

Introduced by:	Mayor
Date:	09/01/98
Hearing:	10/13/98
Action:	Enacted as Amended
Vote:	7 Yes, 0 No, 2 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 98-53**

**AN ORDINANCE ENACTING KPB 5.12.090, REQUIRING PROPERTY OWNERS TO
SUBMIT SCIENTIFIC EVIDENCE OF CONTAMINATION FOR THE ASSESSOR TO
CONSIDER A PARCEL CONTAMINATED FOR PURPOSES OF DETERMINING
FULL AND TRUE VALUE**

WHEREAS, various parcels of real property throughout the Kenai Peninsula Borough have been contaminated by a hazardous substance; and

WHEREAS, those contaminated parcels of real property may have suffered a loss of value due to the contamination; and

WHEREAS, it is impossible for the assessor to determine the fact or concentration level of contamination without scientific tests by a person or organization with expertise in the various types of contamination; and

WHEREAS, that before the assessor can make any adjustment in the assessed value, a contamination report by a qualified expert describing the vertical and horizontal areas of contamination, concentration levels of contamination, and an estimate of the time and cost to clean up the contaminated site is necessary;

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

SECTION 1. That KPB 5.12.090 is hereby enacted to read as follows:

5.12.090. Method of determining the full and true value of contaminated property.

A. The assessor shall apply any lawful, reasonable and recognized appraisal approach in the determination of the full and true value of contaminated property in accordance with this section.

B. Unless otherwise required by law, the assessor may not consider property contaminated unless the taxpayer submits to the assessor either a Phase II Report or a report determined to be substantially equivalent by the assessor that:

1. Identifies the contaminants and the concentration levels of each contaminant; and
2. Defines the vertical and horizontal areas of contamination through analysis of soil, water or air samples; and
3. Includes the estimated costs to cure or control the contamination, which costs may consist of expenses for environmental audits, surety bonds, insurance, monitoring costs, legal fees, engineering costs and other relevant costs. All costs must be directly related to the cleanup or containment of the hazardous substance.

C. In this section, unless the context otherwise requires:

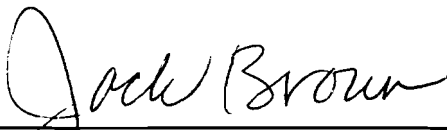
1. "Contaminated property" means all or a portion of a parcel of real property that on January 1 of the assessment year is either:
 - a. On the National Priority List of the Environmental Protection Agency and supported by either a Phase II report or a report determined to be substantially equivalent by the assessor;
 - b. Included in the State of Alaska, Department of Environmental Conservation Contaminated Sites Data Base (Contaminated Site List) and supported by either a Phase II Report or a report determined to be substantially equivalent by the assessor; or
 - c. A property not on either of the above lists but proven to be contaminated through the submission of either a Phase II Report or a report determined to be substantially equivalent by the assessor, containing reliable and valid data sufficient to permit independent scientific verification of the conclusions reached. The data may include such information as engineering studies, environmental audits, laboratory reports and other valid scientific data.

Real property on which hazardous substances may legally be stored, disposed of or released is not considered to be contaminated for purposes of reducing an assessment.

2. "Cost to cure or contain" means the estimated after-tax cost of the remaining remedial work specific to the subject property to remove, contain or treat the hazardous substance or oil. Cost to cure may include the cost of environmental audits, surety bonds, insurance, monitoring costs and engineering and legal fees. The costs must be directly related to the cleanup or containment of a hazardous substance or oil.
3. "Hazardous substance" has the meaning ascribed in AS 46.08.900(6), as now enacted or as may be hereinafter amended.
4. "Phase II Report" means an Environmental Assessments Phase II Report that verifies contamination and delineates the area and concentration of contaminants through analysis of soil, air or water samples and includes the cost to cure or contain the contamination.

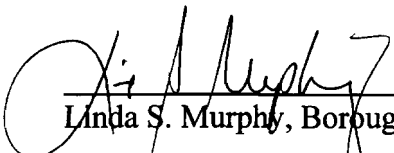
SECTION 2. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 13TH DAY OF OCTOBER, 1998.



Jack Brown, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

