

Introduced by:	Knopp
Date:	10/26/10
Hearing:	12/07/10
Action:	Enacted as Amended
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2010-41**

**AN ORDINANCE AMENDING KPB 2.90.030 VIOLATIONS TO INCLUDE A
PROVISION PROHIBITING UNAUTHORIZED DISSEMINATION OF
INFORMATION DISCLOSED WITHIN AN EXECUTIVE SESSION**

WHEREAS, on April 20, 2010, the assembly enacted ordinance 2010-10, establishing a code of ethics; and

WHEREAS, while it is likely generally understood that discussions and information disclosed during an executive session must be kept confidential, this is not codified nor is any remedy for a breach of confidentiality specifically established in local or state law; and

WHEREAS, explicitly stating that such information must be kept confidential and providing for possible remedies for a breach of confidentiality may dissuade improper disclosure of confidential information and provides for greater certainty in addressing violations;

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

SECTION 1. That KPB 2.90.030 Violations, is hereby amended by adding subsection D(4) as follows:

2.90.030. Violations.

Ethical violations are as follows:

- A. Special Consideration. A public official shall not grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
- B. Authority. A public official shall not exceed his or her authority, or intentionally breach the law, or ask or coerce others to do so in the course of his/her official public duties.
- C. Other Offices or Employment. A public official shall not hold or seek other office or employment which compromises the performance of his or her elected or appointed duties without disclosure of such office or employment. A public official shall disqualify himself or herself from any

particular action which might be compromised by such office or employment.

D. Use of Confidential Information.

1. A public official shall not use or disclose confidential information without appropriate authorization.
2. A public official shall not use or disclose information gained as a public official that is not yet published in any form by the borough or is not generally made available to the public to gain, directly or indirectly, anything of value.
3. This provision shall not prevent any public official from reporting violations of this chapter or other illegal acts to the proper authorities.
4. All discussions and information disclosed during an executive session shall be kept confidential unless disclosure is required by law. Any person receiving executive session information shall not disclose that information to any party who was not in the executive session except as necessary to comply with a legal requirement, upon approval by motion of the body that convened the executive session, or pursuant to a court order to a judge in camera. No public official with knowledge of information disclosed during the executive session may take any independent action pursuant to such information without specific authority granted by the public body that held the executive session. Disclosure of executive session information does not constitute a waiver of any privilege including the attorney client privilege.

E. Solicitation of or Receipt of Anything of Value. A public official shall not solicit or accept anything of value from any person or entity other than the borough, directly or indirectly, in consideration of some action to be taken or not to be taken in the performance of the public official's duties. Gifts may be accepted as provided in KPB 2.90.040.

F. Disclosure of Gift. A public official shall not fail to disclose a gift as set forth in KPB 2.90.040,

G. Holding Investments or Property. A public official shall not hold any investment that might compromise the performance of the public official's duties without disclosure of the investment and self-disqualification from any participation in and voting on any particular action that might be compromised by the investment.

H. Representation of Others.

1. A public official shall not represent any person in dealings with the borough in consideration of anything of value except:
 - a. In a contested case which involves a party other than the borough, and the interests represented by the public official are the borough's interests, are essentially the same as the borough's interests, or are not adverse to the borough's interests;
 - b. In a matter that involves only a ministerial action by a borough department, i.e., the performance of a duty that is normally done in the course of business in which the officer is left with no choice of his/her own;
 - c. When the representation is by a public official acting within the scope of his or her official public duties;
 - d. When the representation is merely for the purpose of obtaining information on behalf of a person or business and the public official receives no compensation for the representation beyond the salary and other compensation or reimbursement to which the public official is entitled for the performance of his or her official public duties;
 2. A public official shall be disqualified from acting on any matter or proceeding coming before the assembly when the matter involves any person who is, or has been, a client, patient or other business associate of the public official within one year immediately preceding the date of the matter or proceeding and the matter or proceeding is directly related to the public official's representation of that client, patient, or other business associate of the public official; or
 3. A public official shall not, within one year immediately following conclusion of service on the assembly, represent, advise, or assist a person for compensation regarding a matter that was under consideration by the assembly and in which the public official participated personally and substantially through the exercise of official action. For the purposes of this subsection, "matter" means a case, proceeding, application, contract, or determination but does not include the proposal, consideration, or enactment of legislation.
- I. Financial Interest. A public official or a member of the public official's immediate family shall not have a financial interest in any matter being considered by the public official. A public official shall disclose a financial interest, if known. The public official shall be disqualified from

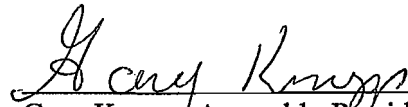
further participation in any matter in which the public official has a financial interest.

- J. **Borough Property.** A public official shall not use borough property, fiscal, or human resources for personal convenience, political purposes, or profit, except when such property is available to the public generally, or where such property is provided by specific borough policy in the conduct of official borough business.
- K. **Giving Anything of Value.** A public official shall not give anything of value in return for votes, promises, or other consideration that is prohibited by state law.
- L. **Expenses.** A public official shall provide required documentation to support requests for expense reimbursement or advancement. Expense reimbursement and advancements shall be made in accordance with borough policy.
- M. **Donations.** Except as specifically authorized by law, a public official shall not take any official action which will benefit any person or entity other than the borough because of a donation of anything of value to the borough by the person or entity.
- N. **Official Action.** A public official shall not take any official public action that will benefit any person or entity other than the borough when the public official would not have taken the action but for the public official's family relationship, friendship, or business relationship with the person or entity.
- O. **Representation of Assembly Position.**
 - 1. A public official shall not represent himself or herself as being the official authorized spokesperson for the assembly on a given issue unless specifically authorized by the assembly.
 - 2. A public official when making a public statement or otherwise taking a public position shall state that he or she is expressing a personal opinion unless authorized to speak on behalf of the assembly.
- P. **Aiding a Violation.** A public official shall not knowingly aid another public official in the violation of this chapter.
- Q. **Employment of Elected Public Official.** An elected public official shall not accept employment with the Kenai Peninsula Borough while serving in office or within one year after conclusion of service.

- R. Disclosure of Conflict of Interest. A public official shall not fail to disclose a conflict of interest.
- S. Misrepresentation of a Material Fact. A public official shall not misrepresent a material fact in a response to a complaint filed under this chapter.
- T. Disclosure of Confidential Information. A public official shall not disclose confidential information relating to a proceeding under this chapter.
- U. Compensation for official duties. A public official shall not accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the borough.
- V. Benefited interest. A public official shall not attempt to benefit a personal or financial interest through coercion of a subordinate or require a borough employee to perform services for the private benefit of a public official.
- W. Solicitations. A public official shall not solicit any assessments, contributions, or services for any political party from any employee in the borough service during working hours.
- X. Borough assets. A public official shall not use or authorize the use of borough funds, facilities, equipment, services, or another government asset or resource to include borough letterhead or logo with the intent to differentially benefit or harm a candidate or potential candidate for elective office or a political party or group.
- Y. Political activities. Nothing in this section shall affect the right of a public official to hold membership in and voluntarily, financially, and otherwise support a political party or candidate, to vote as he chooses, to express his opinions on all political subjects and candidates, to maintain political neutrality, and to attend political meetings.
- Z. Personal use of borough resources. Nothing in this section prohibits inconsequential use of borough time, property, equipment, or other facilities for personal purposes if the use does not interfere with the performance of official duties and the cost or value related to the use is minimal.
- AA. Use of borough facility. Nothing in this section prohibits the use of a borough facility by a political organization if the facility is available to other such organizations on the same terms and conditions.

SECTION 2. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF DECEMBER, 2010.



Gary Knopp, Assembly President

ATTEST:



Johni Blankenship, Borough Clerk



Yes: Haggerty, Johnson, McClure, Murphy, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: Pierce