

Introduced by: Mayor
Date: 09/07/04
Hearing: 10/12/04
Action: Enacted
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2004-30**

**AN ORDINANCE ENACTING KPB CHAPTER 5.12.114 TO PROVIDE FOR
PROPERTY TAX REDUCTION FOR PROPERTY AFFECTED BY A DISASTER**

WHEREAS, the Alaska Twenty-Third Legislature, Second Session, passed House Bill 209, which amended AS 29.45.230 by authorizing municipalities to establish criteria for the reduction of taxes on property damaged, destroyed, or otherwise reduced in value as a result of disaster, and permits it to prescribe procedures, restrictions and conditions for assessing or reassessing property and for remitting, refunding, or forgiving taxes; and

WHEREAS, the Kenai Peninsula Borough (“Borough”) experiences occasional disasters in the form of floods, fires, earthquakes, storms, wind, and volcanic eruptions; and

WHEREAS, the Borough wishes to encourage the timely, safe and efficient rebuilding or renovation of disaster damage; and

WHEREAS, the Borough recognizes that some form of reduction of taxes or the reduction in value of disaster-damaged property will promote and encourage the rebuilding or renovation of disaster-damaged property; and

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

SECTION 1. That KPB 5.12.114 is hereby enacted as follows:

5.12.114. Real property tax—Exemptions—Disaster damage.

A. Reassessment of Property Damaged by Disaster. An owner of any taxable property within the borough, or any person liable for the taxes thereon, whose property was damaged by a disaster without his or her fault, may apply for reassessment of that property under this section. In addition, the assessor may initiate such reassessment where the Mayor determines that within the current assessment year taxable property located in the borough was damaged by a disaster.

B. Definitions:

Unless the context clearly requires a different meaning, the following words and phrases as used in this section are defined as shown below:

“Damage” means harm resulting from physical injury to property, including partial or total destruction, and a diminution in the value of improvements or land resulting from restricted access to property caused by the disaster.

“Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from

1. an incident such as storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic, explosion, or riot;
2. the release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage; or
3. equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation.

C. Eligibility. To be eligible for reassessment, the damage to the property shall have been caused by any of the following:

1. A disaster in an area or region declared by the Mayor, the Governor, or the President to be in a condition of disaster emergency.
2. A disaster as that term is defined in this section.
3. A disaster that, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted.

D. Application for Reassessment.

1. The application for reassessment must be filed with the Assessor within 60 days of the disaster by delivering to the Assessor a written application, on a form provided by the Assessor, requesting reassessment and describing the condition and value of the property immediately before and after the damage or destruction.
2. If no application is made and the assessor determines that within the calendar year a property has suffered damage caused by disaster that may qualify the property owner for relief under an ordinance adopted

under this section, the assessor may provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of the date of the mailing of notification by the assessor but in no case more than 60 days after the occurrence of said damage.

3. Upon receiving the proper application, the assessor or assessor's designee will inspect the property and verify the prior year's full and true value of land, improvements, personal property, or the proposed or certified current year's value immediately before and after the damage or destruction.
4. If an applicant has refused or failed to provide the assessor or the assessor's agent full access to property or records reasonably requested by the assessor, the applicant shall be precluded from any reduction or relief, and any valuation or valuation issue affected by the lack of access shall be decided in favor of the assessor.
5. If the sum of the full and true values of the land, improvements, and personal property before the damage exceeds the sum of the values after the damage by ten thousand dollars (\$10,000) or more, the assessor shall also separately determine the percentage reduction in value of the land, improvements, or personal property due to the damage or destruction. The assessor shall reduce the values appearing on the assessment roll by the percentage of damage or destruction computed pursuant to this section, and the taxes due on the property shall be adjusted as provided this section. However, the amount of the reduction shall not exceed the actual loss.
6. Any damages to land, improvements, personal property, or additions that do not appear on the assessment roll are not eligible for consideration under this section.
- E. Notice of Reassessment. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the board of equalization within 30 days of the date of mailing the notice.
- F. Appeal. Appeals of the reassessed value shall be heard in accordance with the valuation and flat tax appeal procedures provided in this chapter. A decision of the board of equalization regarding reassessment issued pursuant to this section shall create no presumption regarding the value of the affected property subsequent to the date of the damage.

- G. Tax Roll Adjustment. Any reassessed value resulting from one or more reductions in full and true value of amounts, as determined above, shall be forwarded to the finance director. The finance director shall calculate and enter the reassessed tax values on the finance roll as a Tax Adjustment Request (TAR).
- H. Tax Adjustment. The tax rate fixed for the property so reassessed shall be applied to the amount of the reassessment as determined in accordance with this section. The owner of record shall be liable for a prorated portion of the taxes that would have been due on the property for the current calendar year had the disaster not occurred. This proration is determined on the basis of the number of days remaining in the calendar year beginning with the date of the disaster. For purposes of applying the calculation in prorating taxes, the term "calendar year" means the portion of the current tax year used to determine the adjusted amount of taxes based on a 365-day year. If the damage or destruction occurred after January 1 and before the beginning of the next calendar year, the reassessment shall be utilized to determine the tax liability for the current year. Any tax paid in excess of the total tax due shall be refunded to the taxpayer as an erroneously collected tax within 60 days of the final determination of the adjusted tax liability.
- I. Effect of Revised Assessment. The assessed value of the property in its damaged condition, as determined pursuant to this section shall be the taxable value of the property until December 31 of the year in which the disaster occurred, unless the value is otherwise adjusted as allowed by law.

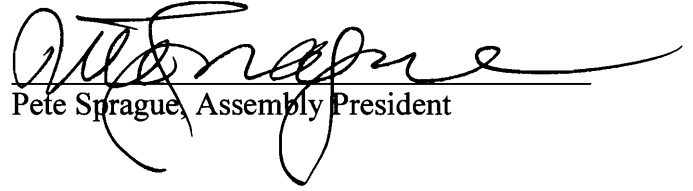
SECTION 2. That KPB 5.12.040(B) is hereby amended as follows:

- B. The assessor may adjust the roll to correct errors or omissions in the roll, or to make changes in valuation or taxable status of property on the roll, and shall mail a notice of assessment, reflecting the assessor's decision, allowing 30 days to appeal to the board of equalization or superior court. Under no circumstances shall the assessor make changes to the roll after June 1, except for those resulting from board of equalization decisions, supplementary assessments, reassessments following a disaster as provided in this chapter, clerical errors, or court ordered changes.

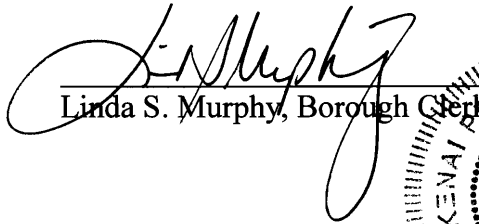
SECTION 3. That the application form accompanying this ordinance, copies of which shall be available in the office of the borough clerk and the borough assessing department, is hereby approved.

SECTION 4. That this ordinance shall take effect January 1, 2005.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 12TH DAY OF OCTOBER, 2004.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk

