

Introduced by: Borough Assembly  
Requested by: Borough Clerk  
Drafted by: Borough Attorney  
Introduced: 06/10/2010  
Public Hearing: 06/17/2010  
Adopted: 06/17/2010

**KODIAK ISLAND BOROUGH  
ORDINANCE NO. FY2010-09**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH  
AMENDING TITLE 16 SUBDIVISION CHAPTER 16.90 APPEALS TO THE ASSEMBLY  
SECTION 16.90.100 HEARING EXAMINER AND TITLE 17 ZONING  
CHAPTER 17.225 APPEALS TO THE BOARD OF ADJUSTMENT  
SECTION 17.225.090 HEARING EXAMINER**

**WHEREAS,** the Kodiak Island Borough Code (KIBC) provides no other guidance on the qualifications or standards for a hearing officer under Sections 16.90.100 and 17.225.090 which have apparently been in effect since 1990 or 1991. There is likewise no guidance under Alaska Statutes (AS) 29.40.050 which has been in effect at least since 1985; and

**WHEREAS,** in 2004, the Alaska Legislature authorized the creation of the Office of Administrative Hearings in AS 44.64 which refers to the hearing officers in its department as administrative law judges (ALJs); and

**WHEREAS,** among other things, AS 44.64.040 sets standards for ALJs; AS 44.64.050 establishes a code of conduct for them; and AS 44.64.060 sets procedures for hearings; and

**WHEREAS,** the following suggested changes would allow the borough to immediately refer appropriate appeals to the Office of Administrative Hearings rather than first obtaining an Assembly resolution;

**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; and

**Section 2:** Title 16 *Subdivision* Chapter 16.90 *Appeals to the Assembly* Section 16.90.100 *Hearing Examiner* is hereby amended as follows:

**16.90.100 Hearing examiner.**

Where the subdivider is the borough or a municipality, the appeal shall be heard and decided upon by a hearing examiner. ~~The hearing examiner shall be a borough resident who is appointed by resolution of the assembly.~~ The clerk shall refer the appeal to the Alaska Office of Administrative Hearings under AS 44.64.030(b). In rendering a decision, the hearing examiner shall follow the rules and procedures as set forth in the preceding sections of this chapter.

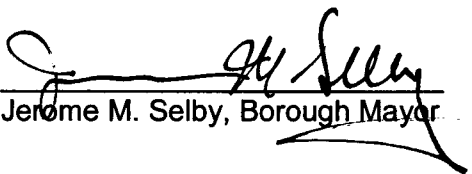
50 **Section 3:** Title 17 Zoning Chapter 17.225 Appeals to the Board of Adjustment Section  
51 17.225.090 Hearing Examiner is hereby amended as follows:  
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53 **17.225.090 Hearing examiner.**

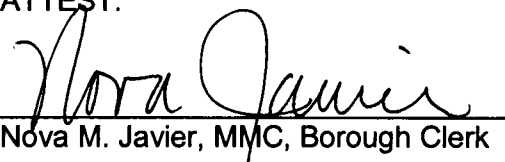
54 When the borough is either the applicant or appellant, the appeal shall be heard and  
55 decided upon by a hearing examiner. ~~The hearing examiner shall be a borough resident~~  
56 ~~who is appointed by resolution of the assembly.~~ The clerk shall refer the appeal to the  
57 Alaska Office of Administrative Hearings under AS 44.64.030(b). In rendering a decision, the  
58 hearing examiner shall follow the rules and procedures as set forth in the preceding sections  
59 of this chapter.

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61 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**  
62 **THIS SEVENTEENTH DAY OF JUNE, 2010**  
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65 KODIAK ISLAND BOROUGH

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68 Jerome M. Selby, Borough Mayor  
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71 ATTEST:

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74 Nova M. Javier, MMC, Borough Clerk  
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