

Introduced by:	Mayor
Date:	04/20/04
Hearing:	05/18/04
Action:	Amended by Substitution and Postponed until 06/15/04
Action:	Amended and Postponed until 07/06/04
Action:	Enacted as Amended
Vote:	6 Yes, 2 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2004-12 (MAYOR SUBSTITUTE)**

**AN ORDINANCE AMENDING SERVICE AREA CODE PROVISIONS REGARDING
APPOINTMENT OF ADMINISTRATORS**

WHEREAS, review of the borough code shows that provisions relating to appointment of various service area officials are neither consistent nor clear; and

WHEREAS, KPB 16.04.001 provides that the service area boards are advisory to the mayor and assembly and that they may not contravene the authority of the mayor and the assembly; and

WHEREAS, appointment and removal provisions should be clarified to provide that the mayor, as the chief executive officer, in concurrence with the service area board, makes the final decision regarding appointing and removing administrators of service areas; and

WHEREAS, enacting a single baseline provision to govern all service areas will simplify the code; and

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

SECTION 1. That KPB 16.04.080 is hereby enacted to read as follows:

16.04.080. Administrative employees—Appointment, qualifications, and removal.

Except as may otherwise be provided for a specific service area, the director of a service area as determined necessary by the assembly and as defined by KPB 3.04.070 shall be appointed by the mayor from a list of recommended names from the service area board. Except for the road service area director, whose board consists of appointed members, all other service area directors may be removed by the mayor only with a concurrent recommendation from the applicable board. Such action by the service area board shall require a majority vote of the board membership. Other administrative

employees serve at the pleasure of the mayor who may suspend or discharge such employees in his or her sole discretion. The service area board may independently make a recommendation to the mayor regarding the suspension or discharge of other administrative employees; however, such suspension or discharge remains within the sole discretion of the mayor.

SECTION 2. That KPB 16.12.090 relating to Nikiski Fire Service Area is hereby deleted in its entirety as follows:

[16.12.090. CHIEF AND OTHER OFFICERS—APPOINTMENT.

THE SERVICE AREA ADMINISTRATION SHALL CONSIST OF A CHIEF, ASSISTANT CHIEFS, AND OTHER OFFICERS, AS APPOINTED BY THE CHIEF AND BOROUGH MAYOR. THE CHIEF SHALL BE APPOINTED BY THE BOROUGH MAYOR, AFTER RECOMMENDATION FROM THE SERVICE AREA BOARD, FOR AN INDEFINITE PERIOD OF TIME, AND THE CHIEF'S TENURE OF OFFICE SHALL DEPEND UPON THE CHIEF'S GOOD CONDUCT AND EFFICIENCY. THE CHIEF SHALL BE REMOVED ONLY FOR JUST CAUSE AND AFTER A PUBLIC HEARING BEFORE THE BOROUGH ASSEMBLY.]

SECTION 3. That KPB 16.20.130 relating to Kachemak Emergency Service Area is hereby deleted in its entirety as follows:

[16.20.130. OFFICERS—APPOINTMENT, QUALIFICATIONS AND REMOVAL.

THE MAYOR, AFTER CONSIDERING THE RECOMMENDATION OF THE BOARD, MAY APPOINT SUCH ADMINISTRATIVE OFFICERS AS THE MAYOR DEEMS NECESSARY. THESE OFFICERS SHALL BE SUBJECT TO REMOVAL BY THE MAYOR AS PROVIDED FOR ADMINISTRATIVE PERSONNEL IN KPB 3.04.070. TO THE EXTENT FEASIBLE, THE MAYOR SHALL CONSIDER THE RECOMMENDATION OF THE SERVICE AREA BOARD PRIOR TO SUCH REMOVAL. THE ADMINISTRATIVE OFFICERS SHALL ADMINISTER POLICY AS SET BY THE BOARD WITH THE CONCURRENCE OF THE MAYOR.]

SECTION 4. That KPB 16.28.120 relating to Bear Creek Fire Service Area is deleted in its entirety as follows:

[16.28.120. OFFICERS—DESIGNATION.

THE FIRE SERVICE AREA BOARD, WITH THE CONCURRENCE OF THE MAYOR, MAY APPOINT OR ELECT SUCH OFFICERS AS THE BOARD AND THE MAYOR MAY DEEM NECESSARY.]

SECTION 5. That KPB 16.28.130 relating to Bear Creek Fire Service Area is hereby deleted in its entirety as follows:

[16.28.130. FIRE CHIEF—APPOINTMENT, QUALIFICATIONS AND REMOVAL.

THE FIRE CHIEF AND SUCH OTHER ADMINISTRATIVE OFFICERS AS MAY BE PROVIDED FOR SHALL BE APPOINTED BY THE MAYOR AFTER RECOMMENDATION FROM THE SERVICE AREA BOARD. THE TENURE OF THESE OFFICES SHALL BE BASED UPON GOOD AND FAITHFUL PERFORMANCE OF THE REQUIRED DUTIES ASSIGNED TO THESE POSITIONS, SUBJECT TO REMOVAL BY THE MAYOR ON OR UPON THE RECOMMENDATION OF THE SERVICE AREA BOARD AS PROVIDED FOR PARTIALLY EXEMPT PERSONNEL IN TITLE 3 OF THE KENAI PENINSULA BOROUGH CODE OF ORDINANCES.]

SECTION 6. That KPB 16.30.130 relating to the Central Emergency Service Area is hereby deleted in its entirety as follows:

[16.30.130. OFFICERS—APPOINTMENT, QUALIFICATIONS AND REMOVAL.

THE JOINT OPERATIONS BOARD, WITH THE CONCURRENCE OF THE MAYOR, MAY APPOINT OR ELECT SUCH ADMINISTRATIVE OFFICERS AS THE BOARD AND MAYOR DEEM NECESSARY. THE TENURE OF THESE OFFICERS SHALL BE BASED UPON GOOD AND FAITHFUL PERFORMANCE OF THE REQUIRED DUTIES ASSIGNED TO THESE POSITIONS SUBJECT TO REMOVAL BY THE MAYOR ON OR UPON THE RECOMMENDATION OF THE SERVICE AREA BOARD AS PROVIDED FOR PARTIALLY EXEMPT PERSONNEL IN TITLE 3 OF THE KENAI PENINSULA BOROUGH CODE OF ORDINANCES. THE ADMINISTRATIVE OFFICERS SHALL ADMINISTER POLICY AS SET BY THE JOINT OPERATIONS BOARD WITH THE CONCURRENCE OF THE MAYOR.]

SECTION 7. That KPB 16.41.130 relating to the Kenai Peninsula Borough Road Service Area is hereby deleted in its entirety as follows:

[16.41.130. ADMINISTRATIVE EMPLOYEES—APPOINTMENT, QUALIFICATIONS, AND REMOVAL.

THE DIRECTOR AND OTHER ADMINISTRATIVE EMPLOYEES AS DETERMINED NECESSARY BY THE ASSEMBLY AND AS DEFINED BY KPB 3.04.070 SHALL BE APPOINTED BY THE MAYOR AFTER CONSIDERATION OF A RECOMMENDATION FROM THE SERVICE AREA BOARD. ADMINISTRATIVE EMPLOYEES SERVE AT THE PLEASURE OF THE MAYOR WHO MAY SUSPEND OR DISCHARGE SUCH EMPLOYEES IN HIS SOLE DISCRETION. THE SERVICE AREA BOARD MAY INDEPENDENTLY MAKE A RECOMMENDATION TO THE MAYOR REGARDING THE SUSPENSION OR DISCHARGE OF ADMINISTRATIVE EMPLOYEES; HOWEVER, SUCH SUSPENSION OR DISCHARGE REMAINS WITHIN THE SOLE DISCRETION OF THE MAYOR.]

SECTION 8. That KPB 16.45.130 relating to Lowell Point Emergency Service Area is hereby deleted in its entirety as follows:

[16.45.130. OFFICERS—APPOINTMENT, QUALIFICATIONS, AND REMOVAL.

THE MAYOR, AFTER CONSIDERING THE RECOMMENDATION OF THE BOARD, MAY APPOINT SUCH ADMINISTRATIVE OFFICERS AS THE MAYOR DEEMS NECESSARY. THESE OFFICERS SHALL BE SUBJECT TO REMOVAL BY THE MAYOR AS PROVIDED FOR ADMINISTRATIVE PERSONNEL IN KPB 3.04.070. TO THE EXTENT FEASIBLE, THE MAYOR SHALL CONSIDER THE RECOMMENDATION OF THE SERVICE AREA BOARD PRIOR TO SUCH REMOVAL. THE ADMINISTRATIVE OFFICERS SHALL ADMINISTER POLICY AS SET BY THE BOARD WITH THE CONCURRENCE OF THE MAYOR.]

SECTION 9. That KPB 16.50.130 relating to the Seward-Bear Creek Flood Service Area is hereby deleted in its entirety as follows:

[16.50.130. OFFICERS—APPOINTMENT, QUALIFICATIONS, AND REMOVAL.

THE MAYOR, AFTER CONSIDERING THE RECOMMENDATION OF THE BOARD, MAY APPOINT SUCH ADMINISTRATIVE OFFICERS AS THE MAYOR DEEMS NECESSARY. THESE OFFICERS SHALL BE SUBJECT TO REMOVAL BY THE MAYOR AS PROVIDED FOR ADMINISTRATIVE PERSONNEL IN KPB 3.04.070. TO THE EXTENT FEASIBLE, THE MAYOR SHALL CONSIDER THE RECOMMENDATION OF THE SERVICE AREA BOARD PRIOR TO SUCH REMOVAL. THE ADMINISTRATIVE OFFICERS SHALL ADMINISTER POLICY AS SET BY THE BOARD WITH THE CONCURRENCE OF THE MAYOR.]


SECTION 10. That KPB 16.70.100 relating to the Nikiski Senior Service Area is hereby deleted in its entirety as follows:

[16.70.100. DIRECTOR—APPOINTMENT.

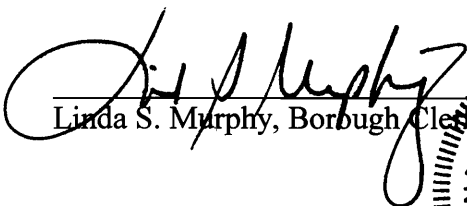
A DIRECTOR OF THE SERVICE AREA MAY BE APPOINTED, ACCORDING TO THE BOROUGH PERSONNEL SYSTEM AND ORDINANCES.]

SECTION 11. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JULY, 2004.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk

