

Introduced by: Mayor  
Date: 01/06/09  
Hearing: 02/03/09  
Action: Enacted  
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2009-01**

**AN ORDINANCE AMENDING KPB 5.12.050 AND 5.12.055 REGARDING BOARD OF  
EQUALIZATION PROCEDURES AND ELIMINATING THE SUNSET DATE OF THE  
APPOINTED BOARD OF EQUALIZATION**

**WHEREAS,** KBP 5.12.050 and 5.12.055 describe appeals procedures for property owners to appeal alleged errors in valuation of property to the Kenai Peninsula Borough Board of Equalization ("BOE"); and

**WHEREAS,** in 2008, the assessed values of 57 parcels were appealed by property owners and heard by the BOE, the majority of which were heard within one week; and

**WHEREAS,** the Assessing Department must prepare and present information on all parcels appealed and heard by the BOE as well as prepare for additional parcels appealed but withdrawn prior to the BOE hearing date; and

**WHEREAS,** a housekeeping clarification to KPB 5.12.050 is intended to alleviate any potential confusion regarding whether the BOE must make a finding regarding what the assessors' most recent recommended valuation was and whether it was conveyed to the taxpayer prior to the date the assessor's evidence was due; and

**WHEREAS,** requiring interrogatories and requests for production to be served within 20 days after an appeal is filed instead of within 30 days will ensure the assessor has at least 10 days to reply to the discovery request; and

**WHEREAS,** Ordinance 2005-29 established an appointed BOE in place of the assembly sitting as the BOE and provided that the ordinance would automatically expire on December 31, 2006, unless the assembly by ordinance had altered or extended that date; and

**WHEREAS,** the assembly by Ordinance 2006-37 extended the expiration date of Ordinance 2005-29 to December 31, 2008; and

**WHEREAS,** the appointed BOE has been well received by the hearing participants and the public, and it is in the best interest of the borough to eliminate the expiration date;

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

**SECTION 1.** That KPB 5.12.050(B) is hereby amended as follows:

**5.12.050. Valuation and flat tax appeal procedure.**

B. An appellant must, within 30 days after the mailing of the notice of assessment, submit to the assessor, by delivery to the borough clerk, a written appeal. The appeal must state the name of the owner, a legal description of the property, and the grounds for the appeal. If the party making the request is an assign of the record owner, documentation of the assignment must bear a stamp reflecting the recording district and the book and page number or serial number of the recorded assignment. If the party making the request is an agent of the property owner, the property owner's signature granting the authority must be notarized and attached to the request. It must be submitted to the borough clerk within 30 days after the mailing of the notice of assessment, or the right to appeal ceases unless the board of equalization finds that the taxpayer was unable to comply. No appeal application may be accepted unless a filing fee of \$30.00 for a property whose assessed value is less than \$100,000.00, \$100.00 for property whose total assessed value is at least \$100,000.00 but less than \$500,000.00, \$200.00 for property whose total assessed value is at least \$500,000.00 and less than \$2,000,000.00, and \$1,000.00 for property whose total value is \$2,000,000.00 or greater, is received by the clerk at the time of filing. If the [BOE FINDS THE] assessor's most recent recommended value, presented to the taxpayer prior to the date the assessor's evidence is due, was determined by the BOE to be excessive, undervalued, or overvalued, or if the appeal is withdrawn before evidence is due, then the filing fee shall be fully refunded. For purposes of this section, the appeal is submitted on the date it is received in the office of the clerk or, if delivered by first class mail, the date it is postmarked by the U.S. Postal Service. Appeal forms shall be available from the borough assessor's office, borough clerk's office, or city offices within the borough. The borough clerk will provide to the assessor each appeal within two days of receipt. An application to proceed with an appeal as an indigent may be filed with the borough clerk's office in accordance with the procedures and schedule described in KPB 21.20.250(B).

**SECTION 2.** That KPB 5.12.055(A) is hereby amended as follows:

**5.12.055. Record-Discovery-Motions-Written presentation-On appeal.**

A. Discovery: No more than [30] 20 days after a written appeal is filed, the assessor and the appellant may submit interrogatories and requests for production to the other party. All such interrogatories and requests must seek information relevant to the valuation or, in the case of a flat tax appeal, an alleged error in ownership or classification of property. A party may not submit more than 10 interrogatories and 10 requests for production, including

all discrete subparts of each interrogatory and request for production, to the opposing party. Responses shall be due no later than 10 days after the request has been served by fax, in person, or mail upon the opposing party. For good cause shown the board chair may grant additional time to respond and authorize additional interrogatories and requests for production. In determining good cause for this purpose, the chair shall consider the burden and expense on the party to timely produce the requested information, whether the party seeking the extension has exercised due diligence in attempting to respond timely, whether the party seeking additional information has exercised due diligence in attempting to gain the necessary information from other sources, the complexity of the case, prejudice to the other party for allowing additional time and/or requests for information, and other factors deemed relevant by the chair. Any request for an extension or for additional discovery that is granted to one party shall also be equally granted to the other party. In any event, all responses must be delivered to the requesting party no later than 20 days before the board hearing on the appealed assessment.

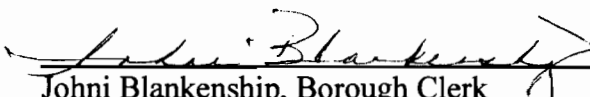
**SECTION 3.** That the expiration date of December 31, 2008, in Ordinance 2006-37 is hereby repealed.

**SECTION 4.** That the effective date of Section 3 of this ordinance is retroactively effective on December 31, 2008. The remaining sections of this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF FEBRUARY, 2009.**

  
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Milli Martin, Assembly President

ATTEST:

  
\_\_\_\_\_  
Johni Blankenship, Borough Clerk



Yes: Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin  
No: None  
Absent: Fischer