

Introduced by: Elson  
Date: June 1, 1976  
Hearing: July 6, 1976 ;7/20  
Action: Reconsideration  
on 8-3-76 Failed  
Vote: 62.5 "Yes", 65 "No"

KENAI PENINSULA BOROUGH

ORDINANCE 76-38

AN ORDINANCE ALLOWING THE CITY OF KENAI TO PROHIBIT THE APPROPRIATION OF WATER BENEATH THE SURFACE OF APPROXIMATELY 50 SQUARE MILES OF LAND IN THE BEAVER CREEK GROUND WATER SYSTEM, A LARGE PORTION OF WHICH LIES WITHIN THE KENAI PENINSULA BOROUGH.

WHEREAS, the City of Kenai has passed Ordinance No. 289-76 on the 3rd day of March, 1976; and

WHEREAS, the Beaver Creek ground water system as identified by Ordinance No. 289-76 includes an area of approximately 50 square miles; and

WHEREAS, a large portion of that area lies without the limits of the City of Kenai and within the boundaries of the Kenai Peninsula Borough; and

WHEREAS, the City of Kenai by such ordinance would prohibit the appropriation of water from beneath the surface of the Beaver Creek ground water system without the permission of the City Council of Kenai; and

WHEREAS, the City has adopted such ordinance to protect its watershed from which the City of Kenai derives its principal water supply; and

WHEREAS, said ordinance is ineffectual unless the Kenai Peninsula Borough approves the exercise of said power within the borough by ordinance, all according to AS 29.48.037; and

WHEREAS, the Kenai Peninsula Borough recognizes the urgent need for the City to be able to enforce said ordinance; and

Kenai Peninsula Borough  
Ordinance 76-38  
Page 1 of 5 Pages

WHEREAS, the Kenai Peninsula Borough has been requested by the City of Kenai in Resolution No. 76-9 to allow the exercise of such power as contained in Ordinance 289-76; and

WHEREAS, the Kenai Peninsula Borough in recognizing such authority does so only with the provision that the borough may at any time, within its discretion and by ordinance, withdraw said grant of authority; Now Therefore,

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

Section 1. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by adding a new title, chapter, and sections to be numbered KPB 15.010.010, which shall read as follows:

(a) 15.010.010 Beaver Creek Ground Water System.  
The Kenai Peninsula Borough approves of the exercise of power within the Kenai Peninsula Borough as set out in Ordinance 289-76 of the City of Kenai as adopted March 3, 1976; and

(b) which ordinance reads as follows:

"Section 1. It shall be unlawful for any person or other entity to dig, build, drive, drill or in any manner construct a well or otherwise appropriate water from beneath the surface in the following described territory without the prior written consent of the City of Kenai:

Per Schedule "A" as illustrated by the attached map.

"Consent shall not be given unless the Council of the City of Kenai has approved such appropriation. They shall not approve the appropriation if it is likely to have a substantial detrimental effect on the City's water supply.

"Section 2. Any person or entity violating the provisions of Section 1 shall be subject to a civil penalty of \$300.00 for each offense. Each and every day such offense continues shall be deemed a separate violation. In addition, the City may enjoin the violator from any further appropriation."

(c) This approval is given subject to the right of the borough to withdraw such approval, by ordinance, at such time as the assembly may see fit.

Section 2. This ordinance is effective as of the date of enactment.

DEFEATED

~~ADOPTED~~ BY THE ASSEMBLY OF THE KENAI PENINSULA  
BOROUGH THIS 20th DAY OF July, 1976.

  
Clarence E. Johnson, Assembly President

ATTEST:

  
Borough Clerk

