

KENAI PENINSULA BOROUGH

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**DAVE CAREY
BOROUGH MAYOR**

MEMORANDUM

TO: Pete Sprague, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM:  Pete Sprague, Assembly President

DATE: April 19, 2010

SUBJECT: Amendments to Ordinance 2010-10, enacting KPB Chapter 2.90, Code of Ethics

Minor amendments are proposed as follows:

The assembly functions as an ethics board in determining remedies or attorney fees. Therefore, the word “board” is changed to assembly in order to be consistent with the remaining provisions of the proposed ethics code.

➤ Amend proposed KPB 2.90.160(G) as follows:

- G. If the hearing officer determines that no violation has occurred, or otherwise dismisses the complaint for substantive reasons, the assembly [BOARD] may, in its discretion, award full or partial attorney fees to a public official who reasonably incurred those costs defending the complaint. This award may be made only to the extent that the assembly has appropriated funds for that purpose.

An appeal process is provided for public officials and should be offered to employees as well.

➤ Amend proposed KPB 2.90.180 by adding subsection L as follows:

- L. An employee found in violation of this chapter may appeal the determination within 30 days of receipt of the report referenced in subsection H to the superior court in accordance with the Alaska Rules of Appellate Procedure.

As there is no human resources director position in the borough, substitute “general services director” for “human resources director” in proposed KPB 2.90.080(F), 2.90.270(B) and (D), 2.90.280(A), (F), and (G), and 2.90.310(D).

The second sentence of the definition of “clerk” is deleted as the general services director fulfills the role of the clerk if the clerk is subject of a complaint proposed under KPB 2.90.080(F). Also, the definitions of “complainant” and “respondent” are amended to delete the board of ethics and refer instead to the clerk or general services director, as appropriate. Finally, the definition of “employee” is amended to delete nonexistent classes of employees and add legislative, administrative, and confidential employees.

➤ Amend the following definitions in proposed KPB 2.90.320 as follows:

“Clerk” means the borough clerk, the deputy borough clerk, and any designee of the borough clerk or deputy borough clerk. [IN THE EVENT A COMPLAINT IS FILED AGAINST THE BOROUGH CLERK OR THE DEPUTY BOROUGH CLERK THEN “CLERK,” AS USED IN ARTICLE V, PROCEDURES, SHALL MEAN THE BOROUGH ATTORNEY’S OFFICE.]

“Complainant” means a person filing a complaint with the clerk or general services director, as appropriate [BOARD OF ETHICS].

“Employee” means a permanent, probationary, seasonal, temporary, or casual employee, whether appointed, legislative, administrative, confidential, [EXECUTIVE/ADMINISTRATIVE/PROFESSIONAL,] or classified, and does not include the borough mayor, borough clerk, deputy borough clerk, or assembly members.

“Respondent” means the person against whom a complaint is filed with the clerk or general services director, as appropriate [BOARD OF ETHICS].