

Introduced by:	Policies & Procedures Committee
Date:	02/07/95
Hearing:	03/07/95
Action:	Enacted
Vote:	Unanimous

**KENAI PENINSULA BOROUGH  
ORDINANCE 95-03**

**AN ORDINANCE AMENDING 5.12.060 OF THE PROPERTY TAX CODE BY  
PROVIDING TIME LIMITATIONS FOR ORAL PRESENTATIONS BEFORE THE  
BOARD OF EQUALIZATION AND AMENDING 5.12.055 OF THE PROPERTY TAX  
CODE TO EXPRESSLY ALLOW WRITTEN PRESENTATIONS**

**WHEREAS,** the Assembly previously enacted Kenai Peninsula Borough Code of Ordinance ("KPB") 5.12.060 to provide for Board of Equalization ("the Board") procedures to resolve property valuation appeals; and

**WHEREAS,** pursuant to KPB 5.12.050(D) and KPB 5.12.055, appellants are notified of their opportunity to submit documentary evidence to the Board in support of their position regarding the dispute and both the appellant and the assessor are provided with instructions as to what may be presented and when it must be submitted; and

**WHEREAS,** the Assembly has determined that thirty (30) minutes is a reasonable amount of time to allow each side for oral presentation; and

**WHEREAS,** in conjunction with limiting oral presentations to thirty (30) minutes, the Alaska Rules of Appellate Procedure allow appellants to present their case in writing as well;

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

**SECTION 1.** That 5.12.055 is amended to read as follows:

**5.12.055. Record — Written presentation — 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.

C. 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 7 days before the board hearing on the appealed assessment. The clerk shall provide a copy of the appellant's filings to the assessor upon receipt.

**SECTION 2.** That 5.12.060 is repealed and reenacted to read as follows:

**5.12.060. Board of equalization procedure.**

A. After the closing date for appeals, the borough clerk, at the direction of the chair of the board of equalization, shall schedule meetings of the board. All appeals must be heard and decided before 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 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. In the absence of the president, the vice president 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, 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 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.

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. Each side shall have a total of no more than 30 minutes to present their case. Each side shall be responsible for dividing their 30 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.

I. 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.

J. The appellant or representative then presents the appellant's case when called by the presiding officer. Should the appellant wish, and prior to beginning the presentation, a portion of the 30 minutes allowed may be reserved for a rebuttal presentation at the end of the assessor's case. At the conclusion of the appellant's presentation, board members may question the appellant or other witnesses upon recognition by the presiding officer.

K. The assessor or designee then presents the borough's case when called by the presiding officer. Should the assessor wish, and prior to beginning the presentation, a portion of the 30 minutes allowed may be reserved for a rebuttal presentation at the end of the appellant's rebuttal. At the conclusion of the assessor's presentation, board members may ask questions of the assessor or other witnesses upon recognition by the presiding officer.

L. The time required to answer questions from the board shall not be charged against either party.

M. If the appellant or the assessor has reserved a portion of their 30 minutes, each may then present rebuttal evidence, with the appellant proceeding first.

N. The assessor may recommend changes to the existing value during the hearing.

O. 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.

P. 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.

Q. 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.

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

S. 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.

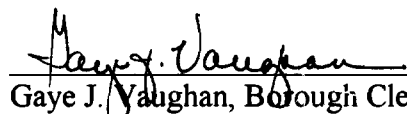
T. Either the appellant or the assessor may appeal the decision of the board to the superior court in the Kenai venue district, within 30 days of the date of mailing of the board's decision, as provided by the rules of appellate procedure governing appeals from administrative agency decisions. The record on appeal is the record established at the board hearing.

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

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7th DAY OF MARCH, 1995.**

  
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Andrew P. Scalzi, Assembly President

ATTEST:

  
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Gaye J. Vaughan, Borough Clerk