

Introduced by:	Mayor
Date:	12/02/25
Hearing:	01/06/26
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2025-25**

**AN ORDINANCE AMENDING BOROUGH CODE, KPB 3.04.235,
REGARDING DEFENSE AND INDEMNIFICATION**

WHEREAS, this ordinance amends KPB Code regarding defense and indemnification to provide that the Borough Attorney, rather than Risk Manager, will oversee the defense and indemnification request process; and

WHEREAS, the code amendments also provide an avenue for the KPB to defend employees, elected officials, and other covered individuals in the event the individual fails or forgets to request such defense in writing;

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

SECTION 1. That this ordinance amends KPB Code and will be codified.

SECTION 2. That KPB 3.04.235(D) and (E) are hereby amended as follows:

3.04.235. – Defense and indemnification.

...

- D. An individual who requests defense and indemnification under this section must make such a request [ON A FORM PROVIDED BY THE RISK MANAGER] in writing to the borough attorney, or designee, within 15 days of the individual learning of the claim. The borough attorney, or designee, [RISK MANAGER, IN CONSULTATION WITH THE RISK MANAGEMENT COMMITTEE,] will coordinate with the risk management committee and applicable insurance coverage providers and determine whether or not the borough is obligated to indemnify, hold harmless or defend the [EMPLOYEE] individual pursuant to this section. A written decision will be provided to the requesting individual. The [RISK MANAGER] borough may assume the defense under a reservation of rights. When the borough is also a party to a claim, the borough may assume the defense, upon the individual's consent, even if the individual fails to make such a request in accordance with this subsection. The borough's decision to indemnify, hold harmless, or defend a claim does not require the borough to continue to indemnify, hold harmless or defend the claim, nor

does it require that the borough indemnify or hold harmless an [EMPLOYEE]individual against any resulting judgment, fine or amount paid in settlement. An assumption by the borough of the indemnification or defense of a claim shall not be construed as a waiver by the borough of any right, condition or limitation of this section nor will it preclude the borough from taking any disciplinary or other employment action against the [EMPLOYEE]individual.

- E. The borough will have no duty to defend, indemnify or hold harmless if the elected official, appointed service area board of director or commissioner, former employee, or employee: (1) fails to cooperate in the defense and settlement of a claim; (2) fails to give the [RISK MANAGER]borough attorney written notice of any incident potentially giving rise to a claim against the [EMPLOYEE]individual, including all information concerning the incident known to the [EMPLOYEE]individual, within [15]7 days of the [EMPLOYEE]individual learning of the claim; (3) fails to provide or authorize the borough to obtain records and information reasonably relevant to a proper defense of the claim; or (4) hires an attorney without complying with this section.

...

SECTION 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances will not be affected.

SECTION 4. That this ordinance shall become effective immediately.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2026.

Ryan Tunseth, Assembly President

ATTEST:

Michele Turner, CMC, Borough Clerk

Yes:

No:

Absent: