

Introduced by: Assembly Member Branson  
Requested by: Assembly Member Branson  
Drafted by: Assembly Member Branson  
Introduced: 02/21/2008  
Public Hearing: 03/20/2008  
Adopted: 03/20/2008

**KODIAK ISLAND BOROUGH  
ORDINANCE NO. FY2008-15**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH  
AMENDING KODIAK ISLAND BOROUGH CODE OF ORDINANCES  
SECTIONS 2.39.070 *DECLARING AND FILLING VACANCIES* IN TITLE 2;  
SECTION 4.15.040 *VACANCIES* IN TITLE 4; SECTION 2.43.020 *APPOINTMENT, TERMS,  
AND PROCEDURES* IN TITLE 2**

**WHEREAS**, different sections of the Kodiak Island Borough Code for declaring vacancies for the Assembly, service area boards, and other boards, committees and commissions are not consistent with one another; and

**WHEREAS**, it is in the best interest of the Kodiak Island Borough to clarify and amend these different sections to reflect Alaska Statutes 29.20.170 to the extent possible; and

**WHEREAS**, AS provision numbers 6 and 7 deal with election matters and do not apply to the boards, committees, and commissions in Title 2 and some service areas under Title 4 and are therefore deleted; and

**WHEREAS**, board, committee, and commission members are appointed and their terms start January 1 to December 31 therefore KIBC 2.39.070(B) has been changed accordingly; and

**WHEREAS**, Parks and Recreation Committee should be changed to follow the vacancy procedures in KIB 2.39.070 instead of KIBC 2.16.060 (Assembly vacancy procedure);

**NOW, THEREFORE BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:**

**Section 1:** This ordinance is of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances.

**Section 2:** Title 2 *Administration and Personnel* Chapter 2.39 *Boards, Committees, and Commissions*, Section 2.39.070 *Declaring and Filling Vacancies* is amended to read:

**2.39.070 Vacancies.**

~~A. A vacancy, other than by expiration of the member's term, is created when the seat is declared vacant by the assembly for one or more of the following reasons:~~

- ~~1. the member leaves the borough with the intent of remaining absent more than ninety (90) days;~~
- ~~2. the member fails to attend four (4) consecutive regularly scheduled meetings;~~
- ~~3. the member fails to attend, without excuse, at least eighty percent (80%) of the regularly scheduled meetings within any calendar year;~~
- ~~4. the member submits a resignation in writing which is presented to the board, committee, or commission and accepted by the Assembly;~~
- ~~5. the member dies;~~

- ~~6. the member fails to accept the appointment within thirty (30) days of the appointment; or~~
- ~~7. the member fails to qualify in accordance with section 2.39.040 of this chapter at any time during the appointment.~~

**A. Other than by expiration of the member's term, the Assembly shall declare a seat vacant when a member:**

- 1. is physically absent from the municipality for 90 consecutive days unless excused by the board, committee, or commission;**
- 2. resigns and the resignation is accepted;**
- 3. is physically or mentally unable to perform the duties of office as determined by two-thirds vote of the board, committee, or commission;**
- 4. is convicted of a felony or of an offense involving a violation of the oath of office;**
- ~~**5. is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the members of the board, committee, or commission concur in expelling the person elected;**~~
- ~~**5. is convicted of a violation of AS 15.13; no longer physically resides in the municipality and the board, committee, or commission by two-thirds vote declares the seat vacant; this paragraph does not apply to a member of the board, committee, or commission who forfeits office under AS 29.20.140 (a); or**~~
- 6. misses three consecutive held regular meetings and is not excused.**

**B. If a member of the board, committee, or commission misses one-half (1/2) of the meetings held in any year of his or her term office, each year between January 1 and December 31, the seat shall be automatically vacated.**

**BC.** Members may be removed for reasonable cause by the assembly at any time. As used in this section, the term "reasonable cause" shall mean:

1. Any act, or failure to act, whether intentional or negligent, that either exposes the borough to liability for financial loss or has the potential, in the sole discretion of the assembly, to expose the borough to liability for financial loss; or
2. Any act, or failure to act, whether intentional or negligent, which obstructs or impedes the functioning of the board, committee, or commission.

**CD.** In the event of a vacancy on a board, committee, or commission for any reason other than normal expiration of a term of office, the clerk shall cause notice thereof to be published at least twice in a newspaper of general circulation within the borough. The notice shall set forth the vacancies and any qualifications of members. The appointing authority shall appoint a new member for the remaining unexpired term in accordance with section 2.39.030 of this chapter.

**Section 3:** Title 4 *Service Areas*, Chapter 4.15 *Service Area Boards*, Section 4.15.040 *Vacancies* is hereby amended as follows:

**4.15.040 Vacancies.**

**A.** Vacancies on service area boards, other than by expiration of the member's term, are created when:

- ~~1. an elected candidate fails to qualify and assume the duties of the office within thirty (30) days of certification of the election;~~
- ~~2. a member departs the borough intending to remain outside the borough for ninety (90) days or more;~~
- ~~3. a member submits a resignation accepted by the assembly;~~
- ~~4. a member, due to incapacity or absence from the borough, cannot attend board meetings for ninety (90) days or more;~~

~~5. a member is absent from three (3) consecutive regular board meetings without the board excusing any such absence; or~~

~~6. a member ceases to be qualified under section 4.15.020 of this chapter.~~

1. fails to qualify or take office within 30 days after election or appointment;

2. is physically absent from the municipality for 90 consecutive days unless excused by the board, committee, or commission;

3. resigns and the resignation is accepted;

4. is physically or mentally unable to perform the duties of office as determined by two-thirds vote of the board;

5. is convicted of a felony or of an offense involving a violation of the oath of office;

6. is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the members of the board concur in expelling the person elected;

7. is convicted of a violation of AS 15.13;

6. no longer physically resides in the municipality and the board, committee, or commission by two-thirds vote declares the seat vacant; this paragraph does not apply to a member of the board, committee, or commission who forfeits office under AS 29.20.140 (a); or

7. if a member of the board, committee, or commission misses three consecutive held regular meetings and is not excused.

B. If a member of the board, committee, or commission misses one-half (1/2) of the meetings held in any year of his or her term office, each year between November 1 and October 31, the seat shall be automatically vacated.

BC. The service area board shall notify the clerk of a vacancy on the board. The clerk shall cause notice thereof to be published at least twice in a newspaper of general circulation within the borough. The notice shall set forth the vacancies and any qualifications of members.

CD. The clerk shall provide a standard application form for interested persons to complete. The form, letters or other expressions of interest shall be made to the clerk who shall forward copies to the service area board.

DE. The service area board may submit its nomination of a person from the submitted applications to fill the vacancy to the assembly. The assembly shall appoint a new member selected from the submitted applications for the remaining unexpired term.

**Section 4:** Title 2 *Administration and Personnel* Chapter 2.39 *Boards, Committees, and Commissions*, Section 2.43.020 *Appointment, terms, and procedures* is amended to read:

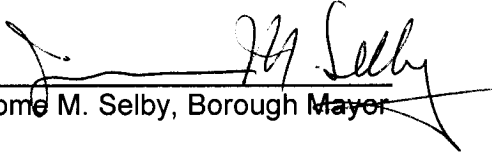
**2.43.020 Appointment, terms, and procedures.** Members of the committee shall be appointed by the mayor subject to confirmation by the assembly. Members shall serve three (3) year terms except that of the initial nine (9) members, three (3) shall be appointed for three (3) year terms, three (3) for two (2) year terms and three (3) for one (1) year terms.

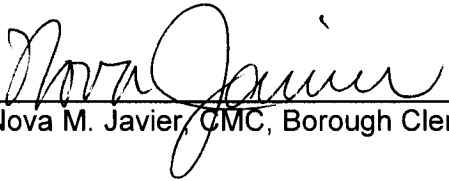
The committee shall designate its chair and other officers as provided in bylaws approved by the assembly. No additions or changes may be made in the bylaws unless specifically approved by the assembly. Meetings shall be public except that executive sessions may be held in accordance with subsection 2.17.030(E) of this title. The committee shall meet at least quarterly at times and places designated by the chair, but meetings need not be held if no business is pending. The chair or a majority of the committee may call a special meeting. The committee shall give reasonable public notice of its meetings. Vacancies occur and are filled as provided in section ~~2.16.060~~ 2.39.070 of this title for assembly members.

ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH  
THIS TWENTIETH DAY OF MARCH, 2008

KODIAK ISLAND BOROUGH

ATTEST:

  
Jerome M. Selby, Borough Mayor

  
Nova M. Javier, CMC, Borough Clerk