

Introduced by: Mayor, at request of
Planning Commission
Date: January 16, 1979
Hearing: February 20, 1979
Vote: 108 "Yes", 36 "No"
Action: Enacted

KENAI PENINSULA BOROUGH

ORDINANCE 79- 5

AMENDING THE PROCESS FOR APPEALING ZONING DECISIONS IN
THE MUNICIPAL DISTRICTS.

WHEREAS, the Borough is required by statute to exercise planning and zoning powers on an areawide basis; and

WHEREAS, the Borough is authorized to delegate certain planning and zoning administration and enforcement functions to cities within the Borough; and

WHEREAS, it is desirable to simplify and expedite the process by which zoning decisions within the municipal district are ultimately resolved; and

WHEREAS, it is desirable to provide for maximum local participation, consistent with the preservation of ultimate Borough jurisdiction, in matters relating to zoning within the municipal districts;

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

Section 1. That Section 21.78.360 C of the Borough Code of ordinances is hereby repealed.

Section 2. That the Borough Code of ordinances is hereby amended by adding a new subsection, to be numbered 21.78.360 B, which shall read as follows:

21.78.360 B. Providing technical assistance upon request by the City Manager.

Section 3. That Section 21.78.400 of the Borough Code of ordinances is hereby amended to read as follows:

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 AMENDMENTS TO THE BOROUGH ASSEMBLY. AT LEAST ONE PUBLIC HEARING SHALL BE HELD PRIOR TO SUBMITTING ANY ORDINANCE OR AMENDMENT RECOMMENDATION.]

21.78.400 Borough Planning Commission--Responsibilities.
The Borough Planning Commission shall act upon zoning ordinance amendments as provided elsewhere in this title.

Section 4. That Section 21.78.410 of the Borough Code of ordinances is hereby amended to read as follows:

The Borough Planning Commission shall adopt by resolution procedural rules [TO BE FOLLOWED WHEN HEARING AND DECIDING AN APPEAL] setting forth minimum standards for hearing upon, and decision of, zoning applications and appeals arising under this chapter.

Section 5. That Section 21.78.430 C is hereby amended to read as follows:

C. Prepare and recommend to the Borough Planning Commission modifications to this title and amendments to the municipal district zoning ordinances.

Section 6. That Section 21.78.520 of the Borough Code of ordinances is hereby amended to read as follows:

21.78.520 Appeals--Jurisdiction. Appeals from actions and determinations of the city manager or advisory planning commission are heard by [THE KENAI PENINSULA BOROUGH PLANNING COMMISSION] the Seward City Council acting as the Board of Adjustment.

B. [APPEALS FROM THE KENAI PENINSULA BOROUGH PLANNING COMMISSION ARE HEARD BY THE SEWARD CITY COUNCIL ACTING AS THE BOARD OF ADJUSTMENT.] Appeals from the Board of Adjustment are heard by the Superior Court.

[C. APPEALS FROM THE BOARD OF ADJUSTMENT ARE HEARD BY THE SUPERIOR COURT.]

Section 7. That Section 21.65.020 of the Borough Code of ordinances is amended to read as follows:

21.65.020 Duties of the Borough Planning Director. 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 MADE UNDER CHAPTERS 21.28 THROUGH 21.70; AND] providing technical assistance upon requests by the city manager.

[C. PROVIDING TECHNICAL ASSISTANCE UPON REQUEST BY THE CITY MANAGER.]

Section 8. That Section 21.66.010 of the Borough Code of ordinances is hereby amended to read as follows:

21.66.010 Borough Planning Commission Responsibilities. A. The Borough Planning Commission shall [1. HEAR AND ACT UPON APPEALS AS PROVIDED IN THIS TITLE;

[2. PREPARE AND RECOMMEND ZONING ORDINANCE AMENDMENTS TO THE BOROUGH PLANNING COMMISSION PURSUANT TO CHAPTER 21.70] recommend zoning ordinance amendments to the assembly pursuant to Chapter 21.10.

B. The Borough Planning Commission shall adopt by resolution procedural rules [TO BE FOLLOWED WHEN HEARING AND DECIDING AN APPEAL.] setting forth minimum standards for the hearing of, and decision upon, applications and appeals arising under the Homer zoning ordinance. [THE ADOPTED PROCEDURES SHALL MEET OR EXCEED THE REQUIREMENTS OF SECTION 21.68.060.]

[C. THE FEE SCHEDULE RELATING TO BOROUGH MATTERS BE ESTABLISHED BY RESOLUTION OF THE BOROUGH PLANNING COMMISSION.]

Section 9. Section 21.68.050 of the Borough Code of ordinances is hereby amended to read as follows:

21.68.050 Body to Hear Appeals: A. Appeals from an action and determination of the City Manager or heard by the Homer Advisory Planning Commission.

B. Appeals from the Homer Advisory Planning Commission are heard by the [KENAI PENINSULA BOROUGH PLANNING COMMISSION.]

Homer City Council acting as the Board of Adjustment.

C. [APPEALS FROM THE KENAI PENINSULA BOROUGH PLANNING COMMISSION ARE HEARD BY THE HOMER CITY COUNCIL ACTING AS THE BOARD OF ADJUSTMENT.] Appeals from the Board of Adjustment are heard by the Superior Court.

Section 10. That Section 21.76.230 A. of the Borough Code of ordinances is hereby repealed.

Section 11. That Chapter 21.76 of the Borough Code of ordinances is hereby amended by adding a new subsection to be numbered 21.76.230 A. which shall read as follows:

21.76.230 A. Appeals from decisions of the Administrative Officer or the Kenai Advisory Planning Commission shall be heard by the Kenai City Council acting as the Board of Adjustment.

Section 12. That Section 21.76.230 B (4) of the Borough Code of ordinances is hereby repealed.

Section 13. That Section 21.20.010 of the Borough Code of ordinances is hereby amended to read as follows:

21.20.010 Amendment or change of regulations--Public hearing required-Notice.. The assembly may by [RESOLUTION] ordinance 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 upon the proposed ordinance at which parties in interest and citizens have an opportunity to be heard. At least 15 days' notice of the time and place of the hearing upon the ordinance shall be published in a paper of general circulation in the borough.

Section 14. That Title 21 of the Borough Code of ordinances is hereby amended by adding a new chapter, to be numbered 21.11, which shall read as follows:

Chapter 21.11

PUBLIC HEARINGS

21.11.010 Purpose. This chapter governs all public hearings held by the Borough Planning Commission or any Advisory Planning Commission under the authority of Title 21 of the Borough Code of ordinances.

21.11.020 Public hearing notice. 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 and common description of the property involved;

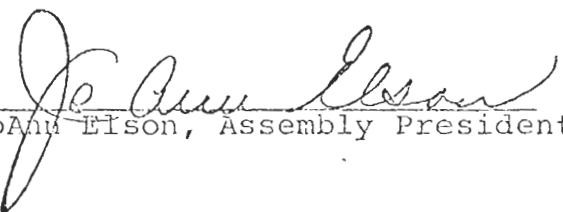
3. Date, time and place of the public hearing;

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

21.11.030 Notification of neighboring property owners. A copy of the aforementioned newspaper notification shall be mailed to real property owners on record on the borough assessor's records within a 300-foot periphery of the parcel affected by the proposed action. When a public hearing is to be held about a proposed 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.

Section 15. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
ON THIS 20 DAY OF February, 1979.


JoAnn Elson, Assembly President

ATTEST:


Borough Clerk

Kenai Peninsula Borough
Ordinance 79-5
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