

KENAI PENINSULA BOROUGH

ORDINANCE 15

AN ORDINANCE ENTITLED: AN ORDINANCE ESTABLISHING
INTERIM ZONING

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

Section 1. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by adding the following sections, to be numbered as indicated, which said sections read as follows:

CHAPTER 10. PLANNING & ZONING

Section 20.10.05. Planning Commission

(a) A planning commission is hereby established consisting of the maximum number of members allowed by law. The commission shall be appointed by the assembly. Each city in the borough shall nominate one member of the commission who shall be a member of the planning commission of the city when an advisory planning and zoning commission has been established by the city. Other members shall be nominated by the chairman.

(b) A chairman and vice-chairman of the commission shall be selected annually from and by the appointed members of the commission.

(c) The members of the commission shall serve staggered terms of three years. Appointments to fill vacancies shall be for the unexpired term only. The members of the commission shall serve without pay. The borough chairman and the borough engineer, if any, shall be additional members ex officio. The borough engineer shall have the privilege of the floor, but may not vote. The borough chairman shall vote only in case of a tie. Until a commission is appointed by the borough chairman and approved by the borough assembly, the borough assembly shall sit as the planning commission.

(d) The commission shall prepare from time to time plans for the systematic development and betterment of the borough as a place of residence or for business.

It may employ engineers, attorneys, clerks and a secretary, or other personnel considered necessary, subject to the approval of the assembly. The assembly shall fix the compensation of persons employed by the planning commission. The compensation and necessary expenses of the planning commission shall be paid out of the borough treasury in the same manner as other expenses of the borough government, within the limits of appropriations by the assembly for that purpose. In no event may the planning commission be authorized to create a deficiency.

(e) The planning commission may consider and investigate subject matter tending to the development and betterment of the borough and make recommendations as it considers advisable to any department of the borough government and to the assembly. The commission may make or have made surveys, maps or plans.

(f) Before final action is taken by the borough or a department of it, on the location and design of any public building, dock, beach, ski ground, statue, memorial park, parkway, boulevard, street or alley, playground, public street, alley or the grade thereof, the matter shall be submitted to the planning commission for its approval or rejection.

(g) All plans, plats or replats of land laid out in lots or plats, and the streets, alleys or other portions of them intended to be dedicated to public or private use within the limits of the borough shall first be submitted to the planning commission for its approval or rejection.

Section 20.10.10. Zoning

The Kenai Peninsula Borough is hereby divided into two zoning districts: The Municipal District and the Rural District. The Municipal District includes all of the area within cities which have exercised zoning power through the adoption of a municipal ordinance. The Rural District includes the rest of

the area of the Kenai Peninsula Borough. Regulation of land use within the Municipal District shall be governed by the applicable municipal ordinances, regulations and restrictions as amended to December 31, 1965. Land use in the Rural District shall be unrestricted except as otherwise provided in this ordinance.

Section 20.10.15. Noxious, Injurious or Hazardous Uses

(a) All uses that may be noxious, injurious or hazardous to surrounding property or persons by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions or the production of storage of explosive materials shall be permitted only by exception.

(b) An exception for any noxious, injurious or hazardous use or uses may be granted only upon finding that the public interest is adequately protected considering the economic benefit to the community derived from the use, and that the owners or occupants of property in the vicinity who are specially affected are adequately protected or compensated.

Section 20.10.20. Reclassification by Local Option.

(a) A majority of the owners in a described region of the rural district may petition the assembly for a greater restriction on land use than that provided for in this ordinance. Within incorporated cities, not in the municipal district, such a petition may be initiated by the city council without the signature of property owners involved.

(1) The minimum area which may be included in such a described region is twelve (12) lots or parcels of the average size prevailing in the vicinity of the petition area. Lots and parcels in a petition area must be contiguous or separated only by a street or alley. Petitions shall show opposite each signature, an adequate legal description of the property owned.

(2) At least fifteen (15) days notice of a public hearing before the planning commission shall be published at least once in a newspaper of general circulation in the Kenai Peninsula Borough. At least five (5) days notice of the hearing shall also be mailed to the owners, as shown on the latest tax assessment rolls, of any property inside or within 300 feet of the area proposed to be rezoned.

(3) Hearing on such petitions shall be held by the planning commission. The planning commission shall hear any interested parties and recommend to the assembly approval or disapproval of the proposed change.

(4) The assembly shall decide, approve or disapprove of the proposed change by ordinance.

(5) The borough assembly or the city council of any city in the Urban District may also initiate changes in the borough zoning ordinance. Such proposals shall first be referred to the borough planning commission for consideration.

Section 20.10.25. Fire and Health Hazards and Nuisances.

The planning commission may issue orders to show cause why any building which is a fire or health hazard or public nuisance should not be condemned. No sooner than thirty (30) days after notice to the owner or his agent, a hearing shall be held on such order. If the planning commission recommends the removal or the demolition of such building, the assembly may order it removed or demolished. However, the owner shall be given at least thirty days after the hearing before the commission within which to remove the building before the borough may proceed to do so. If the borough removes the building, the cost is chargeable to the property, first against the salvaged material which may be sold at public auction, and the balance of cost, if any, against the land as in the case of taxes.

Section 20.10.30. Hearings Required

(a) The assembly may by resolution amend, supplement or change regulations and restrictions now in effect and the boundaries of established districts. No such action by the assembly is effective until after a public hearing at which parties in interest and citizens have an opportunity to be heard. At least fifteen days notice of the time and place of the hearing shall be published in a paper of general circulation in the borough.

(b) If there is a protest against a change, signed by the owners of 20 percent or more either of the area of the lots included in the proposed change, or by the owners of 20 percent or more of the area of the lots immediately abutting either side of the territory included in the proposed change, or separated from it by an alley or street, the amendment may not become effective except by the favorable vote of seven members of the assembly. The provisions relating to public hearings and notice apply to all changes or amendments.

Section 20.10.35. Administration

The chairman, with the approval of the assembly, may enter into contractual agreement with municipal bodies for the joint administration of this ordinance as necessary.

Section 20.10.40. Penalties

For any and every violation of the provisions of this ordinance, the owner, agent or contractor of a building or premises where such violations have been committed or shall exist, and the owner, general agent, or contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist and the general agent, contractor, or any other person who commits, takes part or assists in such violations or who maintains any building

or premises in which any violations shall exist, shall be guilty of a misdemeanor and upon such conviction thereof shall be fined not more than three hundred dollars. Each and every day that such violation continues shall be deemed a separate and distinct violation.

Section 20.10.45. Appeals and Exceptions

(a) The planning commission shall hear and decide

(1) appeals from the Rural District regarding alleged errors in enforcement of this ordinance, upon making specific finding concerning the section of the ordinance specified in the appeal

(2) requests for exceptions in the Rural District

(b) Appeals and applications shall be filed with the planning commission at least 15 days before the meeting at which it will be heard.

(c) Notice shall be mailed to the owners, as shown on the latest tax assessment rolls, of any property within 300 feet of the property included in the application for an exception at least five days before the meeting.

(d) The planning commission shall hear any interested parties and make its findings on any application or appeal in writing.

(e) The action of the planning commission shall be final unless appeal is made to the borough assembly sitting as a board of adjustment. Appeals must be filed with the borough chairman no later than seven days after the planning commission has acted.

(f) Notice of any appeal shall be mailed to the owners, as shown on the latest tax assessment rolls, of any property within 300 feet of the property included in the appeal before the Board may hear and act upon the appeal.

(g) The action of the Board of Adjustment shall be final unless appeal is filed by an interested party in the superior court within 30 days after the board has acted.

Section 2. This ordinance takes effect 30 days after enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS 19 DAY OF APRIL, 1966.

Robert E. Williams

/s/ Robert Williams

Assembly President

ATTEST:

Frances Brymer
/s/ Frances Brymer
Borough Clerk

