

Introduced by: Policies and
 Procedures Committee
 Date: June 5, 1990
 Assembly comments: June 19, 1990
 Hearing: July 17, 1990
 Action: ENACTED
 Vote: 4 NO; 11 YES
 Reconsideration: Sept. 18, 1990
 Action:
 Vote:

KENAI PENINSULA BOROUGH
 ORDINANCE 90-29 (REVISED)

REVISING AND RECODIFYING ORDINANCES REGARDING THE BOROUGH ASSEMBLY AND ITS PROCEDURES AND CREATING A NEW LEGISLATIVE SECTION IN THE BOROUGH CODE

WHEREAS, when the Kenai Peninsula Borough Code was codified in 1975 the ordinances governing the legislative branch of borough government were apparently inadvertently codified in the administrative section of the code; and

WHEREAS, during the intervening years the amendments have not necessarily been codified in subject order and the code provisions governing the assembly are difficult to follow; and

WHEREAS, certain procedural issues have arisen which need to be established by ordinance;

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

Section 1. That KPB is amended by adding a new title to be numbered 22 and entitled LEGISLATIVE SECTION with chapters entitled BOROUGH CLERK numbered 22.10; Reserved numbered 22.20; ASSEMBLY MEMBERS numbered 22.30; and ASSEMBLY MEETINGS numbered 22.40.

Section 2. That KPB is amended by renumbering, repealing and adding new section numbers to read as follows:

EXISTING SECTIONS	TITLE TO READ	NEW SECTIONS
Chapter 2.06	Borough Clerk	Chapter 22.10
2.06.010	Established	22.10.010
2.06.020	Appointment--Compensation	22.10.020
2.06.050	Advertisement and selection	22.10.030
2.06.060	Evaluation	22.10.040
2.06.025	Responsibilities	22.10.050
2.06.030	Deputy--Appointment	22.10.060
2.06.040	Deputy--Duties	22.10.070
---	Reserved	Chapter 22.20
Chapter 2.12	Assembly Members	Chapter 22.30

EXISTING SECTIONS	TITLE TO READ	NEW SECTIONS
2.12.020	Composition	22.30.010
2.12.040	Apportionment and reapportionment	22.30.020
2.12.030	Terms of office	22.30.030
2.16.010	Resignations--vacancies	22.30.040
2.08.075	Improper conduct-Investigation- Action	22.30.050
2.16.020	Appointment	22.30.060
2.12.010	Titles of officers	22.30.070
2.12.015	Election of officers	22.30.080
2.08.150	Assembly Committees	22.30.090
2.12.050	Compensation--Definition	22.30.100
2.12.060, 070	Compensation-Allowances-Benefits- Waiver	22.30.110
2.10.080	Compensation-Extra	22.30.130
Chapter 2.08	Assembly Meetings	Chapter 22.40
2.08.020, 030	Time and place-Regular-Special	22.40.010
2.08.070(A)	Quorum	22.40.020
---	Excused Absences	22.40.025
2.08.080	Legislative Procedure Authority	22.40.030
2.08.100	Rules of Procedure-Suspension	22.40.040
2.08.084, 110, .140	Agenda-Development-Procedure- Mailing	22.40.050
2.08.088, 092	Agenda-Defeated legislation- Reintroduction-Committee only	22.40.060
2.08.096	Agenda-Tabled & continued matters	22.40.070
2.08.120	Agenda-Order of business	22.40.080
2.08.160	Agenda-Invocation	22.40.090
---	Agenda-Ordinances-Introduction	22.40.100
2.08.125	Agenda-Consent-Procedure	22.40.110
---	Agenda-Reserved	22.40.120
2.08.130	Agenda-Public presentations	22.40.130
2.08.040	Voting-Conflict-Call of house	
2.08.070(B)(C)	Voting-Number required	22.40.150
---	Voting-Amendments to legislation (reserved)	
---	Voting-(reserved)	22.40.160
2.08.050	Voting-Recording actions	22.40.180
2.08.170	Land use and Capital Projects-- Planning commission and community council recommendations-- Requirements	22.40.190
2.08.022	Meetings-Time restrictions- Uncompleted agenda	22.40.200
2.08.060	Journal-Contents-Minutes approval	22.40.210

Section 3. That the referenced sections in KPB Chapters 22.30, and 22.40 are amended to read as follows:

22.30.040 Resignations--Vacancies [2.16.010 RESIGNATION--OTHER VACANCY--NOTICE--EFFECTIVE DATE. A. ANY ASSEMBLY MEMBER WHO INTENDS TO RESIGN FROM THE ASSEMBLY SHALL, WHEN FEASIBLE, INFORM THE CLERK IN WRITING AT LEAST 30 DAYS PRIOR TO THE DATE OF THE CON-

TEMPLATED RESIGNATION] A. A seat shall be determined vacant when the clerk notifies the assembly that the person elected:

1. failed to qualify or take office within 30 days after election or appointment;
2. is deceased, or that a court of competent jurisdiction has entered a decree of presumption of death;
3. resigned.

B. The assembly may [SHALL], by motion, declare a seat to be vacant when the person elected:

1. FAILS TO QUALIFY OR TAKE OFFICE WITHIN 30 DAYS AFTER ELECTION OR APPOINTMENT;
2. IS PHYSICALLY ABSENT FROM THE MUNICIPALITY FOR A 90-DAY PERIOD UNLESS EXCUSED BY THE ASSEMBLY;
3. RESIGNS AND THE RESIGNATION IS ACCEPTED;]
- 1[4]. is physically or mentally unable to perform the duties of the office;
- 2[5]. is convicted of a felony [OR MISDEMEANOR DESCRIBED IN AS 15.56; OR IS CONVICTED OF A VIOLATION OF AS 15.13];
- 3.[6.] misses three consecutive regular meetings unless excused in accordance with KPB 22.40.025;
- 4[7]. is convicted of [A FELONY OR OF] an offense involving a violation of the oath of office;
5. Ceases to be a registered or qualified voter;
6. Ceases to physically reside in the borough;

C[8]. An assembly member who is elected from one district and who moves his permanent residence to a different district may continue to serve only until the next regular election at which time the seat will be considered vacant.[;]

9. AN ASSEMBLY MEMBER WHO CEASES TO BE A REGISTERED VOTER IMMEDIATELY FORFEITS HIS OFFICE;
10. DIES, AND THE CLERK SO INFORMS THE ASSEMBLY;
11. CEASES TO BE A QUALIFIED VOTER;
12. NO LONGER PHYSICALLY RESIDES IN THE MUNICIPALITY.

D. A SEAT DECLARED VACANT BY THE ASSEMBLY SHALL BE CONSIDERED VACANT IMMEDIATELY UPON DECLARATION BY THE ASSEMBLY].

22.30.050 Improper conduct--Investigation--Action. [2.08.075 ASSEMBLY--ACTION TAKEN--IMPROPER CONDUCT BY ASSEMBLY MEMBERS.] A. Alleged improper actions of assembly members may be reported to the assembly president[; REGARDLESS OF WHETHER THE REPORTER HAS PERSONAL KNOWLEDGE OF SUCH ACTIONS, OR IS THE RECIPIENT OF A REPORT OF SUCH ACTIONS.] who [B. THE ASSEMBLY PRESIDENT] may cause an investigation of such reported improper actions [, BY CONTACTING THE PERSON WHO MADE THE REPORT OR WITNESSED THE ACTION, TO ESTABLISH THE NATURE OF THE CONDUCT, AND OBTAIN ANY FURTHER DETAILS, INCLUDING WRITTEN STATEMENTS, IF APPROPRIATE] and then request an executive session to discuss the matter.

[C. UPON COMPLETION OF SUCH INVESTIGATION, THE ASSEMBLY PRESIDENT MAY THEN CONTACT THE ASSEMBLY MEMBER WHOSE CONDUCT IS THE SUBJECT OF THE INVESTIGATION, AND ARRANGE A MEETING TO REVIEW THE CHARGES. AFTER THE MEETING WITH THE ASSEMBLY MEMBER, THE ASSEMBLY PRESIDENT MAY THEN REFER THE MATTER TO THE POLICIES AND PROCEDURES COMMITTEE.

D. UPON REFERRAL BY THE ASSEMBLY PRESIDENT, THE POLICIES AND PROCEDURES COMMITTEE SHALL THEN CONDUCT AN INFORMAL HEARING ON THE MATTER. IF ADDITIONAL ACTION IS REQUIRED, THE COMMITTEE SHALL MAKE

A REPORT TO THE ASSEMBLY. THE REPORT SHALL STATE WHAT ACTIONS OF THE ASSEMBLY MEMBER ARE ALLEGED TO BE IMPROPER.

E. UPON SUBMISSION TO THE ASSEMBLY, THE MATTER IS A SUBJECT FOR A MOTION OF CENSURE. NO FURTHER ACTION MAY BE TAKEN WITHOUT SUCH A MOTION.]

B[F]. Any member may make a motion of censure at an open meeting. The motion is subject to debate. The assembly member who is the subject of the censure motion has the privilege of the floor as in all matters before the body.

C[G]. The discussion and action on the motion do not require an evidentiary hearing, or confrontation of witnesses for questioning.

D[H]. Should the motion for censure pass, it shall be reduced to written form, stating the basis for the motion and the conduct for which censure was made. The borough clerk shall maintain that motion among the permanent records of the assembly.

E[I]. If the reported improper conduct is that of the assembly president, the assembly vice-president may [IS THE PROPER PARTY TO] receive the reports of improper conduct, conduct the investigation, and [REFER THE MATTER TO THE POLICIES AND PROCEDURES COMMITTEE, AS DESCRIBED ABOVE] request the executive session.

F[J]. This section applies to actions of censure or reprimand, and is not to be construed as a limitation on the right of the assembly to remove a member from the assembly upon grounds set forth by statute or ordinance.

G. Any motion, request or action that may be made by the president or vice president under this section may be initiated by motion of any assemblymember.

22.30.060 Appointment [2.16.020 ASSEMBLY MEMBER-- METHOD FOR FILLING VACANCIES].

A. Vacancies shall be filled by appointment in accordance with Alaska Statutes.

B. [WHEN THE ASSEMBLY VACANCY IS TO BE FILLED BY APPOINTMENT, THEN] The clerk shall prepare a notice of vacancy stating that a vacancy has occurred for a specific seat and advising interested members of the public as to the procedure for filing as a candidate for appointment.

C. [WHEN A SEAT IS TO BE FILLED BY APPOINTMENT, THEN THE] The applicant for appointment shall file with the borough clerk a declaration of candidacy. An applicant must [APPOINTED MEMBER SHALL] reside within and be a registered voter of the borough election district for which [HE SEEKS] appointment is sought. The clerk shall forward to the assembly president all declarations received and the assembly shall choose one person from the applicants submitted at the assembly's next regular meeting.

D. The vacancy shall be filled by [THE] majority vote of the remaining assembly members.

22.30.070 [2.12.010] Titles of officers. A. The title of the presiding officer of the assembly is "president of the assembly."

B. The title of the deputy presiding officer of the assembly is "vice-president of the assembly."

C. The title of the presiding officer's appointed advisory on parliamentary law and procedure is "parliamentarian".

22.30.080 [2.12.015] Election of officers. The assembly elects the president and vice-president by majority vote of the membership at the first regular meeting at which all newly elected members are eligible to be seated. [AFTER CERTIFICATION OF THE ELECTION.] The election may be postponed by majority vote of the authorized [QUALIFIED] membership.

22.30.090 [2.08.150] Assembly committees--[APPOINTMENT--PUBLIC HEARINGS]. A. The assembly president is authorized to establish such committees, standing or temporary, as the president deems necessary for the conduct of assembly business; provided however that the assembly may by motion create, abolish or combine any committee it deems appropriate and such action shall take precedence over any previous action of the president.

B. The assembly president shall appoint a chairperson and membership of a committee. The president may remove or change committee assignments and chair appointments as he or she deems appropriate.

C. An assembly committee shall carry out the duties assigned it by the assembly president or the assembly and shall regularly review matters before the assembly that deal with subjects within the scope of its duties.

D. The time and place of all committee meetings shall be communicated to the clerk who shall keep a list of such available to the public. Regularly scheduled meeting time and location shall be listed in the assembly meeting packet.

E. All committee meetings shall be open to the public unless the committee has moved to go into an executive session in accordance with the provisions of the Alaska open meetings law. Any assembly member may attend an executive session of a committee unless that member has a conflict of interest.

F. Receipt of testimony from the public at committee meetings on matters before it shall be at the discretion of the committee unless the assembly or the president has directed the committee to conduct a public hearing to receive public testimony. If the committee has been directed to conduct a hearing to receive testimony the committee chair shall arrange with the clerk for minutes of the hearing to be taken or for the hearing to be recorded and minutes prepared.

22.30.100 [2.12.050] Compensation--Definitions.

A. "Compensation" means payment for services only.

B. "Expenses" means day-to-day costs of performing the duties of assembly members and is not intended to mean salary, compensation, or per diem and travel expense involved in attending scheduled meetings of the assembly or per diem or travel expense as a member of a special committee.

C. "Per diem" means payment for board and lodging while on travel status [AS PROVIDED IN SECTION 2.12.080 HEREIN].

D. "Travel expense" means cost of travel while on travel status [AS PROVIDED IN SECTION 2.12.080 HEREIN].

E. "Travel status" means the time while the member is traveling or away from home for the conduct of borough business as authorized by the assembly or assembly president.

22.30.110 [2.12.060] Compensation--Allowances--Benefits--Expenses--Waiver [FOR SERVICES].

[2.12.070 COMPENSATION--MEETING ALLOWANCE ADDITIONAL EXPENSES].

A. Assembly members[MEN] shall receive a monthly [AN] allowance [FOR EXPENSES WHICH WOULD OTHERWISE NOT BE REIMBURSED IN THE AMOUNT] of \$350.00 per month, except the assembly president, who shall receive an [SIMILAR EXPENSE] allowance in the amount of \$600.00 [\$250.00] per month.

B[A]. Assembly members shall [BE PAID NO SALARY FOR SERVICES AS ASSEMBLY MEMBERS EXCEPT THAT EACH ASSEMBLY PERSON SHALL] be provided with health and life insurance benefits on the same level and basis as provided for borough department heads [BOROUGH APPENDIX A EMPLOYEES].

C[B]. An assembly member may elect to forego any allowance, benefit or reimbursement for expenses upon notice to the clerk.

22.30.130 [2.12.080] Compensation--Extra [PER DIEM AND TRAVEL EXPENSES].

A. For travel involved in attending scheduled meetings of the assembly or assembly committees [IN ATTENDING MEETINGS AS A MEMBER OF A SPECIAL COMMITTEE], assembly members shall receive reimbursement for per diem and travel expenses on the same basis as borough employees except as otherwise provided in this chapter.

B. Assembly members shall receive an allowance of \$150.00 per month for use of the personal automobile on borough business, and shall be reimbursed for mileage [recorded on AUTHORIZED borough business trips] at the rate of \$.45 per mile for attendance at assembly meetings, scheduled committee meetings and other trips authorized by the assembly or the president.

22.40.010 [2.08.020] Time and place--Regular--Special [PROCEDURE FOR CHANGES--NOTICE RESPONSIBILITY]. A. Regular meetings of the assembly shall be held on the first and third Tuesday of each month at 7:30 p.m. in the assembly room of the Borough Administration Building.

B. Special meetings may be called as provided by Alaska Statutes. [UNLESS FOR LEGITIMATE CAUSE]

C. The assembly may by resolution or motion provide[S] for holding any particular meeting on another day, at another time, or place. The resolution or motion shall set forth the reason for the change. [CHANGING THE REGULAR MEETING.]

D. Public notice of the [CHANGED] meeting shall be provided to [MADE IN] at least one newspaper of general circulation in each community of the borough, if any [AND THE ASSEMBLY CLERK SHALL POST A NOTICE OF THE CHANGED REGULAR MEETING AT SUCH PUBLIC PLACE AND IN THE USUAL MANNER FOR GIVING PUBLIC NOTICE OF ASSEMBLY MEETINGS].

[2.08.030 SPECIAL MEETINGS. SPECIAL MEETINGS ARE CALLED AS SPECIFIED IN THE ALASKA STATUTES AND WILL BE HELD AT THE BOROUGH HEADQUARTERS AT THE HOUR SPECIFIED IN THE CALL. THE PLACE MAY BE CHANGED ONLY BY ASSEMBLY VOTE IN THE MANNER SPECIFIED FOR REGULAR MEETINGS.]

22.40.020 [2.08.070 ASSEMBLY] Quorum--[CONDUCT OF BUSINESS--VOTE. A.] A quorum consists of a majority of the total membership of the assembly. No business of the assembly shall be conducted in the absence of a quorum, except as otherwise provided by Title 29 of the Alaska Statutes.

22.40.025 Excused absences. A member will be granted an excused absence from a regular assembly meeting if the absence is due to the conduct of borough business authorized by the assembly or the president. An excused absence may be granted by the assembly or assembly president for personal reasons.

22.40.030 Legislative Procedure Authority. [2.08.080 MASON'S MANUAL OF LEGISLATIVE PROCEDURE--ADOPTED--SCOPE-- EXCEPTION.] The borough assembly adopts as its rules of procedure Mason's Manual of Legislative Procedure (1979 edition).

22.40.040 [2.08.100] Rules of Procedure--Suspension [AGENDA--VOTE REQUIRED FOR ITEM PLACEMENT WHEN. A. NO ITEM SHALL BE CONSIDERED AT THE REGULAR MEETING OF THE BOROUGH ASSEMBLY, WITH THE EXCEPTION NOTED IN SECTION 2.08.084; WHICH HAS NOT BEEN PLACED ON THE AGENDA ACCORDING TO THE TERMS OF SECTION 2.08.084; EXCEPT THAT BY THE AFFIRMATIVE VOTE OF 2.3 OF THE WHOLE ASSEMBLY AN ITEM MAY BE PLACED UPON THE AGENDA UPON SHORTER NOTICE THAN THAT SPECIFIED IN SECTION 2.08.084.

[B.]A. Rules of procedure adopted by the assembly for the conduct of its meetings and of legislative business may be suspended [ONLY] by two-thirds (2/3) vote of the whole Assembly.

B. Procedural requirements enacted by ordinance may not be suspended, and ordinance provisions are effective and binding until amended or repealed by ordinance.

[2.08.110 AGENDA--TO BE SENT TO ASSEMBLYMEN WHEN. THE MEETING AGENDA, SUPPORTING DOCUMENTS AND OTHER MATERIALS, SHALL BE SENT TO EACH ASSEMBLY MEMBER ON THE TUESDAY PRECEDING EACH ASSEMBLY MEETING.]

22.40.050 Agenda--Development--Procedure--Mailing. [2.08.084 AGENDA--INTRODUCTION OF ORDINANCES AND RESOLUTIONS.] A. Ordinances, resolutions and other items of business to be introduced and considered by the borough assembly [AT A REGULAR MEETING OF THE ASSEMBLY] shall be placed on a meeting agenda prepared by the borough clerk.

B. The sponsor of an ordinance for introduction or resolution for adoption may remove an item from the agenda before the agenda is approved unless the item has been carried over or postponed from a previous agenda.

C[B]. Except for emergency legislation or legislation for which a special meeting has been called, [AT THE TIME THAT PROPOSED LEGISLATION IS READY FOR INTRODUCTION AND CONSIDERATION OF THE ASSEMBLY,] the mayor, an assembly member or committee of the assembly proposing to place a legislative matter on the agenda of a regular assembly meeting shall provide or communicate a copy of such matter to the borough clerk by 4:30 p.m. of the second Thursday preceding the meeting at which the matter is to be introduced or considered for assignment of the next sequential number in the order received. [SO THAT]A[A]n outline agenda

containing the titles and numbers of such matters and photo copies of those matters shall [CAN] be made available to any person [ASSEMBLY MEMBER AND MEDIA REPRESENTATIVE] requesting it the following work day.

D[C]. Any items not placed on the agenda by the 4:30 p.m. deadline shall be deferred until the next assembly meeting, unless two-thirds (2/3) of the whole assembly votes affirmatively to consider the item [PURSUANT TO SECTION 2.08.100].

E. Resolutions and ordinances set for hearing which contain blanks or incomplete information shall not be placed on the agenda unless supporting documentation clearly setting forth the reason why the omitted information is not available and the reason why the item must be placed on the agenda before the omitted information has been obtained is attached.

F. The clerk shall prepare the agenda under the direction of the presiding officer. A meeting packet, containing all legislative items and supporting documentation shall be mailed to each assembly member and the municipal clerk of each city within the borough on the Tuesday preceding each assembly meeting by first class mail.

G. A copy of the agenda, and any legislative item and/or supporting documentation so requested, shall be provided to borough commissions, boards and councils. Copies of the agenda and legislative items comprising a mini-packet shall be made available for the public.

[2.08.140 AGENDA--PREPARATION PROCEDURE--BOROUGH CLERK RESPONSIBILITIES. THE AGENDA ITEMS SHALL BE RECEIVED BY THE BOROUGH CLERK. THE BOROUGH CLERK SHALL IMMEDIATELY PREPARE THE FINAL AGENDA AND SHALL HAVE THE RESPONSIBILITY OF SENDING THE AGENDA AND APPROPRIATE SUPPLEMENTARY DOCUMENTS TO EACH ASSEMBLYMAN AS REQUIRED IN SECTION 2.08.110.]

22.40.060 [2.08.088] Agenda--Defeated legislation [ORDINANCES]--Reintroduction--Committee only.
An ordinance or resolution which has been introduced to the assembly and defeated [DISAPPROVED] after consideration and public hearing [OR WHICH HAS BEEN VETOED BY THE MAYOR] may not be reintroduced [IN THE ASSEMBLY] for a period of 60 days [FOLLOWING DISAPPROVAL OR VETO] by a member or the mayor. This prohibition does not apply if a standing committee has voted by a majority of its membership to reintroduce an item.

[2.08.092 AGENDA--DEFEATED RESOLUTIONS--REINTRODUCTION. A RESOLUTION WHICH HAS BEEN DISAPPROVED BY THE ASSEMBLY OR VETOED BY THE MAYOR MAY NOT BE REINTRODUCED IN THE ASSEMBLY FOR A PERIOD OF 60 DAYS FOLLOWING DISAPPROVAL OR VETO. THE 60-DAY LIMITATION DOES NOT APPLY TO A MOTION TO INTRODUCE AN ORDINANCE.]

22.40.070 Agenda--Tabled and continued matters [2.08.096 AGENDA--LEGISLATIVE ITEMS CONTINUED]. A. A question which has been tabled may be removed from the table on the same meeting date at which the tabling occurred. If not removed from the table in accordance with this section the tabled question may only be brought back before the assembly as provided in this section.

B. Any [LEGISLATIVE] items which have been tabled [PENDING ON THE ASSEMBLY'S AGENDA WITHOUT A SPECIFIC HEARING DATE] may be considered either at an assembly meeting following the assembly meeting at which notice of consideration of the legislative items is given by an assembly member, or at the next assembly meeting after notice to the clerk as provided in Section 22.40.050 [2.08.084] for the inclusion in the packet.

C. The clerk shall maintain a list of tabled items. This list shall be stricken at the end of the meeting at which certification of the regular municipal election takes place.

22.40.080 [2.08.120] Agenda--Order of business. The order of business shall be:

- A. Call to order;
- B. Pledge of allegiance;
- C. Invocation;
- D. Roll call;
- E. Vacancy, designation or seating of assembly members;
- F. Approval of minutes of previous meetings;
- G[G]. Committee reports;
- H. Reports of commissions and councils;
- I[J]. Agenda approval and consent agenda adoption;
- J. Items not completed from prior agenda;
- K[I]. Motions to reconsider;
- L[K]. Ordinance hearings or other public hearings;
- M. Consideration of resolutions;
- N. Right of Way Vacations;
- O[L]. Introduction of ordinances not on the consent agenda;
- P. Addition of late items;
- Q[N]. Pending legislation;
- R[O]. Formal presentations with prior notice upon matters not on the meeting agenda;
- S[P]. Public comments and public presentations;
- T[Q]. Mayor's report;
- U[R]. Other business;
- V[S]. Assembly and mayor's comments;
- W[T]. Informational materials and reports;
- X[U]. Notice of the next meeting and adjournment.

22.40.090 Agenda-- [2.08.160] Invocation. The president shall designate a person to offer a brief invocation at the start of the meeting.

22.40.100 Agenda--Ordinances--Introduction A. Except for emergencies, ordinances proposed for introduction under normal procedures shall state the date of public hearing and shall be placed on the consent agenda unless removed by request of a member, the mayor, or a committee.

B. Debate of ordinances proposed for introduction which have been removed from the consent agenda shall be limited to the date for public hearing, committee referral and committee reports. Public comment shall not be received. The vote shall be limited to whether to set for public hearing and the date.

C. Ordinances proposed for shortened time and emergency ordinances shall be open to public comment and may appear on the consent agenda. The justification for requesting shortened time shall be set forth in writing accompanying the ordinance.

22.40.110 Agenda--Consent--Procedure [2.08.125 CONSENT AGENDA--PROCEDURES AND ADOPTION]. A. A consent agenda will consist of any of the following items for action:

1. School furniture and equipment lists,
2. Election judge list,
3. Unnumbered recognition resolutions,
4. Receipt of financial reports,
5. Administration generated resolutions of a routine nature at the discretion of the mayor,
6. Resolutions of a routine nature at the discretion of the president;
- 7[6]. Mayoral appointments to boards and commissions requiring assembly approval,
- 8[7]. Approval of vacation right-of-way, except where planning commission approval was not unanimous.
9. Introduction of Ordinances and setting of public hearing.
10. Resolutions, after receiving public comment and testimony on that item from anyone in the public who wishes to be heard.

[IN ADDITION TO THESE MATTERS, THE ASSEMBLY MAY, BY UNANIMOUS CONSENT, ADD TO THE CONSENT AGENDA AN ORDINANCE SCHEDULED FOR INTRODUCTION OR RESOLUTIONS NOT REQUIRING PUBLIC HEARING AFTER THE PRESIDENT OF THE ASSEMBLY HAS ASKED IF THERE IS ANYONE IN THE PUBLIC WHO WISHES TO BE HEARD.]

B. The consent agenda will be set at the time of agenda approval and a single vote by the assembly will approve [BOTH] the agenda and adopt the consent agenda. [THE VOTE ON CONSENT AGENDA APPROVAL SHALL BE THE SAME AS REQUIRED FOR AGENDA APPROVAL. IN THE EVENT THAT THERE IS A SPLIT ON THE VOTE BETWEEN THE AGENDA APPROVAL AND CONSENT AGENDA APPROVAL, THE ASSEMBLY SHALL VOTE SEPARATELY ON CONSENT AGENDA ADOPTION AND THEN SHALL TAKE ACTION TO APPROVE THE REMAINDER OF THE AGENDA.]

C. At the time of consideration of the consent agenda any agenda item may be added by the unanimous consent of the assembly and any item may be removed from the consent agenda upon objection by a single member of the assembly.

D. Items removed from the consent agenda shall be placed in their proper numerical order in [ADDED TO THE END OF] the appropriate portion of the agenda [FOR ITEMS OF THE SAME NATURE], unless otherwise set by the assembly.

E. The adoption of the consent agenda shall have the same effect as the enactment, adoption, acknowledgment, approval, or introduction of the ordinance, resolution, report, or other matters handled by the consent agenda as appropriate.

22.40.130 Agenda--Public Presentations [2.08.130 AGENDA REQUIREMENTS.] A. Public testimony and comment may be made without prior notice concerning legislation then being considered by the assembly in the form of an ordinance set for public hearing or resolution when the assembly considers the specific

[LEGISLATIVE] items[, AND FOR OTHER MATTERS AS PROVIDED BY THE ASSEMBLY MANUAL]. The time allowed for public testimony is 3 minutes,[WHETHER] individually or by agent.[, BUT NOT BOTH. PROVIDED, HOWEVER,] A person may give individual testimony and testify as an agent of another, but may not exceed 3 minutes total. Additional time may be granted by the president, upon motion and approval by the assembly, to a person testifying who possesses special knowledge or expertise on the matter being heard. The 3-minute limitation shall be strictly enforced by the president.

B. Any member of the public desiring to make a formal presentation before the borough assembly at a regular meeting concerning a subject not contained in the assembly's agenda for that meeting shall give [6 DAYS'] notice to the borough clerk by the deadline for submitting items for the agenda set by KPB 22.40.050C and state the subject of the presentation. The total time permitted for formal presentations with prior notice concerning a subject not contained in the assembly's agenda for that meeting shall be limited to 10 minutes per topic, regardless of the number of persons participating in the presentation. The assembly president may, with the concurrence of a majority of the assembly, allow [FOR] additional time. This time limit shall not apply to formal presentations made at the request of the mayor or the assembly. This section does not preclude the borough clerk with the approval of the assembly president, from scheduling presentations which will exceed 10 minutes prior to the beginning of an assembly meeting or before the assembly as a committee of the whole. Any other formal presentations shall be made as approved in the agenda.

C. Public presentations other than those provided for in this section shall be limited to five (5) minutes.

D. The time limits for presentations established by this section do not include time used in responding to questions from the assembly members.

22.40.140 Voting--Conflict of Interest. [2.08.040 VOTING--ABSTENTION--CONFLICT OF INTEREST] A. All assembly members present at a meeting shall vote upon each question unless [THE ASSEMBLY FOR SPECIAL REASONS PERMITS A MEMBER TO ABSTAIN, EXCEPT] their participation is excused or prohibited as a result of a conflict of interest.

1. No assembly member shall vote on a question in which the assembly member has a substantial direct or indirect financial interest.

2. A member may not be compelled to vote on matters where there is a reasonable likelihood of a breach of privilege or confidence protected by law where participation would create a serious appearance of impropriety.

3. A member may be excused by the body from voting for other good cause.

B. An assembly member intending to abstain from voting shall state the reason for abstaining before the roll call. If a member is unsure as to whether his or her participation would constitute a conflict of interest, or if another member challenges a member's participation and vote upon a matter, then the assembly shall determine by roll call vote whether the affected member's participation or vote on the issue would constitute a conflict of

interest. [IF A QUESTION IS RAISED UNDER THIS SUBSECTION AT ANY ASSEMBLY MEETING, THEN THE QUESTION SHALL BE DETERMINED BEFORE THE MAIN QUESTION IS VOTED UPON.] The affected assembly member or members may not vote on the determination of conflict of interest. [THE ASSEMBLY SHALL DETERMINE CONFLICT OF INTEREST ONLY IN THOSE INSTANCES NOT OTHERWISE SPECIFICALLY DEFINED BY ORDINANCE OR STATUTE.]

22.40.150 [2.08.070] Voting--Number required A.[B.] The following actions taken by the assembly require a positive vote by two-thirds of the total authorized membership:

1. To override a veto by the mayor;
2. Motions to suspend the rules;
3. Motions to reconsider previous action.

B.[C.] The vote prescribed by Mason's Manual of Legislative Procedure (1979 edition) is sufficient to carry all other matters and motions except where a controlling statute or another ordinance specifies a vote to be taken in a particular manner.

22.40.160 Voting--Amendments to legislation (Reserved).

22.40.170 Voting (Reserved).

22.40.180 [2.08.050] Voting--Recording [OF DECISIONS AND actions. A. The final vote on each ordinance, resolution, or substantive motion is a recorded "yes" or "no," except that if the vote is unanimous it is only necessary to state in the journal of assembly proceedings that the vote is unanimous. An assembly member may call for a roll call vote at any time as prescribed by Mason's Rules.

B. [ACTIONS OTHER THAN THOSE SPECIFIED IN SUBSECTION A ABOVE, AND REQUIRING A VOTE, MAY BE BY VOICE VOTE AND THE VOTES NEED NOT BE RECORDED PROVIDED THE VOTE IS UNANIMOUS. FOR SUCH VOTES THE RESULTS SHALL BE RECORDED ACCORDINGLY.

C.] For matters which are not substantive in nature, as established by the assembly practice, the president of the assembly may announce agreement in the assembly without a vote. Illustrations for guidance are: Adjournment; change of order of business in any one meeting; receiving a report or statement from an assemblyman or the mayor when specific decision by the assembly is not involved. Any assemblyman or the mayor may require a vote and that the votes be recorded for any subject.

C. [D. NO ORDINANCE OR RESOLUTION ADOPTED BY THE ASSEMBLY MAY BE RECONSIDERED UNLESS] Notice of reconsideration of assembly action must be [HAS BEEN] given before adjournment of [AT] the meeting at which the action to be reconsidered was taken. No assembly member may give notice of reconsideration of any action [IF THE ORDINANCE OR RESOLUTION WAS] passed by an affirmative vote of three-fourths or more of the membership of the assembly.

22.40.190 Legislation--Land use and capital projects--planning commission and community council recommendations. [2.08.170 CAPITAL IMPROVEMENT PLANS-- RESOURCES--COMMUNITY CONCERNS--COMMUNICATION WITH ASSEMBLY OR BOROUGH ADMINISTRATION.] A. The assembly shall consider the recommendations of local community councils and local advisory planning commission in each unincorporated legislative

district within the borough in developing capital project plans and in assembly actions affecting their area.

B. Legislative matters affecting land use or the disposal of borough lands or resources shall not be adopted by the assembly without giving consideration to recommendations, if any, of the planning commission, local advisory planning commissions, and active community councils.

2.40.200 [2.08.022] Meetings--Time restrictions-- Uncompleted Agenda. A. The assembly shall take no official legislative or adjudicatory action after 11:30 P.M. [12:00 O'CLOCK MIDNIGHT] and before 8:00 a.m., actual time. The assembly shall adjourn or recess any regular or special meeting at midnight. This time for conclusion of legislative business and adjournment is mandatory. In the event that the legislative or adjudicatory business has not been completed by the time set herein [midnight], the assembly may recess the meeting to a time consistent with this section, call a special meeting to complete the agenda and adjourn, or adjourn.

B. If the meeting is adjourned without making other provision for completion of the agenda items, then such uncompleted matters shall be acted upon [PRIOR TO THE BEGINNING OF THE LEGISLATIVE NEXT AGENDA ITEMS] at the next regularly scheduled assembly meeting under the agenda section for uncompleted items from prior meetings. Except for consent agenda items no other item of legislation on the agenda may be considered until these uncompleted items have been considered by the assembly.

C. The assembly shall not adjourn prior to midnight unless [UNTIL] all presentations and comments by members of the general public have been heard.

D. This section does not preclude the conduct of procedural business of the assembly after 11:30 P.M., but before the mandatory adjournment time.

22.40.210 [2.08.060] Journal [OF PROCEEDINGS]-- Contents-- Minutes Approval [ATTESTATION REQUIRED-- ASSEMBLY CLERK RESPONSIBILITIES]. A. The journal of the assembly proceedings shall be kept by the assembly clerk.

B. Draft minutes of each meeting shall be sent to each assembly member [ASSEMBLYMAN] in advance of the next meeting, unless additional time is granted by the assembly president for cause [THERE SHOULD BE TWO OR MORE MEETINGS IN SUCH QUICK SUCCESSION THAT THIS IS NOT FEASIBLE].

C. The draft minutes of each meeting shall be approved at the next succeeding meeting [UNLESS DEFERRED BY CONSENT OF THE ASSEMBLY.]

D. [THE MINUTES NEED NOT BE READ IN MEETINGS BEFORE APPROVAL IF RECEIVED BY ALL ASSEMBLYMEN IN ADVANCE OF THE MEETING, UNLESS READING IS REQUESTED BY AN ASSEMBLYMAN OR THE MAYOR.

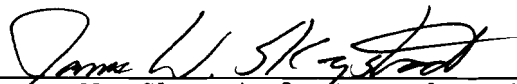
E.] Approved [THE] minutes shall be signed by the assembly officer then presiding [PRESIDENT, OR BY THE VICE PRESIDENT FOR THE MINUTES OF THE MEETINGS OVER WHICH HE PRESIDES, OR BY BOTH IF EACH SHOULD PRESIDE OVER A PART OF THE MEETING,] and attested by the assembly clerk [, OR BY AN ACTING CLERK DESIGNATED BY THE ASSEMBLY FOR ANY MEETING AT WHICH THE CLERK IS NOT PRESENT.]

E.[F] The assembly clerk shall send to the city clerk of each first-class and home rule city in the borough [THE NUMBER OF

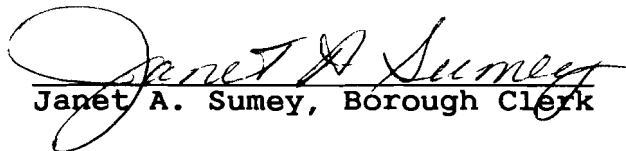
COPIES] a copy of the approved minutes [REQUESTED BY THE CITY COUNCIL AND 1 COPY TO EACH POST OFFICE IN THE BOROUGH] with a request to post for 10 days.

Section 4. That paragraph 22.30.110 of Section 3 of this ordinance shall take effect on July 1, 1991. All other paragraphs and sections of this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 18th DAY OF September, 1990.


James W. Skogstad, Assembly President

ATTEST:


Janet A. Sumey, Borough Clerk