

KENAI PENINSULA BOROUGH

ORDINANCE NO. 14

AN ORDINANCE PROVIDING A METHOD FOR CONTINUOUS EFFECTIVE
PLANNING AND ZONING WITHIN THE CITIES OF THE KENAI PENINSULA
BOROUGH

An emergency requiring that this ordinance shall become effective immediately upon its enactment by the assembly is declared. Pursuant to the provisions of the Borough Act, Chapter 7, Alaska Statutes, the borough becomes responsible for the planning function boroughwide on January 1, 1966. The pending planning project by contract with the Alaska State Housing Authority will not be able to provide the necessary material respecting the planning department for several months. This situation may create critical delays in planning activities in cities that would result in hindering development.

WHEREAS, AS 07.10.140 provides for an assumption of, and exercise by, the Kenai Peninsula Borough of planning and zoning responsibility pursuant to AS 07.15.340, and

WHEREAS, the Kenai Peninsula Borough has within its boundaries six (6) cities; two (2) home rule cities, two (2) first class general law cities; one (1) third class city and one (1) fourth class city; five of which have operative planning and zoning commissions, and

WHEREAS, Article X of the Constitution of the State of Alaska, declares that a liberal construction shall be given to the powers of local government units, and Section 13 of said Article X, permits agreements, including those for cooperative or joint administration of any functions of municipalities, and

WHEREAS, it is most vital to encourage and cooperate, with continuous local civic operation of planning and zoning functions within the cities of the Kenai Peninsula Borough, thereby freeing the newly established planning commission of the Kenai Peninsula Borough for concentration on areas previously unserved:

BE IT ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

Section 1. It is determined by the Kenai Peninsula Borough Assembly to be in the public interest to encourage continuity of operation of planning and zoning commissions within the cities of the Kenai Peninsula

Borough. This policy can best be accomplished by permitting and cooperating with continued administration of the planning and zoning functions presenting operative in the cities of this borough.

Section 2. Upon receipt of an official resolution or ordinance of a city of this borough accepting responsibility for continuous administration of planning and zoning functions within the cities by operation of existing planning and zoning commissions, then the municipality enacting such formal acceptance shall be authorized to continue the planning and zoning in accordance with the laws of the State of Alaska. That such acceptance shall constitute a contract between the Kenai Peninsula Borough and said municipality for the exercise of the responsibility for all planning and zoning within the municipality. That such exercise of the responsibility in the event such designation is necessary be an appointment of the municipality as the agent of the Kenai Peninsula Borough for the exercise of the planning and zoning functions within the municipality.

Section 3. That acceptance by a municipality of this borough of the responsibility, as outlined herein, shall constitute a valid binding contract between the said municipality and the Kenai Peninsula Borough for a term of _____ () years commencing with the date of such acceptance unless said agreement shall be mutually amended or terminated prior to the expiration of said term.

Section 4. In the event final action on this ordinance shall be accomplished after the 1st day of January, 1966, then in that event the said acceptance specified in Section 3 shall ratify any and all actions of the planning and zoning commission of the municipality in question from January 1, 1966, and to the date of acceptance of the contract formed by acceptance of the provisions of this ordinance.

This ordinance declared invalid by legal counsel January 11, 1966. For reasons stated in legal opinion, "No city has the power to accept and the borough lacks the authority to delegate planning and zoning powers."