

Introduced by: Bagley at the request of the  
Borough Clerk  
Date: 03/17/15  
Hearing: 04/21/15  
Action: Enacted  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2015-07**

**AN ORDINANCE ENACTING KPB CHAPTER 4.140, RECALL**

**WHEREAS,** Alaska Statutes 29.26-240 through 29.26.360 set out basic provisions for administering recall applications, petitions and elections; and

**WHEREAS,** state statutes do not give specific direction regarding timelines and deadlines; and

**WHEREAS,** a borough comprehensive recall code section will clarify the process;

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

**SECTION 1.** That KPB Chapter 4.140 is hereby enacted as follows:

**4.140. RECALL**

**4.140.010. Purpose.**

It is the purpose of this chapter to define and clarify the procedures to be followed in recall proceedings. Recall of elected officials is authorized by the Constitution of Alaska and Alaska Statutes. As such its availability to the public must be facilitated while, at the same time, the integrity of the procedures must be maintained through mechanisms which discourage, reduce, and prevent both the occurrence and appearance of fraud. Further, in order to insure clear, fixed and reliable standards, it is necessary that citizens and those officials charged with the validation of petitions be able to rely on designated officials, and on the published voter registration records of the state.

**4.140.020. Recall.**

An official who is elected or appointed to an elective municipal office may be recalled by the voters after the official has served the first 120 day of the term for which elected or appointed.

**4.140.030. Grounds for recall.**

Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties.

**4.140.040. Application for recall petition.**

- A. An application for a recall petition shall be filed with the municipal clerk and must contain:
  - 1. the signatures and residence addresses of at least 10 municipal voters who will sponsor the petition;
  - 2. the name and address of the contact person and an alternate to whom all correspondence relating to the petition may be sent;
  - 3. and a statement in 200 words or less of the grounds for recall stated with particularity.
- B. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and complies with AS 29.26.260.
- C. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk.

**4.140.050. Petition format.**

- A. If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.26.260, the clerk shall prepare a recall petition. The petition shall be prepared within two weeks after certification of the application. All copies of the petition must contain:
  - 1. the name of the official sought to be recalled;
  - 2. the statement of the grounds for recall as set out in the application for petition;
  - 3. the date the petition is issued by the clerk;
  - 4. notice that signatures must be secured within 60 days after the date the petition is issued;
  - 5. spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;

6. a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
  7. space for indicating the number of signatures on the petition.
- B. The clerk shall notify the contact person in writing when the petition is available. That person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

**4.140.060. Signature requirements.**

- A. The signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. The statement provided under KPB 4.140.050(A)(6) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.
- B. The clerk shall determine the number of signatures required on a petition and inform the contact person in writing. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office at the last regular election held before the date written notice is given to the contact person that the petition is available. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters residing in the district equal to 25 percent of the number of votes cast in the district for that office at the last regular election held before the date the written notice is given to the contact person that the petition is available.
- C. Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence shall be rejected.
- D. A petition signer may withdraw the signer's signature upon written application to the clerk before certification of the petition.

**4.140.070. Sufficiency of petition.**

- A. The copies of a recall petition shall be assembled and filed as a single instrument. A petition may not be filed within 180 days before the end of the term of office of the official sought to be recalled. Within 10 days after the date a petition is filed, the municipal clerk shall:

1. certify on the petition whether it is sufficient; and
  2. if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.
- B. A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected if:
1. the petition contains an adequate number of signatures, counting both valid and invalid signatures; and
  2. the supplementary petition is filed more than 180 days before the end of the term of office of the official sought to be recalled.
- C. A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (B) of this section. Within 10 days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

#### **4.140.080. New recall petition application.**

A new application for a petition to recall the same official may not be filed sooner than six months after a petition is rejected as insufficient.

#### **4.140.090. Submission**

If a recall petition is sufficient, the clerk shall submit it to the governing body at the next regular meeting or at a special meeting held before the next regular meeting.

#### **4.140.100. Election.**

- A. If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body, the governing body shall submit the recall at that election.
- B. If no regular election occurs within 75 days, the governing body shall hold a special election on the recall question within 75 days but not sooner than 45 days after a petition is submitted to the governing body.
- C. If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the recall question may not be submitted to the voters. The governing body may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming that official.

**4.140.110. Form of Recall Ballot.**

A recall ballot must contain:

1. the grounds for recall as stated in 200 words or less on the recall petition;
2. a statement by the official named on the recall petition of 200 words or less, if the statement is filed with the clerk for publication and public inspection at least 20 days before the election;
3. the following question: "Shall (name of person) be recalled from the office of (office)? Yes [ ] No [ ]".

**4.140.120. Effect.**

- A. If a majority vote favors recall, the office becomes vacant upon certification of the recall election.
- B. If an official is not recalled at the election, an application for a petition to recall the same official may not be filed sooner than six months after the election.

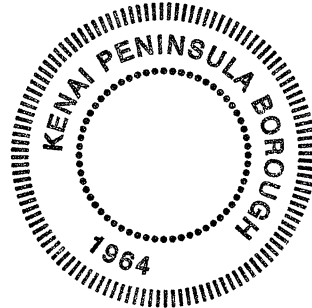
**SECTION 2.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF APRIL, 2015.**

*Dale L Bagley*  
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 Dale Bagley, Assembly President

ATTEST:

*John Blankenship*  
 \_\_\_\_\_  
 John Blankenship, MMC, Borough Clerk



Yes: Cooper, Haggerty, Gilman, Johnson, McClure, Ogle, Welles, Wolf, Bagley  
 No: None  
 Absent: None