

Introduced by: The Mayor on
behalf of the City of Seward
Date: May 2, 1978
Hearing: June 6, 1978
Vote: Unanimous
Action: Enacted as Amended

KENAI PENINSULA BOROUGH

ORDINANCE NO. 78-26

AN ORDINANCE REVISING THE ZONING CODE FOR THAT AREA WITHIN
THE MUNICIPAL BOUNDARIES OF THE CITY OF SEWARD

WHEREAS, the Kenai Peninsula Borough retains all zoning
powers within the urban and rural districts of the Kenai
Peninsula Borough, and

WHEREAS, zoning within the City of Seward is currently
controlled by Seward Ordinance number 314, adopted by
reference in 1965 by the Kenai Peninsula Borough Assembly;
and

WHEREAS, it is desirable from time to time to improve
and revise existing ordinances in order to accommodate
changed conditions within the Seward urban district; and

WHEREAS, the Seward Advisory Planning Commission and
the Seward City Council have approved this ordinance to
control all zoning within the City of Seward and have recommended
that the Kenai Peninsula Borough Assembly adopt this ordinance
as part of the Kenai Peninsula Borough Code of Ordinances,

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

Section 1. That the Kenai Peninsula Borough Code of
Ordinances is hereby amended by adding a new chapter to be
numbered 21.78 which shall read as follows:

21.78.010 Title. This Chapter shall be known and cited as the "Seward Urban District Zoning Code." The provisions of this Chapter are applicable to all lands within the municipal limits of the City of Seward.

21.78.020 Purpose of Provisions. This Chapter is adopted in order to protect the public health, safety and welfare by:

(A) Designating, regulating, and restricting the location and use of buildings, structures and land, for residence, commerce, trade, industry or other purpose;

(B) Regulating and limiting the height, number of stories, and size of buildings and other structures hereinafter erected or alterations of any existing buildings;

(C) Regulating and determining the size of yards and other open spaces;

(D) Regulating and limiting the density of population;

(E) Conserving and stabilizing the value of property;

(F) Providing adequate open spaces for light and air, and to prevent and fight fires;

(G) Preventing undue concentration of population;

(H) Lessening congestion on streets and highways.

21.78.030 Definitions. In this section, unless otherwise provided or the context otherwise requires:

(A) "Accessory building or use" means a use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

(B) "Dwelling groups" means a group of two or more, detached or semi-detached one-family, two-family, or multi-family dwellings occupying a parcel of land, in one ownership and having any yard or court in common, but not including motels and hotels.

(C) "Home occupation" means any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary

to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no exterior sign, no display of stock in trade, no outside storage of materials or equipment, no commodity sold upon the premises and not more than two persons are engaged in such occupation.

(D) "Off street parking space" means a parking space with independent access, not included within established front yard set back.

(E) "Planned Unit Development" means a group or combination of certain specified residential, commercial, or industrial uses developed as a functional integral unit in a district where some or all the uses might not otherwise be permitted.

21.78.040 Applicability.

A. Except as hereinafter provided, all land and structures within the City of Seward shall be constructed, used, occupied or altered in conformance with the requirements of the zoning district in which they are located.

21.78.050 Unlisted Uses--Permitted When.

A. Unlisted uses may be allowed within a district upon written decision by the Seward Advisory Planning Commission providing that each unlisted use meets all of the following conditions:

(1) The use is not specifically permitted in any other district;

(2) The use is not more appropriate in another district; and

(3) The use is consistent with the purpose of the district in question; and is similar to other uses permitted outright.

21.78.060 Special Setbacks--Required When. General Commercial and Industrial Districts. Where "CG" districts abut onto "RR", "R1", "R2" or "R3" districts, a minimum setback equal to that required of the abutting district shall be required. Where Industrial districts abut onto "RR", "R1", "R2" or "R3" districts a minimum setback of ten (10) feet shall be required.

21.78.070 Zoning Map--Adoption--Location.

A. The official zoning map shall be kept in the Borough offices. That map is hereby adopted by reference and declared to be part of this ordinance in the exact form as it exists on the date this ordinance is adopted or amended by the Borough Assembly.

B. If the zoning map becomes lost or damaged the map or significant parts thereof remaining after partial destruction shall be preserved. The Borough Assembly may by ordinance adopt a new zoning map which shall be consistent with and supersede the old zoning map.

C. The map shall be signed by the Borough Clerk with a note of the date of adoption by the Borough Assembly. Amendments shall be immediately added to the official zoning map with a notation of the date of adoption by the Borough Assembly.

21.78.080 Zoning Districts Within the City of Seward.

Section 21.04.010 of the Borough Code divides the Borough into two (2) zoning districts, rural and municipal. The municipal district of the City of Seward is hereby further divided into zoning districts and within each district only certain uses and standards shall be allowed as prescribed in this chapter.

21.78.090 District Regulations--Adopted--Compliance Required.

All lots, structures, and uses within Seward City Limits shall conform to the applicable district purposes as defined in Sections 21.78.100 thru 21.78.170 and shall conform to applicable district regulations as enumerated in Tables 21.78.180 and 21.78.190.

21.78.100 "RR" Rural One Family Residential District--Definition--Purpose. The "RR" district is intended to be used for low density single family homes in outlying areas in a form which creates a stable and attractive living environment.

21.78.110 "R1" One Family Residential Districts--Definition--Purpose. The "R1" District is intended to be used for urban, single family homes and the appurtenant community services, and to encourage a suitable environment for family life.

21.78.120 "R2" Two Family Residential Districts--Definition--Purpose. The "R2" District is intended to stabilize, protect and encourage a suitable environment for medium density multi-family residential living.

21.78.130 "R3" Multi-family Residential Districts--Definition--Purpose. The "R3" District is intended to stabilize, protect and encourage a suitable environment for high density, multi-family residential living.

21.78.140 "CL" Limited Commercial Districts--Definition--Purpose. The "CL" District is intended to provide an area for convenience shopping facilities for surrounding neighborhood areas. It is also established as a district in which the principal use of land is for establishments offering accommodations, supplies, or services to motorists.

21.78.150 "CG" General Commercial Districts--Definition--Purpose. The "CG" District is designed to protect and enhance central business district cores for efficient performance of its primary function as an urban center for retail, commercial, financial, and service facilities, and to discourage uses not requiring a prime central location.

21.78.160 "I" Industrial Districts--Definition--Purpose. The "I" District is intended primarily for industrial and transport operations, including sea transportation and commerce. The intent is to reserve such areas for appropriate industries which can function in no other location.

21.78.170 "P" Public Districts--Definition--Purpose. The "P" Districts are intended to include major open lands and land reserves and major public and quasi-public institutional uses and structures under the management or control of the public or quasi-public agency.

21.78.180 Building Height--Lot Size--Lot Dimensions and Building Setbacks. Table 21.78.180 is incorporated herein by reference and the restrictions contained therein are mandatory unless otherwise modified by this Chapter.

21.78.190 Land Uses Allowed By District. Table 21.78.190 is incorporated herein by reference and the restrictions contained therein are mandatory unless otherwise modified by this Chapter.

21.78.200 Parking.

A. For each structure hereafter constructed, reconstructed, or altered, except in the General Commercial (CG) District, the minimum parking spaces as set forth below shall be provided and maintained:

These requirements are subject to the variance procedure as set forth in Section 21.78.310-.340.

- (1) Single and two-family dwellings - one for each dwelling unit.
- (2) Multiple family dwellings - one and one-quarter for each dwelling unit.
- (3) Hotels and motels - one for each guest bedroom.
- (4) Churches, auditoriums, sports arenas, theaters, funeral homes and other places of public assembly - one for each four seats at maximum capacity.
- (5) Institutions, hospitals, nursing homes, dormitories - one for each two patients or residents at maximum capacity.
- (6) Libraries, museums, post offices - one for each 100 square feet of gross floor area.
- (7) Schools - one and one-half for each room plus one for every ten students of those students who are permitted by law and school regulations to drive to school. Schools with incidental auditoriums shall provide only the spaces required here or for the auditorium, whichever is greater.
- (8) Offices and banks - one for each 250 square feet of gross floor area used for office purposes.
- (9) Restaurants - one for each 200 square feet of gross floor area, or one for each four seats whichever is greater.
- (10) Grocery, clothing and drug stores, barber and beauty shops and other personal service establishments - one for each 250 square feet of gross floor area.
- (11) Furniture and appliance stores, household equipment or furniture repair shops, motor vehicle sales, machinery sales, wholesale stores and hardware stores - one for each 400 square feet of gross floor area (note: all vehicles in custody of the operator of the business for service, repair, storage, sale or other purpose shall be stored on the premises or on a separate vehicle parking lot and shall not be parked on a public right-of-way).

(12) Pick-up laundry and dry cleaning establishments - one for each 500 square feet of gross floor area.

(13) Self-service laundry and dry cleaning establishments - one for each four washing or dry cleaning machines.

(14) Bowling alleys - three for each alley.

(15) Skating rinks, dance halls, civic clubs, assembly halls, and other similar uses without fixed seats - one for each 100 square feet of gross floor area.

(16) Gasoline service stations - one for each two gas pumps plus two for each grease rack, wash rack and stall for servicing vehicles.

(17) Industrial and manufacturing - one for each 500 square feet of gross floor area.

(18) Warehousing, storage and similar uses - one for each 1500 square feet of gross floor area.

Nonmentioned uses - the same as for the above mentioned uses which in the opinion of the administrative official shall be deemed most similar.

B. Parking space size requirements are as follows:

(1) Single and two-family dwellings - not less than eight feet wide and 20 feet long; and

(2) All other uses - each parking space shall be not less than 200 square feet per vehicle, exclusive of access and turning areas required to utilize such space.

C. All parking space provided pursuant to this chapter shall be on the same lot with the main building it services or on an adjoining lot, except that the Advisory Planning and Zoning Commission may permit the parking spaces to be on any lot within 500 feet of the building if it determines it impractical to provide parking on the same lot with the building.

D. A site plan showing all parking areas shall accompany all applications for building permits. Said plan shall show dimensions of spaces, curb cuts and other information necessary to determine compliance with the provisions of this chapter. The administrative official shall approve or reject the site plan on the basis of compliance with the requirements of this section. No building permit shall be issued until the parking site plan is approved.

E. All of off-street automobile parking facilities shall be designed with appropriate means of vehicular access to street or alley and adequate maneuvering area. No driveway or curb cuts in any district shall be less than 12 feet or more than 25 feet in width and detailed plans for all curb cuts shall be submitted to administrative official for approval before a building permit is issued therefor.

F. Lighting of all parking spaces and parking area, both public and private, shall be arranged to reflect away from adjacent residential areas and all public streets and highways.

21.78.210 Signs. Permanent signs must conform to all requirements of this ordinance including building permit requirements and setback requirements of Table 21.78.180.

21.78.220 Nonconforming Uses--Definition--Regulation. When any land, structure, use or occupancy legally exists prior to the adoption of this ordinance but does not meet the requirements of this ordinance it shall be considered a nonconforming lot, structure or use. Except as provided in this ordinance nonconformities may continue but may not be expanded. (IN THIS ORDINANCE, NONCONFORMITIES MAY CONTINUE BUT MAY NOT BE EXPANDED.)

21.78.230 Nonconforming Lots--Size--Regulation. Each lot (GREATER THAN) of 4500 square feet or greater of record at the time of adoption of this ordinance may be developed in conformity with all other provisions of this ordinance even though such lot fails to meet minimum area or width requirements. No lot (OF) less than 4500 square feet (OR LESS) may be used except in conformity with all provisions of this ordinance; provided that, in the RR district, each lot of 6,000 square feet or greater of record at the time of adoption of this ordinance may be developed in conformity with all other provisions of this ordinance, and that any lot less than 6,000 square feet may not be used except in conformity with all provisions of this ordinance.

21.78.240 Nonconforming Structures--Alterations--Repairs. Nonconforming structures are subject to the following restrictions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity; and,

B. Should such nonconforming structure or nonconforming portion of structure be damaged by any means to an extent of more than 50 percent of its replacement cost at time of destruction, as determined by the city manager or his designee, it shall not be reconstructed except in conformity with the provisions of this ordinance.

C. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done, in any period of 12 consecutive months on ordinary repairs, to an extent not exceeding 50 percent unless said repairs are in

conformity with all other provisions of this ordinance or are required by any official charged with protecting the public safety.

21.78.250 Nonconforming Uses--General Provisions.

Nonconforming uses are subject to the following provisions:

- A. No structure shall be altered except as permitted in this ordinance.
- B. Nonconforming uses shall not be extended to occupy any land outside nonconforming structure..
- C. When a nonconforming use is discontinued for one year, the use shall not thereafter be permitted except in conformance with the regulations of this ordinance.
- D. When a nonconforming structure is destroyed, all associated nonconforming uses shall be deemed terminated.
- E. The nonconformity shall not be moved to any other portion of the lot or the parcel.
- F. Any residential structure or residential use that legally exists prior to the adoption of this ordinance shall be exempt from the provision of this section; except for item 21.78.200.

21.78.260 Schedule for Elimination of Nonconforming Lots, Structures and Uses--Established When. If it is determined that a nonconforming lot structure or use, or combination thereof, significantly impairs the public health, safety and general welfare or the rights of neighboring property owners pursuant to this ordinance, the Borough Assembly shall by ordinance establish a reasonable schedule for the termination of the nonconformity.

21.78.270 Conditions Use Permits--Purpose. It is the purpose of this section to provide the flexibility necessary to permit a use within a district under conditions which are specified in addition to regulations applying to uses permitted outright within the district.

21.78.280 Conditional Use Permits--General Provisions. Prior to granting a use permit it shall be established that the use satisfies the following conditions:

- A. The use is consistent with the purpose of this ordinance and the purposes of the zoning district.

B. The value of the adjoining property will not be significantly impaired.

C. The proposed use is in harmony with the community plan.

D. Public services and facilities are adequate to serve the proposed use.

E. A more suitable location for the use is not readily available.

F. Any and all specific conditions deemed necessary by the Advisory Planning Commission to fulfill the above mentioned conditions shall be met by the applicant.

21.78.290 Conditional Use Permits--Applications.

Application for a conditional use permit shall be filed with the City Manager. The application shall include but is not limited to the following:

A. Name and address of the party seeking the permit;

B. A legal description of the land;

C. A description of the proposed use including a dimensioned plot plan; and

D. The appropriate fee as specified in Sections 21.78.590-.610 of this ordinance.

21.78.300 Conditional Use Permits--Hearing--Procedures.

If the application is in order the City Manager shall schedule a public hearing and notice of the proposal as specified in Sections 21.78.540-.560 of this ordinance.

21.78.310 Variances--General Provisions. A variance may be granted to provide relief when a literal enforcement of this ordinance would deprive a property owner of the reasonable use of his real property.

21.78.320 Variance--Conditions for Grant.

A. All of the following conditions shall exist before a variance may be granted:

(1) The proposed action must be consistent with all of the general conditions required for a Conditional Use Permit as specified in Section 21.78.230.

(2) Special conditions and circumstances exist which are peculiar to the land or structures involved and which are not applicable to other lands and structures in the same district.

(3) The special conditions and circumstances have not been caused by actions of the applicant.

B. Financial hardship or inconvenience shall not be a reason for granting a variance.

C. Other nonconforming land use or structures within the district shall not be considered grounds for granting a variance.

D. A variance shall be the minimum variance necessary to permit the reasonable use of the land or structure.

E. A variance shall not be granted which will permit a land use in a district in which that use is otherwise prohibited.

21.78.330 Applications For Variance. Application for a variance shall be filed with the City Manager. The application shall include but is not limited to the following:

A. All of the information required for a conditional use permit; and

B. A precise description of the variance requested, including the section, paragraph and sentence of this ordinance from which the applicant wishes to deviate, and

C. A written item by item response to all of the conditions specified in Section 21.78.320.

21.78.340 Variance--Procedures--Time Limitations Appeal. Procedures and time limitations shall be the same as for a Conditional Use Permit, Section 21.78.270-21.78.300.

21.78.350 Administrative Officials--Designation.

A. The City Manager shall be the Administrative Official relating to all actions taken by the Seward Advisory Planning Commission.

B. The Borough Planning Director is the Administrative Official relating to all actions taken by the Borough Planning Commission.

21.78.360 Borough Planning Director--Duties. Administration and enforcement responsibilities of the Planning Director include, but are not limited to the following:

- A. Maintaining records of all zoning text and district changes related to this ordinance, and
- B. Processing appeals consistent with Sections 21.78.400 and 21.78.480-.520 of this ordinance.
- C. Providing technical assistance upon request by the City Manager.

21.78.370 Seward City Manager--Duties. The City Manager or his appointed staff shall be responsible for:

- A. Interpreting and enforcing this ordinance, and
- B. Maintaining records of all activity related to this ordinance, and
- C. Processing appeals consistent with Sections 21.78.420-.520 of this ordinance.

21.78.380 Procedures for Abating Violations.

- A. When a violation is discovered the City Manager or his appointed staff shall notify in writing via certified mail or by notice posted at the site of the violation the person responsible for said violation. The notice shall specify the violation and order abatement within a reasonable period of time, to be no longer than 90 days. All purported violations known to the city manager, interpretation and abatement action shall be presented to the Seward Advisory Planning Commission at its next regular meeting.
- B. If a violation is not corrected within the aforementioned reasonable time, the City Manager shall notify the attorney. The city attorney shall initiate action to abate the violation, including the filing of criminal charges as necessary.

21.78.390 Penalties. Every act prohibited by this chapter or any rule or regulation adopted in pursuance thereof is declared unlawful. Violation of this ordinance shall constitute a misdemeanor. Every person convicted of a violation of any provision of this chapter or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than \$500.00. Each act of violation and every day upon which such violation shall occur shall constitute

a separate offense. The penalty provided by this section shall, unless other penalty is expressly provided, apply to the amendment of any section of this chapter, whether or not such penalty is re-enacted in the amendatory ordinance.

21.78.400 Borough Planning Commission--Responsibilities.

The Borough Planning Commission shall hear and act upon appeals as provided in this ordinance and shall prepare and recommend zoning ordinance amendments to the Borough Assembly. At least one public hearing shall be held prior to submitting any ordinance amendment recommendation.

21.78.410 Borough Planning Commission--Hearing Procedures.

The Borough Planning Commission shall adopt by resolution procedural rules to be followed when hearing and deciding an appeal.

21.78.420 Seward Advisory Planning Commission--Established.

A. In order to maximize local involvement in the implementation and modification of this Title, the Seward Advisory Planning Commission is hereby established. Advisory Planning Commission jurisdiction is limited to the area within the Seward City boundaries.

B. The Advisory Planning Commission shall have members greater than or equal to five. Members shall be appointed by the Mayor subject to confirmation by the City Council.

C. Members shall be appointed for a term of three years, for staggered three-year terms. Appointments to fill vacancies are for the unexpired term.

D. The City Council shall prescribe the number of members and may prescribe qualifications for members. The existing local Planning Commission shall be the Seward City Advisory Planning Commission.

21.78.430 Seward Advisory Planning Commission--Powers and Duties. The Seward Advisory Planning Commission shall:

A. Interpret the provisions of this Chapter and make zoning compliance determinations when requested by the local administrative official;

B. Act upon requests for PUDs, variances and conditional use permits; and

C. Prepare and recommend to the Borough Planning Commission modifications to this Title.

21.78.440 Seward Advisory Planning Commission--Procedures.

The Seward Advisory Planning Commission shall follow the applicable procedural rules of the Borough Planning Commission adopted pursuant to Section 21.78.410. The Seward Advisory Planning Commission may adopt additional procedural rules with the prior approval of the Borough Planning Commission.

21.78.450 Board of Adjustment--Established. The City Council is hereby declared to be the Board of Adjustment.

21.78.460 Board of Adjustment--Powers and Duties. The Board of Adjustment shall hear and decide appeals consistent with the other sections of this ordinance and Alaska Statute 29.33.110-130.

21.78.470 Board of Adjustment--Procedures. Appeals heard by the Board of Adjustment shall be consistent with Sections 21.78.540-.560 of this ordinance and the rules and regulations governing city council activity as specified in the City Code.

21.78.480 Appellate Procedure--Purpose. It is the purpose of this section to prescribe the process to appeal action and determination taken under this ordinance.

21.78.490 Appeals--Standing. Any person or persons aggrieved by an action or determination taken under this ordinance may appeal said action or determination.

21.78.500 Appeals--Time Limitation. An appeal must be filed within ten days of the action or determination being appealed.

21.78.510 Appeals--Applications. The application for appeal shall be filed with the City Manager, except that appeals to the Superior Court shall be filed with the appropriate Court officer, with a copy to the City Manager, shall be in writing, and shall contain, but is not limited to, the following information:

A. The name and address of the appellant.

B. A description of the action or determination from which the appeal is sought.

C. The reason for the appeal which must show a grievance to the applicant.

The City Manager shall upon receipt of an application for appeal immediately transmit a copy to the Borough Planning Director.

21.78.520 Appeals--Jurisdiction.

A. Appeals from action or determination of the City Manager or Advisory Planning Commission are heard by the Kenai Peninsula Borough Planning Commission.

B. Appeals from the Kenai Peninsula Borough Planning Commission are heard by the Seward City Council acting as the Board of Adjustment.

C. Appeals from the Board of Adjustment are heard by the Superior Court.

21.78.530 Appeals To Superior Court--Costs. When appeals are taken to the Superior Court, the costs of the appeal in support of this ordinance shall be borne by the City of Seward.

21.78.540 Public Hearings--Notice--Purpose. It is the purpose of this section to insure proper notification and public hearing prior to action as required by other Sections within this ordinance.

21.78.550 Public Hearings--Procedures.

A. Notice of the public hearing shall be published at least twice in a paper of general circulation within the city. The notice shall be published during each of the two calendar weeks prior to the public hearing date.

B. The notice shall contain at least the following information:

(1) A brief description of the proposal on which the public body is to act.

(2) A legal or common description of the property involved.

(3) Date, time and place of the public hearing.

(4) Person and place to contact for more detailed information.

C. Decorum of the body holding the hearing shall prevail.

21.78.560 Public Hearings--Notification of Neighboring Property Owners. A copy of the aforementioned newspaper notification shall be mailed by certified mail to real property owners on record on the Borough Assessor's records within a 300 feet periphery of the parcel affected by the proposed action. When a public hearing is to be held about a zoning ordinance amendment involving a change in the text or major district boundary changes, no notification of neighboring property owners shall be required, but notices shall be displayed in at least three public places.

21.78.570 Zoning Ordinance Amendments--Initiation.

A. Zoning Ordinance Amendments may be initiated by:

- (1) The Borough Assembly.
- (2) The Borough Planning Commission.
- (3) The Seward City Council.
- (4) The Seward Advisory Planning Commission.

B. Any person not listed above may request a zoning ordinance amendment subject to the following conditions:

- (1) A zoning map amendment may be requested only by petition from a majority of the property owners in the area concerned; and
- (2) An amendment to the ordinance text may be requested by a petition bearing the signatures of 50 voters registered within the city.

C. Except for the extension of existing district boundaries, no change to the zoning map shall be considered which contains an area less than one acre not including street or alley rights-of-way.

D. Any proposed amendment to the zoning ordinance which is substantially the same as any other proposed amendment submitted within the previous six months and which was rejected shall not be considered unless said proposed amendment was rejected for reasons of incompleteness.

E. The zoning amendment request shall include the names and addresses of the applicant, a map showing the area involved, the present zoning and proposed zoning, and any other pertinent information requested by the City or Borough.

21.78.580 Zoning Ordinance Amendments--Procedures.

A. Any valid request to initiate a zoning ordinance amendment shall be submitted to the City Manager. He shall immediately forward the request to the Borough Planning Director. The Director shall arrange notice and schedule public hearings as required by this section.

B. A public hearing shall be held by the Advisory Planning Commission on the proposed amendment in accordance with Sections 21.78.540-.560 of this ordinance. After the public hearing, the Advisory Planning Commission shall send their written recommendations to the Borough Planning Commission along with all minutes and public records relating to the proposed amendment.

C. A public hearing shall be held on the proposed amendment by the Borough Planning Commission in accordance with the provisions of Sections 21.78.540-.560 of this ordinance. After the public hearing, the Borough Planning Commission shall send their written recommendations to the Borough Assembly along with all minutes and public records relating to the proposed amendment. The public hearings of the City and Borough may be held simultaneously.

D. A public hearing shall be held by the Borough Assembly on the proposed amendment in accordance with Sections 21.78.540-.560 of this ordinance. The Borough Assembly shall approve or disapprove the zoning ordinance amendment.

21.78.590 Fee--Schedules--Purpose. The purpose of this Section is to establish a fee schedule which will cover a significant portion of the administration costs associated with processing applications for action covered by this Chapter.

21.78.600 Fee Schedule Relating to Borough Matters. The fee schedule shall be established by resolution of the Borough Planning Commission.

21.78.610 Fee Schedule Relating to City Administration. The fee schedule shall be established by resolution of the City Council after approval by the Borough Planning Commission.

21.78.620 Contract Zoning--Purpose. It is the intent of this section to provide a means of permitting a proposed land use which is compatible with adjacent uses while the zoning district reclassification is not. "Contract zoning" means a zoning reclassification to a less restricted use when the owner of the rezoned property, either through an agreement with the assembly or a covenant in favor of the borough, places restrictions on the use of the land beyond the zoning requirements generally attaching to the new district in which the property has been placed.

21.78.630 Contract Zoning--Procedures.

A. An application for a contract zoning agreement shall be submitted to the administrative official. The application shall include the names and addresses of the applicant, a map showing the property involved, the present zoning and the proposed use, including the proposed floor plan, site plan and height of structure if a new structure or addition is involved. Any specific conditions to insure the new use is compatible with the surrounding zone that the applicant wishes to contract to in support of his application should be included. The administrative official shall immediately forward the request to the Borough Planning Director. The Director shall arrange notice and schedule public hearings as follows:

B. A public hearing shall be held by the Advisory Planning Commission on the proposed amendment in accordance with Sections 21.78.540-.560 of this ordinance. After the public hearing, the Advisory Planning Commission shall send their written recommendation to the Borough Planning Commission along with all minutes and public records relating to the proposed amendment.

(1) The Advisory Planning Commission shall consider the proposed contract zoning, and upon finding that:

(a) The proposed land use will be developed in a manner to be compatible with adjacent uses.

(b) Existing public facilities, services and utilities can accommodate the proposed use without any detrimental effect on adjacent uses.

(2) The Advisory Planning Commission shall then propose any conditions they deem necessary to guarantee the development of the property in a manner consistent with

the intent of this section. A time schedule to accomplish the contract shall be a part of the agreement.

(3) Upon acceptance of the terms of the contract zoning by the applicant as approved by the Advisory Planning Commission the contract zoning agreement shall be submitted to the Borough Planning Commission.

C. A public hearing shall be held on the proposed amendment by the Borough Planning Commission in accordance with the provisions of Sections 21.78.540-.560 of this ordinance. After the public hearing, the Borough Planning Commission shall send their written recommendations to the Borough Assembly along with all minutes and public records relating to the proposed amendment.

D. A public hearing shall be held by the Borough Assembly on the proposed amendment in accordance with Sections 21.78.540-.560 of this ordinance. The Borough Assembly shall approve or disapprove the zoning ordinance amendment.

E. Use of the property beyond the terms of the Contract Zoning Agreement shall immediately invalidate the agreement and the zoning shall revert back to the classification at the time the agreement is initiated.

F. A copy of the agreement shall be filed with the District Recorder and shall control all future owners of the land to the same extent as the original applicant.

21.78.640 Minimum Building Lot. The smallest parcel that may be considered for contract rezoning is any lot that may be built upon in accordance with this Chapter.

Section 2. This ordinance shall be effective immediately upon enactment. All applications for zoning or rezoning within the City of Seward submitted prior to the effective date of this ordinance shall be governed by the provisions of Ordinance No. 314 of the City of Seward, enacted August 20, 1962, and incorporated in Section 21.04.010 (B) of the Borough Code of Ordinances.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH

THIS 6th DAY OF June, 1978.

ATTEST:

Frances Byrner
Borough Clerk

JoAnn Elson
JoAnn Elson, Assembly President

