members may question the appellant or their witnesses.
- J. The assessor or designee then presents the borough's case when called by the presiding officer. At this time the assessor may call the appellant or any other witnesses the assessor intends to present as a witness. The scope of direct questioning is limited to the issues in dispute. Should the assessor wish, and prior to beginning the presentation, a portion of the [30] 15 minutes allowed may be reserved for rebuttal, and/or closing argument. At the conclusion of the assessor's presentation, board members may ask questions of the assessor or their witnesses.
- K. The time required to answer questions from the board shall not be charged against either party.
- L. If the appellant or the assessor has reserved a portion of their [30] 15 minutes, each may then present rebuttal evidence, with the appellant proceeding first. 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.
- M. The assessor may recommend changes to the existing value during the hearing.
- N. After the appellant and assessor have presented their cases, the hearing shall be closed by the presiding officer, and no further evidence shall be offered or considered in deliberations unless a member of the board of equalization asks for additional information from either party. Both parties shall be given an equal opportunity to respond to any such requests for additional information.

- O. 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 shall be taken by motions, after reconvening in public, that set out specific findings of fact, and shall not be reconsidered, amended or rescinded by the board. The motions available to the board are: 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.
- P. The burden of proof is on the appellant. The only grounds for the board to adjust the assessment are proof of unequal, excessive, improper, or under valuation, based on facts proven at the appeal hearing. The board may not alter the assessment of a property unless a timely written appeal has been filed concerning the property. If an appellant has refused or failed to provide the assessor or the assessor's agent full access to property or records related to assessment of the property, upon notice from the assessor to the appellant and the clerk, the appellant shall be 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 [BOARD CHAIR] 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.
- Q. After the last scheduled appeal is heard, the presiding officer shall adjourn the session.
- R. The attorney for the board shall prepare the board's decisions. The borough clerk shall [PREPARE AND] certify the decisions of the board, and shall keep the decisions on file as part of the public record. The clerk shall promptly mail a copy of the board's decision to each appellant, by certified mail, and deliver a copy to the borough assessor.
- S. Either the appellant or the assessor may appeal the decision of the board to the superior court in the Kenai 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.

- T. All parties or their agents and witnesses must appear in person at the BOE hearing unless good cause, such as a serious medical condition that prevents travel, or where the reasonable travel expenses clearly outweigh the potential benefit of the appeal is shown. Telephonic participation may be denied if it would cause substantial prejudice to the other party. Any request for telephonic participation must be [DELIVERED TO] received by the borough clerk at 144 North Binkley Street, Soldotna, Alaska, no later than 15 days before the hearing, unless good cause is shown for filing a late request. Good cause for filing a later request may include a serious medical condition, a serious family emergency requiring the presence of the party, a death in the family, or other similar serious condition or event that either prevented the party from filing a timely request for telephonic participation or that arose after the deadline for filing the request. If telephonic participation is approved, then the party requesting telephonic participation shall be responsible for arranging the telephone call and for payment of associated telephone charges. The chair of the board of equalization is given the discretion to determine whether to grant a request for telephonic participation.

SECTION 5. That KPB 5.12.070 is hereby amended as follows:

5.12.070. Tax statements—Date for mailing.

The finance director shall by July 1st mail tax statements to the persons listed as owners of record on the tax rolls [BY JULY 1ST,] setting out the levy, dates when taxes are payable and delinquent, and penalties and interest.

SECTION 6. That KPB 5.12.080(F) is hereby amended as follows:

5.12.080. Taxes—Payments due and delinquent when—Delinquency penalties.

...

- F. On supplemental billings where there is only one installment, 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 [IN ACCORDANCE WITH KPB 5.12.190(A)].

SECTION 7. That KPB 5.12.100 is hereby amended as follows:

5.12.100. Real property tax—Exemptions—Community purposes property—Conditions.

- A. Property of an organization not organized for business or profit-making purposes and used exclusively for community purposes is exempt from taxation under this chapter. Property or a part of the property from which rentals or income are derived is not exempt from taxation unless the income derived from the rentals does not exceed the actual cost to the owner of the use by the renter.
- B. No exemption under this section may be granted except upon written application on a form prescribed by the assessor. The applicant/owner must file the application no later than March 31 of the tax year for which the exemption is sought.
- [B]C. The assessor may from time to time require such information as is reasonably necessary to determine the character of the organization and the nature of uses made. The exemption provided in this section is not applicable unless the required information is provided to the assessor.
- D. Definitions.
1. For purposes of this section “community purpose” means the exclusive use of property within the borough based upon the culture and demographics of a particular area and which benefits the general public in a manner that enhances the quality of life through programs, public facilities, or services.
2. For purposes of this section “used exclusively for a community purpose” means the property benefits the borough community and does not confer more than a de minimus private benefit to the non-profit organization that owns it or to the individuals that control that organization. “Exclusive use” includes a requirement for spatial apportionment if the property is used for both exempt and nonexempt purposes.
- [C]E. In addition to the community purpose exemptions granted by the assessor, the property of the following organizations used to provide senior citizen housing shall be exempt from real property taxation under this section:
1. Cooper Landing Senior Citizen Corporation, Inc.
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.

SECTION 8. 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. A single parcel of real property owned and occupied as the primary residence and permanent place of abode is exempt from taxation 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. 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 paragraph A 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. 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. 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. 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) 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. 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. 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.
- [G]H. Definitions.
1. For purposes of this section "*real property*" includes mobile homes whether classified as real or personal property for municipal tax purposes.

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]I. 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]J. Hardship Exemption.

1. To qualify for a hardship exemption beyond the 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.

An eligible applicant may qualify for a hardship exemption beyond the 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 9. That KPB 5.12.115 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 real 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 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.

- B. No exemption under this section may be granted except upon written application on a form prescribed by the assessor. The owner of record must file the application for this exemption with the assessor no later [THAT] than January 15th of the assessment year for which the exemption is sought. The owner of record shall not be required to file an updated application for successive years unless there is a change in ownership or occupancy of the residence.
- C. 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.

SECTION 10. That KPB 5.12.180 is hereby amended as follows:

5.12.180. Personal property tax—Returns—Filing required when.

Every person owning or having an interest in or holding or controlling personal property subject to personal property tax in the borough, shall file a return with the assessor on or before February 15th of each year, said return to be in the form adopted, or altered from time to time by resolution of the assembly. Copies of said form shall be available free of charge from the borough clerk. Every person who during the prior year sold or transferred ownership in personal property subject to personal property tax in the borough shall 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 15th. The mayor is authorized to adopt regulations, subject to assembly approval, for the administration and enforcement of this provision.

SECTION 11. That KPB 5.12.190 is hereby amended as follows:

5.12.190. Personal property tax—Returns—Penalty for late filing or failure to file—Extensions granted when.

- A. Except as provided below in this paragraph A, [I]if no return is filed as required by Section 5.12.180 or if the return is filed late, the taxpayer shall pay a penalty of 10 percent of any personal property tax thereafter levied, 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 15, shall have 30 days from the date of the first notification from the assessor before the 10 percent penalty shall be levied.

- B. The assessor may, on written application, grant extensions of time for filing for cause shown.

SECTION 12. That KPB 5.12.245(B) is hereby amended as follows:

5.12.245. Personal property tax—Annual motor vehicle registration tax—Levy—Distribution.

...

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

1. The population of each [TAX CODE AREA (TCA)] tax authority group (TAG) shall be determined. Population shall 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 [TCA] 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 [TCA] TAG. The sum of the populations of all [TCA] TAGs shall equal the total population of the borough.

The total receipts shall be apportioned to each [TCA] TAG based upon its percentage of the total borough population.

3. The receipts apportioned to a particular [TCA] TAG shall be distributed to the [TAXING JURISDICTION AREAS (TJA'S)] tax authority funds (TAFs) which make up that [TCA] TAG. Such distribution shall be based upon the mill rates of the [TJA's] TAFs compared to the total mill rate of the [TCA] TAG. The percentage shall be equal to the [TJA] TAFs mill rate divided by the total mill rate for the [TCA] TAG.

...

SECTION 13. That KPB 5.12.260 is hereby amended as follows:

5.12.260. Other taxes and tax liens—Tax liens—Foreclosure list—Preparation—Publication and notice required.

The tax collector shall make up a roll of real property subject to foreclosure as soon as possible after January 1st of each year[, STARTING WITH JANUARY 1, 1967]. The roll shall be as prescribed by Alaska Statutes governing municipal taxation. No real property shall be subject to foreclosure unless the delinquent balance due is greater than [\$20.00] \$200.00 or, if the delinquent balance is less than \$200, at least two years of taxes are delinquent. When the roll is prepared, the tax collector shall notify the assembly and the assembly shall by resolution designate the newspaper in the borough in which the roll shall be published, together with the days of publication. In addition to publication, the tax collector shall give such other notice as is required by law.

SECTION 14. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 23RD DAY OF AUGUST, 2016.

Blaine Gilman, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

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

No: None

Absent: Welles