

Introduced by: Scalzi, Drathman, Brown
Date: 02/02/99
Hearing: 03/02/99
Action: Enacted
Vote: 5 Yes, 2 No, 2 Abstain

**KENAI PENINSULA BOROUGH
ORDINANCE 99-06**

**AN ORDINANCE CLARIFYING THAT THE TWO-TERM LIMIT ESTABLISHED IN
KPB ORDINANCE 93-33 ON ASSEMBLY MEMBERS APPLIES TO FULL TERMS
COMMENCING ON OR AFTER JANUARY 1, 1994 FOR OFFICIALS FIRST
ELECTED IN OR AFTER OCTOBER 1993, AND
REPEALING THE TWO-TERM LIMIT ON SCHOOL BOARD MEMBERS**

WHEREAS, following an advisory election held in October 1992, in which the voters favored term limits for elected municipal officials, the assembly enacted Ordinance 92-55 which, if ratified by the voters, would have prohibited any person who had completed two consecutive full terms as assembly member, mayor or school board member, or six consecutive years as assembly member, from serving another term unless 180 days had passed, and which was made effective January 1, 1994; and

WHEREAS, in August, 1993, prior to the election, the assembly repealed Ordinance 92-55 and enacted Ordinance 93-33 which contained the same two-term limit for elected officials as in Ordinance 92-55, and was effective January 1, 1994 if ratified by the voters, but eliminated references to six-year terms and provided that "[t]his limitation shall only apply to full terms of incumbent assembly members commencing with or after the October 1993 Regular Municipal Election"; and

WHEREAS, the voters ratified Ordinance 93-33 in the October 1993 election, but the record contains no discussion by the assembly regarding why the ordinance was made effective January 1, 1994; and

WHEREAS, the 1993 voter brochure stated: "If ratified by the voters, terms served by the mayor, assembly members and/or school board members would be limited to two full consecutive terms beginning January 1, 1994"; and

WHEREAS, Ordinance 93-33 is ambiguous because the January 1, 1994 effective date and information in the voter packet could be read to mean either that only full terms starting after January 1, 1994 would be included in the two-term limitation or that the limitation on serving a third term would start after January 1, 1994; and

WHEREAS, if the assembly had intended the two-term limit to apply to terms of newly elected officials beginning in October 1993 it arguably would not have made the ordinance effective January 1, 1994; and

WHEREAS, the meaning of the term "incumbent" in the above provision in Ordinance 93-33 is also unclear: if it only includes persons who were incumbents when the ordinance was passed, and if the effective date means that only full terms commencing after January 1, 1994 apply, then the limit does not include the first term served of persons first elected in October 1993; however, if "incumbents" includes persons who were "incumbents" on January 1, 1994 then it would include the first term of officials first elected in October 1993; and

WHEREAS, while statutory authority exists for imposing a term limit on assembly members, there is no similar specific statutory authority for imposing a term limit on school board members, without which the borough may be subject to legal challenge; and

WHEREAS, as the October 1999 election is six years, or two full terms, after the October 1993 election, it is the first election potentially subject to the two term limitation; and

WHEREAS, this ambiguity does not affect the office of mayor as the mayor in office in 1993 did not run for re-election in 1996; and

WHEREAS, the borough's best interests would be served by eliminating ambiguities and potential legal challenges concerning the term limitation ordinance;

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

SECTION 1. That the first term counted towards the two-term limit on terms served by assembly members, contained in KPB 22.30.030 (C) and referenced in KPB 4.30.010(B), shall be full terms beginning after January 1, 1994, for assembly members who were first elected to the assembly in October 1993.

SECTION 2. That KPB 1.20.100(C), providing a two-term limit for school board members, is hereby repealed.

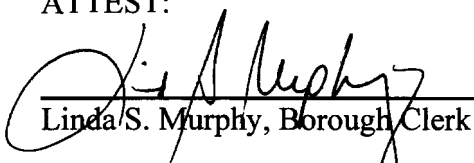
SECTION 3. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 2ND DAY OF MARCH, 1999.



Ronald Wm. Drathman, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

