

ORDINANCE CERTIFICATION

I certify that upon final enactment of Ordinance No. 78-32 of the Kenai Peninsula borough, this certification of the actions taken by me conforms with the rules and regulations governing ordinances.

1. Publication: Publication has been made by causing a summary of this ordinance to be inserted one time in a newspaper of general circulation in the borough. One copy of this ordinance as set for hearing, together with Notice of Hearing has been mailed to the city clerks of each first class city in the borough and to each postoffice in the borough with a request for posting on the City Hall and Post Office bulletin boards for 10 days immediately following receipt.
2. After adoption of this ordinance, one copy will be mailed to the city clerk of each first class city in the borough.

This ordinance was Enacted by the assembly of the Kenai Peninsula Borough on the 18 day of July, 1978 and will become effective immediately.

Francis Bryner
Borough Clerk

Date:

Introduced by: Mayor
Date: June 20, 1978
Hearing: July 18, 1978
Vote: Unanimous
Action: Enacted as Amended

KENAI PENINSULA BOROUGH

ORDINANCE 78-32

AN ORDINANCE REVISING TITLE 3 OF THE BOROUGH CODE OF ORDINANCES TO PROVIDE FOR A FAIR AND EQUITABLE PERSONNEL SYSTEM.

WHEREAS, the Borough personnel practices regarding employment, promotion, retention, discipline, and discharge of employees of the Borough should be fair and equitable; and

WHEREAS, it is desirable to modify the Borough personnel system from time to time in order to reflect the changing nature of Borough functions and employment conditions; and

WHEREAS, certain provisions of Title 3 of the Borough Code need to be coordinated with Employer/Employee Agreements;

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

Section 1. "That Section 3.04.020 of the Borough Code is hereby amended to read as follows:

This chapter has been enacted in order to provide a (BASIC) personnel system free of personal and political considerations as to employment, promotion, retention, discipline, and discharge of employees. (IN KEEPING WITH THE CURRENT PRACTICES OF GOVERNMENTS WITHIN THE STATE OF ALASKA).

Section 2. That Sections 3.04.040, 3.04.050, 3.04.060, and 3.04.070 of the Borough Code are hereby repealed.

Section 3: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.040 which shall read as follows:

3.04.040 Nondiscrimination. Qualification for employment and promotion shall be free of consideration as to

race, color, creed, ethnic background, sex, or religious affiliations.

Section 4. That the Borough Code is hereby amended by enacting the following new section to be numbered 3.04.050 which shall read as follows:

3.04.050 Suspension Authority. (a) A department head may suspend without pay any employee in his department for a period not to exceed twenty-four (24) working hours. The mayor or an administrative officer designated by him may suspend without pay an employee for a period of not more than thirty (30) calendar days, and the assembly may suspend without pay an employee for a period in excess of thirty (30) calendar days for insubordination, frequent tardiness or absence from duty without acceptable excuse, failure to perform assigned tasks to the best of his or her abilities, causing disruption of work, causing disharmony or discontent, disrespectfully dealing with the public, failure to follow reasonable instructions of his supervisor, behaving or dressing in a manner or style that is not generally acceptable, using a borough position for personal gain, using borough supplies and equipment in a manner not authorized or intended, engaging in unauthorized personal activities while on duty, demonstrating disrespect for the employer or his supervisor, undermining the authority of another employee, and other acts similar in nature which tend to hamper the efficiency of the Kenai Peninsula Borough.

(b) A department head may, on his own authority, suspend without pay an employee of his department for a period not to exceed twenty-four (24) work hours. Any suspension notice must be in writing and shall state the reasons for which the suspension is being made. The suspension shall be subject to review by the mayor or by an administrative officer designated by him.

(c) A department head may recommend to the mayor or an administrative officer designated by the mayor that an employee be suspended without pay for a period exceeding twenty-four (24) work hours but not more than thirty (30) calendar days. The recommendation for suspension shall be in writing and shall state reasons why the suspension is recommended. The affected employee shall be given a copy of such notice promptly and shall be given the opportunity to show cause before the mayor or an administrative officer designated by the mayor why the affected employee should not be suspended as recommended. The decision of the mayor or an administrative officer designated by him shall be in

writing and shall state why the decision has been made. The affected employee shall receive a copy of the decision promptly.

(d) The mayor may recommend to the assembly that an employee be suspended without pay for a period exceeding thirty (30) calendar days. The mayor's recommendation to the assembly shall be in writing and shall state the reasons for the recommendation. The affected employee shall have the opportunity to show cause to the assembly why the employee should not be suspended as recommended.

(e) Suspensions under this Section are subject to review under Section 3.04.260 of this Code.

Section 5. That the Borough Code is amended by enacting the following new section to be numbered 3.04.051 which shall read as follows:

3.04.051 Discharge Authority. (a) The mayor or an administrative officer designated by him may discharge an employee subject to review under Section 3.04.260 if the employee has: been convicted of a felony, willfully inflicted damage to borough property or equipment, absented himself or herself from duty for three (3) consecutive working days or longer without acceptable excuse, exercised work procedures and habits known by the employee to be a hazard to life, limb, or property, fighting on duty, failure to make satisfactory corrections for an act or omission for which he or she has been previously suspended, removal of borough property without approval, use of borough equipment for unauthorized purposes, failure to return immediately property known by the employee to be borough property, accepting items of value for services performed in the name of the borough, fraud or attempted fraud upon the borough, abuse of employee's "sick leave" provisions, purposeful infliction of injury by the employee to himself or herself or to other employees, insubordination, and other acts similar in nature.

(b) All dismissals shall be made by the mayor or by an administrative officer designated by the mayor after presentation of a written statement of charges. The mayor, the personnel officer, or a department head may initiate the statement of charges. These statements shall set out the specific act or acts for which discharge is being made. A copy of the statement shall be furnished promptly to the discharged employee. The discharged employee shall be entitled to a hearing before the mayor or a designated administrative officer as set out in Section 3.04.260.

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Section 6. That the Borough Code is amended by enacting the following new section to be numbered 3.04.052 which shall read as follows:

3.04.052 Demotion Authority: (a) The mayor or an administrative officer designated by the mayor may permanently demote an employee or reduce that employee's pay range upon a showing that the permanent employee has been consistently unable to perform the duties recently expected of that employee in a generally acceptable and efficient manner, or for engaging in any activity proscribed by Section 3.04.050 (a).

(b) Any demotion will be made only after presentation to the mayor or administrative officer designated by him of a written statement of charges by a department head. A copy of these statement of charges shall be promptly furnished to the affected employee. A permanent demotion or reduction in pay range shall be made only after the employee has had the opportunity to show cause to the mayor or to an administrative officer designated by the mayor why the demotion or reduction in pay should not occur. Prior to the effective date of any demotion or reduction in pay, the mayor or administrative officer designated by the mayor shall render a written decision on the charges and shall promptly furnish a copy of the decision to the affected employee. No appeal shall be taken to the Borough Assembly without the mayor first having fifteen (15) working days to review or reconsider the action taken.

(c) Any demotion under this Section is subject to review under Section 3.04.260 of this Code.

Section 7: "That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.060 which shall read as follows:

3.04.060 Classified Service. The classified service shall be defined as all salaried and hourly paid personnel except those personnel designated as "Legislative" under Section 3.04.061 of this code, and those personnel designated as "Administrative" under Section 3.04.070 of this code."

Section 8: "That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.061 which shall read as follows:

3.04.061 Legislative Service--Membership--Subject to Provisions when. The Legislative service shall consist of employees of the Assembly performing staff functions of a

legislative nature of the Borough. If any, members of the legislative service shall be subject to the provisions of this Title only as specifically indicated.

Section 9: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.070 which shall read as follows:

3.04.070 Administrative Service--Membership. The Administrative Service shall consist of full time paid staff who are the Heads of Departments, Administrative Assistants to the Mayor, and certain positions which are administrative, professional, sensitive or confidential in nature and having been classified "administrative" by assembly resolution. Administrative employees serve at the pleasure of the Mayor who may suspend or discharge such employees in his sole discretion when he deems it necessary for the good of the service. Employees in the Administrative Service are subject to provisions of this Chapter in all respects except where the context clearly indicates otherwise. (Ord. 74-52 Subsection 1 (part), 1974.)

Section 10: That Sections 3.04.090, 3.04.100, 3.04.110, 3.04.120, 3.04.130, 3.04.140, 3.04.150, and 3.04.160 of the Borough Code are hereby repealed.

Section 11: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.090 which shall read as follows:

3.04.090 Types of Employment--Defined--Applicable regulations.

The assembly shall, from time to time, by resolution adopt and define the various types of employment and describe restrictions and conditions connected thereto.

Section 12: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.100 which shall read as follows:

3.04.100 Positions of Employment; Employment Lists; Appointing Authority.

(A) The assembly shall authorize, by Resolution, all positions of employment in the Classified Service. The Mayor or any administrative officer designated by the Mayor shall make each appointment in the classified service from among the top three candidates of a list of candidates who have qualified for that appointment and who have met minimum qualifications, including where applicable, successful completion of a

written examination, an in-person interview, a performance evaluation, a physical examination, and the recommendation of the head of the department wherein each appointment is to be made."

(B) Lists of said candidates shall be good for not more than one year or until said list has been reduced to two candidates. No new list will be established until there is at least one position opening for which a list is being established."

Section 13: "That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.110 which shall read as follows:

3.04.110 Qualifying Procedures. Applications for positions in the classified service will be accepted only after employment lists have been exhausted and position openings have been advertised and only until a filing deadline which will be set out in each position announcement. Upon the information supplied in the application and any attachments thereto, applications will be screened to determine if minimum required qualifications are evident. Only those applicants who meet minimum required qualifications as advertised for the position will be allowed to proceed to the next step. After this screening, applicants may be required to pass a written examination which is designed to test the applicant's basic knowledge of skills required for the position. A minimum passing score shall be 70%. The written examination may be waived for certain positions. An in-person interview shall also become a part of the overall rating. Performance evaluations and the results of physical examinations will not be weighted by score."

Section 14: "That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.120 which shall read as follows:

3.04.120 Pay Plan-Salary Schedule-Classified Service. The assembly shall, from time to time, adopt by resolution a pay plan wherein each position in the Classified Service will be assigned a pay range, designated by a number and a Salary Schedule, wherein each pay range is established. The increments between each step within a range, if used, shall be nearly equal in value to every other step within the range.

Section 15: "That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.130 which shall read as follows:

3.04.130 Pay Plan--Administrative Service. The assembly shall, from time to time, adopt by resolution a pay and benefits plan for administrative employees which may assign to each position a pay range as if that position were covered by Section 3.04.120 of this code, or the assembly may assign a single monthly or annual salary to specific positions."

Section 16: "That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.140 which shall read as follows:

3.04.140 Pay Plan--Legislative Service. Pay and benefit plans for legislative service employees shall be contained in Title 2 of the Borough Code.

Section 17: "That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.150 which shall read as follows:

3.04.150 Pay Plan--On-Call and Part-Time Personnel. The assembly may, from time to time, adopt by resolution rates of pay and benefits for certain on-call and part-time personnel. Such rates of pay shall be designated at an hourly rate."

Section 18: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.160 which shall read as follows:

3.04.160 Benefits--Vacation-Working Conditions--Holidays. The assembly shall from time to time adopt, by resolution, a policy regarding the normal hours of work, holidays with pay, vacation leave with pay, sick leave, maternity leave, military leave, employee insurance coverages, and other benefits with pay, or benefits without pay.

Section 19: That Section 3.04.170 of the Borough Code is amended to read as follows:

3.04.170 Pay Days. Paid employees will be paid every two weeks on the Friday following the termination of each two-week pay period. (ONCE A MONTH ON THE LAST WORKING DAY OF THE MONTH. FOR PARTIAL MONTHS, THE NUMBER OF WORKING DAYS WILL BE MULTIPLIED BY THE RATE OBTAINED WHEN THE ANNUAL SALARY IS DIVIDED BY 2080 HOURS.)

Section 20. That Section 3.04.180 of the Borough Code is hereby repealed.

Section 21: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.180:

3.04.180 Job Classification and Compensation. The assembly shall authorize, by resolution, every position in the classified service and shall approve the job description and compensation for each position.

Section 22: That Section 3.04.200 of the Borough Code is hereby repealed.

Section 23: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.200 which shall read as follows:

3.04.200 Overtime Compensation. The assembly shall from time to time adopt, by resolution, a policy regarding overtime work compensation for the various categories of employees.

Section 24: That section 3.04.210 of the Borough Code is hereby repealed.

Section 25: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.210 which shall read as follows:

3.04.210 Performance Evaluations. Performance evaluations shall document the effectiveness and suitability of an employee to his or her position and shall be the basis for determining the merit pay increases or decreases provided for in this Title. Probationary and trial employees shall be evaluated at the end of the first 90 days of their probationary or trial period and at the end of the probationary or trial period. The employee may be evaluated at other intervals when this is desirable. Personnel who have reached permanent status shall be evaluated at least annually after completion of the probationary or trial period. Step increases and wages shall be authorized only after a proper evaluation of performance has been certified by the department head. Every evaluated employee shall be given a completed copy of each personnel evaluation and shall have the opportunity to comment upon it. The original copy of each evaluation shall be incorporated into the central personnel files of the borough.

Section 26: That Section 3.04.220 of the Borough Code is hereby repealed.

Section 27: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.220 which shall read as follows:

3.04.220 Employee Activities--Authorized When. The assembly shall, by resolution, adopt policies regarding employee activities and work rules not specifically covered by this code, including but not limited to, travel on official business, outside employment, automobile usage, and required uniforms.

Section 28: That Section 3.04.230 of the Borough Code is repealed.

Section 29: That the Borough Code is amended by enacting a new section to be numbered 3.04.230 which shall read as follows:

3.04.230 Legal Liability--conduct. An officer or employee of the Borough may be denied legal support of the Borough if the cause of action against the employee was the result of the employee acting outside the scope of employment, or working within the scope of employment but acting in a grossly negligent manner.

Section 30: That Section 3.04.250 of the Borough Code is hereby amended by enacting the following new subsection which shall be numbered 3.04.250 (B) which shall read as follows:

B. Reinstatement. A former employee may be reinstated providing:

- (1) There exists a vacancy in the position the employee formerly held or in a position in a lower pay range; and
- (2) Provided the employee's work record was satisfactory and termination notices indicate "recommend for rehire"; and
- (3) Provided a reinstatement is at Step A or at least one step lower in the pay range than when the employee terminated; and
- (4) Provided that not more than six months have elapsed since termination, and provided the applicant meets applicable physical and other standards of employment in effect at the time of the application for reinstatement.

Section 31: That section 3.04.260 of the Borough Code is hereby repealed.

Section 32: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.260 which shall read as follows:

3.04.260 Appeal Process. Any employee suspended, demoted, reduced in pay, or discharged from the classified service may appeal that decision by:

(a) Notifying the Mayor or an Administrative Officer designated by the Mayor that he desires to appeal that decision. The hearing officer shall grant a hearing within fifteen (15) working days, at which time the reasons for action shall be reviewed. Within five (5) working days, following the close of the hearing, the hearing officer shall render a written decision and shall set forth the reasons upon which his decision is based.

(b) If the appellant is not satisfied with the hearing officer's decision he may appeal to the assembly for review of the action and the hearing officer's findings. The assembly may hear the appeal through an appropriate committee. The decision of the assembly or the committee designated by the assembly shall be final.

(c) This Section is not applicable to those employees covered by any collective bargaining agreement.

Section 33: That Sections 3.04.270, 3.04.280, and 3,04.290 of the Borough Code is hereby repealed.

Section 34: That the Borough Code is amended by enacting a new Section to be numbered 3.04.270.

Emergency Suspension:

3.04.270 Emergency suspension of this Title and Personnel Resolutions of Title 3 and Resolutions Adopted under its Authority may be suspended temporarily in whole or in part by the Mayor in the event of a natural disaster or major civil disturbance.

Section 35: That the Borough Code is hereby amended by enacting a new section to be numbered 3.04.280 which shall read as follows:

3.04.280 Collective Bargaining Agreements:

The assembly may adopt, by resolution, agreements between the Borough and the Kenai Borough Employees Association

setting wages, hours, benefits and working conditions for those employees covered by such agreement, but such agreements are not binding upon the Borough until authorized and ratified by the assembly.

Section 36: That this Ordinance shall become effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS 18th DAY OF July, 1978.


JoAnn Elson, Assembly President

ATTEST:


Borough Clerk