

Introduced by: Policies
and Procedures Committee
Date: February 20, 1990
Hearing: March 20, 1990
Action: Enacted as Amended
Vote: Unanimous

KENAI PENINSULA BOROUGH

ORDINANCE 90-12

AMENDING THE KENAI PENINSULA BOROUGH CODE CONCERNING ASSESSMENT
AND BOARD OF EQUALIZATION PROCEDURES

WHEREAS, the current Borough Code governing assessment and Board of Equalization procedures has not been updated to reflect changes made to Title 29 of the Alaska statutes in 1985; and

WHEREAS, Board of Equalization procedures are found in many different sources, including Resolution 80-34, the Alaska statutes, and the Borough ordinances, and it is necessary to codify Board procedures, and desirable to have one source for assessment and Board procedures;

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

Section 1. That KPB 5.12.030-060 is repealed and reenacted as follows:

5.12.030 Assessment roll--Tax exempt 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.

5.12.035 Notice of assessment. A. 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 shall include: (1) a statement that the described property is taxable and the assessed value; (2) the dates when the board of equalization will sit; and (3) the dates when taxes are payable, delinquent, and subject to penalty and interest.

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

5.12.040 Corrections--Valuation and tax exemption disputes--Administrative adjustment meeting. A. A person receiving an assessment notice must advise the assessor of errors or omissions in the assessment of the person's property, or of disputes in the assessed value or taxable status of the property, within 30 days after the date of mailing a notice of assessment.

B. 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 corrected notice of assessment allowing 30 days to appeal to the board of equalization or superior court if such adjustments are made to the roll. Under no circumstances shall the assessor make changes to the roll after June 1, except for supplementary assessments, clerical errors or court ordered changes.

C. The assessor shall provide, upon request, an informal adjustment meeting between the assessor and the person receiving an assessment notice, for the purpose of resolving a valuation or tax exemption dispute. The meeting shall be requested within 30 days of the mailing of the notice of assessment, and shall be held prior to board of equalization hearings.

5.12.045 Tax exemption appeal procedure. All appeals, for relief from a determination by the borough assessor that the property is taxable under law, must be taken by an owner or agent or assign of the property owner, and must be taken directly to the superior court in the Kenai venue district, under the rules of appellate procedure governing appeals from administrative agency decisions.

5.12.050 Valuation appeal procedure. A. A property owner or agent or assign of the property owner may appeal to the borough assembly sitting as a board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the property owner's satisfaction.

B. An appellant must, within 30 days after the mailing of the notice of assessment, submit to the assessor a written appeal, specifying the name of the owner, a legal description of the property, and the grounds for the appeal. The appeal must be received by the assessor within 30 days after the mailing of the notice of assessment, or the right to appeal ceases. Appeal forms shall be available from the borough assessor's office.

C. The grounds for appeal are: unequal, excessive, improper or under valuation of the property not adjusted by the assessor to the property owner's satisfaction.

D. The assessor shall notify the appellant by mail of the time and place of hearing, and board of equalization procedures, in time to allow the appellant to submit documents to the board as set out in this chapter.

E. A city in the borough may appeal an assessment to the borough board of equalization in the same manner as the property owner. Within 5 days after receipt of the appeal, the assessor shall notify the property owner of the appeal by the city. The property owner may appear and participate in an appeal of an assessment by a city.

5.12.055 Record on appeal. A. 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 7 days before the board hearing on the appealed assessment. Pages shall be marked as assessor's exhibits and numbered. The assessor shall also mail a copy of the documents or evidence to the appellant, in time to arrive before the hearing.

B. The appellant shall provide a copy of any documents or evidence relating to the assessment being appealed to the borough clerk, for the board of equalization, no later than 7 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.

5.12.060 Board of equalization procedure. A. The board of equalization may meet from 6:00 p.m. to midnight, after the closing date for appeals, on dates scheduled by the borough clerk, until all appeals are heard. All appeals must be heard and decided before June 1.

B. A quorum of the full assembly 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.

C. Assembly members shall be compensated at the rate of \$100.00 per session for each session, in addition to allowances for expenses provided elsewhere in this code.

D. The president of the assembly shall preside over the board hearing. The borough clerk shall attend the hearings to record the proceedings, record votes, administer the oaths to witnesses, and prepare the decision forms. The borough attorney shall attend the hearing to advise the board.

E. The president 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 shall bring each appeal before the board in the order scheduled by the borough clerk.

F. If the appellant or representative is not present when called, the board shall dismiss the appeal.

G. All persons presenting evidence shall do so under oath, administered by the borough clerk.

H. The hearing shall be conducted informally with respect to the introduction of evidence. Irrelevant evidence may be excluded by the presiding officer. The presiding officer may limit the length of the hearing, or take other action to expedite the proceedings.

I. The assessor shall then present a brief summary of assessment data concerning the appealed property.

J. The appellant or representative then presents the appellant's case when called by the presiding officer. The assessor may question the appellant or other witnesses, through the presiding officer. Board members may question the appellant, upon recognition by the presiding officer.

K. The assessor or designee then presents the borough's case when called by the presiding officer. The appellant may question the assessor or other witnesses, through the presiding

officer. Board members may ask questions of the assessor, upon recognition by the presiding officer.

L. The appellant and the assessor may present rebuttal evidence.

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.

O. The Board may decide the appeal after the presentations, or it may defer a decision until no later than the last hearing date. Final board action shall be taken by motions 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.

Q. After the last scheduled appeal is heard, the presiding officer shall adjourn the session.

R. 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.

5.12.065 Certification of assessment roll--Supplementary Assessments--Establishment of levy. A. 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. Each city in the borough authorized to levy a tax shall immediately 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. The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll.

C. The assembly shall annually determine the rate of levy before June 15. Public notice of the date at which the rate of levy is to be fixed shall be given.

Section 2. That Resolution 80-34 is hereby repealed.

Section 3. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON
THIS 20th DAY OF March, 1990.


James Skogstad, Assembly President

ATTEST:


Borough Clerk