

Introduced by: Crawford
Date: May 15, 1979
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Vote: 112.84 Yes, 9 No
Action: Enacted as
Amended

KENAI PENINSULA BOROUGH

ORDINANCE NO. 79-29

PROVIDING A COMPREHENSIVE ZONING CODE FOR THE SELDOVIA DISTRICT

WHEREAS, the City of Seldovia has requested the Borough to develop and implement a comprehensive zoning code for that area of the Borough within the boundaries of the City of Seldovia, and

WHEREAS, the City of Seldovia and the Borough Planning Commission, after due consideration and public hearing, have recommended that the Assembly adopt an ordinance implementing the following comprehensive zoning code for the City of Seldovia;

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

Section 1. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.80, which shall read as follows:

CHAPTER 21.80

SELDOVIA DISTRICT--TITLE AND PURPOSE

Sections:

21.80.010 Title for citation--Jurisdiction.
21.80.020 Purpose of provisions.

21.80.010 Title for citation--Jurisdiction. Chapters 21.80 through 21.118 of the Kenai Peninsula Borough Code of Ordinances shall be known and cited as the "Seldovia District Zoning Ordinance" and are applicable to all lands within the municipal boundaries of the City of Seldovia.

21.80.020 Purpose of provisions. The Seldovia District Zoning Code is adopted in order to enhance 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.

Section 2. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.82, which shall read as follows:

CHAPTER 21.82

SELDOVIA DISTRICT--DEFINITIONS

Sections:

- 21.82.010 Definitions and construction of terms generally.
- 21.82.020 Accessory use or building.
- 21.82.030 Building.
- 21.82.040 Building height.
- 21.82.050 Building setback.
- 21.82.060 Dwelling.
- 21.82.070 Dwelling unit.
- 21.82.080 Family.
- 21.82.090 Home Occupation.
- 21.82.100 Loading space.
- 21.82.110 Lot.
- 21.82.120 Lot area.
- 21.82.130 Lot coverage.
- 21.82.140 Mobile Home.
- 21.82.150 Mobile Home Park.
- 21.82.160 Nonconforming Lot use and structure.
- 21.82.170 Open Space.
- 21.82.180 Parking Area.
- 21.82.190 Parking Space.
- 21.82.200 Planned Unit Development.
- 21.82.210 Principal use or structure.
- 21.82.220 Service Station.
- 21.82.230 Sign.
- 21.82.240 Structure.

21.82.010 Definitions and construction of terms generally. When used in this Zoning Code, the following words used herein shall be interpreted or defined as set forth in this chapter.

When not inconsistent with the context, words used in the present tense shall include the future, the singular number includes the plural, the word "person" includes a firm, partnership or corporation as well as an individual; the word "lot" includes the words "plot," "piece," "parcel"; the term "shall" is always mandatory; and the words "used" or "occupied" shall be construed to include the words "intended," "arranged," or designed to be used or occupied.

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

21.82.030 Building. "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind containing walls on at least three sides.

21.82.040 Building height. "Building height" means the vertical distance from the average lot finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

21.82.050 Building Setback. "Building Setback" means the distance from a lot line or right-of-way centerline, whichever is specified, that a principal and accessory structure must be located.

21.82.060 Dwelling. "Dwelling" means a structure containing one or more dwelling units and designed to be affixed to a permanent foundation. This term includes prefabricated structures which are not constructed on a chassis that is an integral part of the structure.

21.82.070 Dwelling unit. "Dwelling unit" means one or more rooms in addition to a bathroom, which include kitchen facilities and are arranged, designed or used for living quarters by a family.

21.82.080 Family. "Family" means one or more persons occupying a dwelling unit.

21.82.090 Home Occupation. "Home Occupation" means any use entirely within a dwelling or accessory structure and carried on by the occupants of the dwelling, which is clearly incidental to the use of the dwelling and lot for residential purposes and does not change the character thereof, and in connection with which there is no exterior sign nor display of stock in trade.

21.82.100 Loading Space. "Loading Space" means an off-street space on the same lot with a building or contiguous to a group of buildings, designated or intended for the temporary parking of commercial vehicles while loading and unloading, and which abuts upon a street, alley or other appropriate means of access.

21.82.110 Lot. "Lot" means a legally described land parcel or combination thereof which meets the minimum size and design requirements of this ordinance for the type and number of principal and accessory uses and structures proposed.

21.82.120 Lot Area. "Lot Area" means the total horizontal net area within the lot lines exclusive of streets, highways, road and other rights-of-way.

21.82.120 Lot Coverage. "Lot coverage" means the amount of land covered by principal and accessory structures exclusive of open porch and patios as well as parking area.

21.82.140 Mobile Home. "Mobile home" means a factory assembled structure or combination thereof which contains the necessary service connections to support one or more dwelling units, is made so as to be readily movable as a unit or units on individual chassis and running gear and which is designed to be used without a permanent foundation.

21.82.150 Mobile Home Park. "Mobile home park" means a parcel of land which has been designated and improved so that it contains three or more mobile home spaces available for rent or purchase.

21.82.160 Nonconforming Lot, Use and Structure. A "Nonconforming lot, use or structure" shall be any lot, use or structure meeting the criteria set forth in Chapter 21.108.

21.82.170 Open Space. "Open space" means the ground area and the space above which is unimpeded from the ground to the sky by any structure except as provided in this ordinance. Open space does not include area used for parking or outside storage.

21.82.180 Parking Area. "Parking area" means an off-street area containing one or more parking spaces with aisles and drive-ways necessary for maneuvering without use of public rights-of-way. In general, there shall be an average of at least 350 square feet of parking area per parking space to insure adequate maneuvering area.

21.82.190 Parking Space. "Parking space" means an area, enclosed or unenclosed, sufficient in size to store one motor vehicle. At a minimum, each space shall contain 200 square feet measuring 10 feet by 20 feet and shall not be located within the first six feet of the building setback from an adjacent right-of-way.

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

21.82 210 Principal Use or Structure. "Principal use or structure" means the uses or structures for which the district is primarily designed.

21.82.220 Service Station. "Service station" means any building, structure, premises or other space used primarily for the retail sale and dispensing of motor fuels, tires, batteries, and other small accessories.

21.82.230 Sign. "Sign" means any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names, or trademarks, by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from any public street or highway and used to attract attention.

21.82.240 Structure. "Structure" means anything constructed or erected on the ground or which is attached to something located on the ground including, but not limited to, buildings, radio and TV towers, sheds and permanent signs.

Section 3. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.84, which shall read as follows:

CHAPTER 21.84

SELDOVIA DISTRICT--ZONING DISTRICTS

Sections.

- 21.84.010 Zoning Districts.
- 21.84.020 Zoning Map.

21.84.010 Zoning Districts. A. Section 21.04.010 of the Borough Code divides the Borough into two zoning districts, rural and municipal. The municipal district of the city is hereby further divided into zoning districts and within each district, only certain uses and standards are allowed as prescribed in this ordinance.

B. Zoning Districts--Designated. The Seldovia district is divided into the following types of use districts:

1. Residential, General (RG);
2. Residential, Special Apartment (RSA);
3. Waterfront Commercial Residential (WCR);
4. Commercial (C);
5. Industrial (I); and
6. Alaska State Housing Authority (ASHA).

7. The zoning districts established by ordinance shall be bounded as shown on a zoning district map entitled "Seldovia District Zoning Map".

21.84.020 Zoning Map. A. The official zoning map shall be kept in the Borough offices. The "Seldovia District Zoning Map" presented with this ordinance 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 supercede 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.

Section 4. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.86, which shall read as follows:

CHAPTER 21.86

SELDOVIA DISTRICT--GENERAL PROVISIONS

Sections:

- 21.86.010 Compliance.
- 21.86.020 Unlisted Uses.
- 21.86.030 Number of Buildings Per Lot.
- 21.86.040 Parking, Garage and Loading Facilities.

21.86.010 Compliance. A. Except as otherwise provided in this ordinance, all land and structures within the City of Seldovia shall be constructed, used, occupied or altered in conformance with the requirements of the zoning district in which they are located.

B. No building permit shall be issued for any new structure or alteration of an existing structure unless the structure or alteration complies with the provisions of the Seldovia District Zoning Ordinance.

21.86.020 Unlisted Uses. Unlisted uses may be allowed within a district upon written decision by the Seldovia City 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 to another district; and
3. The use is consistent with the purpose of the district in question; and is similar to other uses permitted outright.

21.86.030 Number of Buildings Per Lot. No more than one structure containing a principal use may be permitted on a single lot except upon submission and approval of a conditional use permit as specified in 21.102.010 through 21.102.060 of this ordinance. If more than two structures are located on a single lot, each structure shall be located in a manner which will readily allow subdivision of the lot into a number of parcels equal to the number of principal structures with each parcel conforming to the design requirements contained in Chapter 20.20 of the Kenai Peninsula Borough Subdivision Ordinance.

21.86.040 Parking, Garage, and Loading Facilities. Every building hereafter erected, enlarged or converted to another use shall conform to the parking, garage, and loading facility requirement of this ordinance and City of Seldovia Ordinances.

Section 5. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.88, which shall read as follows:

CHAPTER 21.88

RESIDENTIAL DISTRICT (R)

Sections:

- | | |
|-----------|-------------------------------|
| 21.88.010 | Purpose. |
| 21.88.020 | Permitted Uses. |
| 21.88.030 | Conditionally Permitted Uses. |
| 21.88.040 | Minimum Lot Size and Width. |
| 21.88.050 | Parking Area. |
| 21.88.060 | Lot Coverage. |
| 21.88.070 | Building Setback. |
| 21.88.080 | Building Height. |

21.88.010 Purpose. This district is designed to provide an area for residential development.

21.88.020 Permitted Uses.

- A. Structures containing less than five dwelling units.
- B. Home occupations.
- C. Mobile Homes.
- D. Accessory Uses.

21.88.030 Conditional Uses. The following uses shall be permitted if it is determined the conditions set forth in this chapter and Chapters 21.100 and 21.102 are met:

- A. Structures containing more than four dwelling units.
- B. Fraternal Organizations.
- C. Hospitals.
- D. Mobile Homes in Mobile Home Parks.
- E. Mobile Home Parks.
- F. Public school and recreation facilities.
- G. Churches.
- H. Private schools.
- I. Public utilities.

21.88.040 Minimum Lot Size and Width.

- A. 5000 square feet for a structure containing one dwelling unit.
- B. 2500 square feet per dwelling unit for structures containing two or more dwelling units provided all other standards are met.
- C. Residential developments utilizing a common open space design shall contain a total area equal to that required by "A" or "B" above, and each dwelling unit which is sold on a lot within the development shall have at least a 2000 square foot lot.
- D. Lot width shall be equal to or greater than one-third lot length. For townhouses, lot width shall be greater than one-fourth the lot length.

21.88.050 Parking Area. Two off-street parking spaces each measuring 20 by 10 feet are required for each dwelling unit. This area does not include any area required for driveways and maneuvering in parking areas.

21.88.060 Lot Coverage. Principal and accessory structures shall not cover more than 50 percent of the lot area.

21.88.070 Building Setback. A. Along any lot boundary bordering a right-of-way, the building setback required is half of the required right-of-way width plus 10 feet measured from the right-of-way centerline. Required right-of-way shall be that contained in the City Street Plan or ordinances. If no City Plan or ordinance exists, the required right-of-way shall be that required by the Borough Subdivision Ordinance.

B. Buildings shall be set back five feet from all other lot boundaries except for townhouses. Each group of townhouses shall be five feet from the exterior boundary of the project.

21.88.080 Building Height. The maximum building height is 35 feet.

Section 6. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.90, which shall read as follows:

CHAPTER 21.90

RESIDENTIAL, SPECIAL MULTI-FAMILY (RSM) DISTRICT

Sections:

- 21.90.010 Purpose.
- 21.90.020 Conditionally Permitted Uses.
- 21.90.030 Minimum Lot Size and Width.
- 21.90.040 Parking Area.
- 21.90.050 Lot Coverage.
- 21.90.060 Building Setback.
- 21.90.070 Building Height.

21.90.010 Purpose. This district is designed to accommodate multi-family structures which are developed for occupants requiring fewer parking spaces and less outdoor recreation area because of age and limitations on the number of occupants per dwelling unit.

21.90.020 Conditional Uses. The following uses shall be permitted if it is determined the conditions in Chapter 21.102 and design standards of this Chapter are met.

A. Structures containing more than four dwelling units.

21.90.030 Minimum Lot Size and Width. A. 1800 square feet per dwelling unit provided all other standards are met.

21.90.040 Parking Area. One off-street parking space measuring 20 by 10 feet is required for each unit. This area does not include any area required for driveways and maneuvering in parking areas. The number of parking spaces required may be reduced if it is determined in the conditional use procedures that occupants require fewer parking spaces.

21.90.050 Lot Coverage. Principal and accessory structures shall not cover more than 70 percent of the lot area.

21.90.060 Building Setback. The building setback for this district shall be as specified in Section 21.88.070.

21.90.070 . Building Height. The maximum building height is 35 feet.

Section 7. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.92, which shall read as follows:

CHAPTER 21.92

WATERFRONT COMMERCIAL RESIDENTIAL (WCR) DISTRICT

Sections:

- 21.92.010 Purpose.
- 21.92.020 Permitted Uses.
- 21.92.030 Prohibited Uses.
- 21.92.040 Performance Standards.
- 21.92.050 Minimum Lot Area and Width.
- 21.92.060 Parking Area and Off-street Loading Space.
- 21.92.070 Building Setback.
- 21.92.080 Visibility at Access Points.
- 21.92.090 Maximum Building Height.

21.92.010 Purpose. This district is designed to preserve and enhance the following characteristics of Seldovia:

- 1. Marine orientation of the community;
- 2. Pedestrian orientation;
- 3. Variety of compatible mixed use development; and
- 4. Scenic features due to the natural terrain and vegetation.

The district provides an area for the service and commercial activities which support water dependent activities related to commercial and sport fishing, tourism, recreation and transportation. The district also provides the opportunity for people to enjoy waterfront living.

21.92.020 Permitted Uses.

- A. Residential Uses.
- B. Home Occupations.
- C. Retail.
- D. Service.
- E. Office.
- F. Accessory uses.

21.92.050 Prohibited Uses.

- A. Motor vehicle sales and service.
- B. Extraction of natural resources for sale not incidental to development of the area for a permitted use.

21.92.040 Performance Standards. Each permitted use shall meet the following performance standards.

A. All permits required by the Corps of Engineers or State for work done in the tidelands shall be obtained prior to granting a building permit.

B. Residential uses shall provide at least 1000 square feet of open space per dwelling unit. This open space may not be used for parking or permanent structures. However, 50 percent may be a covered patio or similar structure.

C. Twenty-five percent of the land area involved shall be left with the natural vegetation and terrain existing prior to development.

D. Outside storage areas for commercial uses shall be screened from view along pedestrian ways and roads. This does not apply to the storage of crabpots or similar commercial fishing gear at places of businesses or residences.

E. Street and utilities must be adequate to safely accommodate the proposed use presently and in the future.

21.92.050 Minimum Lot Area and Width. A. No minimum lot area is established, but the actual lot area shall be sufficient to meet the parking, open space, natural area and setback standards of this Chapter.

B. Lot width shall be at least one-third the lot length.

21.92.060 Parking Area and Off-street Loading Space. A. Two off-street parking spaces are required for any dwelling unit, otherwise parking requirements are the same as the Commercial District. If the applicant adequately demonstrates that the use will serve customers who are not dependent on motor vehicles to reach the business, the parking requirements may be reduced accordingly by the City Planning Commission.

B. Off-street loading space requirements are the same as for the Commercial District.

21.92.070 Building Setback. Building setback requirements shall be the same as specified in Section 21.94.070.

21.92.080 Visibility at Access Points. Requirements for visibility at access points shall be as set forth in Section 21.94.080.

21.92.090 Building Height. The maximum building height is 25 feet.

Section 8. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.94, which shall read as follows:

CHAPTER 21.94

COMMERCIAL (C) DISTRICT

Sections:

21.94.010	Purpose.
21.94.020	Permitted Uses.
21.94.030	Conditional Uses.
21.94.040	Minimum Lot Size and Width.
21.94.050	Parking Area and Off-street Loading Space.
21.94.060	Lot Coverage.
21.94.070	Building Setback.
21.94.080	Visibility at Access Points and Intersections.
21.94.090	Building Height.

21.94.010 Purpose. This district is designed to preserve or establish consolidated business areas which are primarily intended for retail, financial, entertainment and professional services occurring within enclosed structures. Integration of residential uses with commercial structures is desirable. District standards are designed to encourage development which will serve future customers driving to the area as well as pedestrian traffic from surrounding residential area.

21.94.020 Permitted Uses. The following uses are permitted when they occur primarily within an enclosed structure.

- A. Service.
- B. Retail.
- C. Wholesale.
- D. Entertainment.
- E. Residential structures containing more than four units.
- F. Offices.

21.94.030 Conditional Uses. The following uses shall be permitted if it is determined that the requirements of this Chapter and Chapters 21.100 and 21.102 are met.

- A. Gas Stations.
- B. Drive-in and fast food restaurants.
- C. Manufacturing.
- D. Schools.
- E. Service business with outside storage.
- F. Vehicle sales and service.
- G. Warehouses and transportation facilities.

21.94.040 Minimum Lot Size and Width. A. For residential uses, the standards for the Residential District apply.

- B. 5000 square feet for uses other than residential.
- C. Width shall be at least one-third the lot length.

21.94.050 Parking Area and Off-street Loading Space. A. Residential uses - same as required in the Residential District.

- B. Retail Sales, one space per 200 square feet of gross usable floor area.
- C. Service business and offices, one space for each 300 square feet of gross usable floor area.

D. Restaurants, bars and other entertainment establishments, one parking space for each four seats based on maximum seating capacity.

E. Transient housing, one parking space for each three rooms.

F. In addition to the above requirements, one parking space for every four employees shall be provided.

G. One off-street loading space at least 30 feet long by 10 feet wide by 15 feet high inside dimensions shall be provided for each 10,000 square feet of usable floor area.

21.94.060 Lot Coverage. No limit except coverage for requirements for residential uses shall be the same as for the Residential District.

21.94.070 Building Setback. A. Five feet from all rights-of-way if the right-of-way meets existing requirements.

B. If the adjacent right-of-way is less than required by existing standards, the setback shall be equal to one-half the required right-of-way width plus five feet measured from the right-of-way centerline. Required right-of-way shall be that required by city plans or ordinance. If no city plan or ordinance exists, the right-of-way requirements of the Borough subdivision requirements shall apply.

C. Six feet from all property boundaries not bordering rights-of-way unless adequate fire walls are provided and adequate access to the rear of the building is otherwise provided.

21.94.080 Visibility at Access Points and Intersections. The following requirements apply to intersections of rights-of-way and to the intersection of exits from parking areas with a right-of-way. At the intersections no fence, wall, hedge, or other planting or structure forming a material impediment to visibility between a height of two and a half feet and eight feet shall be erected, planted, placed, or maintained, and no vehicle so impeding visibility shall be parked within the triangular areas bounded by the right-of-way or driveway side lines and a line joining points 20 feet along the intersecting right-of-way or driveway side line.

21.94.090 Building Height. The maximum building height is 35 feet.

Section 9. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.96, which shall read as follows:

CHAPTER 21.96

INDUSTRIAL (I) DISTRICT

Sections:

21.96.010	Purpose.
21.96.020	Permitted Uses.
21.96.030	Conditional Uses.
21.96.040	Minimum Lot Size and Width.
21.96.050	Parking Area and Off-street Loading Space.
21.96.060	Lot Coverage.
21.96.070	Building Setback.
21.96.080	Visibility at Access Points and Intersections.
21.96.090	Building Height.
21.96.100	Special Requirements.

21.96.010 Purpose. This district is located and designed to provide an area suitable for the development of a viable industrial base for the community. Land adjacent to the shoreline and located in Industrial zone, shall be reserved for water-dependent and marine uses.

21.96.020 Permitted Uses.

- A. Marine equipment sales, service, repair and construction.
- B. Equipment sales, repairs and service.
- C. Sea food processing.
- D. Transportation and storage except for flammable, explosive or corrosive materials not for use on the site.
- E. Public utility plants.
- F. Manufacturing.
- G. Wholesale outlets and warehouses.
- H. Accessory uses.

21.96.030 Conditional Uses. The following uses shall be permitted if it is determined the requirements of Chapters 21.100 and 21.102 are met.

- A. Transportation and storage of flammable, explosive or corrosive materials.
- B. Gas stations.

21.96.040 Minimum Lot Size and Width. Lots shall be at least 20,000 square feet and have a width equal to greater than one-third the length.

21.96.050 Parking Area and Off-street Loading Space. A. One parking space is required for each four employees anticipated at peak operation levels plus one customer parking space for each 1,000 square feet of service area for uses which have local customers visiting the site.

B. One off-street loading space measuring at least 60 feet long by 10 feet wide by 15 feet high, inside dimensions, shall be provided for each 20,000 square feet of gross floor area.

21.96.060 Lot Coverage. No minimum.

21.96.070 Building Setback. Building setback in this district shall be the same as required for the Commercial District by Section 21.94.070.

21.96.080 Visibility at Access Points and Intersections. Visibility requirements in this district shall be the same as required for the Commercial District by Section 21.94.080.

21.96.090 Building Height. Maximum building height shall be 50 feet.

21.96.100 Special Requirements. A. Industrial uses located adjacent to Main Street shall provide protected pedestrian access from the ferry dock along Main Street.

B. Only water dependent industrial uses shall be permitted along the waterfront. To be water dependent, a use must meet the following criteria:

1. Requires a waterfront location or direct access to the waterfront to operate;
2. Provides goods and services essential to fishing, fish processing and marine transportation; and
3. Must be located in close proximity to fishing, fish processing and marine transportation activities to provide goods and services required by these activities.

Section 10. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.98, which shall read as follows:

CHAPTER 21.98

ALASKA STATE HOUSING AUTHORITY (ASHA) DISTRICT

Sections:

21.98.010 Permitted Uses.

21.98.010 Permitted Uses. Land use within this district shall be governed by the provisions of the Seldovia Urban Renewal Project Contract as amended between Seldovia and the Alaska State Housing Authority, Sept. 19, 1964, the pertinent provisions of which are hereby adopted as the zoning regulations for the ASHA District.

Section 11. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.100, which shall read as follows:

CHAPTER 21.100

SELDOVIA DISTRICT--SUPPLEMENTAL REGULATIONS

Sections:

- 21.100.010 Signs.
- 21.100.020 Mobile Home Parks.

21.100.010 Signs. A. Signs serving residential uses shall not exceed two square feet in area. However, temporary for sale, for rent or for lease signs shall be allowed if they do not exceed three square feet in area and are located behind the building setback line.

B. Signs associated with other uses shall not exceed 20 square feet in area and shall be located behind the building setback line.

C. No signs of a flashing or animated variety are permitted.

21.100.020 Mobile Home Parks. All mobile home parks shall meet the following conditions in order to obtain a conditional use permit.

A. The park shall contain a minimum of one acre (approximately 16 units).

B. Each mobile home space shall have a yard of 1000 square feet not including parking area assigned to the space. This yard area may be reduced by up to 500 square feet provided an equivalent amount of common open area is provided for each unit.

C. A year-round buffer of natural vegetation or terrain features shall be provided along all boundaries which abut land zoned residential. The City Planning Commission may allow a screen of other materials if conditions preclude use of vegetation or terrain features.

D. A detailed site plan submitted with the application shall show specific layout of spaces, all buildings and structures, access points, vehicular and pedestrian circulation systems, parking areas, recreation areas, buffer system and other data as required by the City Planning Commission.

E. Safe access from a street with sufficient capacity to handle the traffic generated by the mobile home park shall be provided.

F. Separation of pedestrian and recreation areas from parking and traffic systems shall be maintained.

G. Access shall be adequate for fire protection and snow removal.

H. An anchoring system for each mobile home space which is sufficient to prevent movement during the highest winds experienced to date in the area shall be provided and utilized.

I. Adequate agreements for maintenance of common grounds and facilities such as recreation areas, and screening shall be established for mobile home parks containing spaces for sale.

J. Each mobile home shall be skirted to prevent wind from getting underneath the structure.

Section 12. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.102, which shall read as follows:

CHAPTER 21.102

SELDOVIA DISTRICT--CONDITIONAL USE PERMITS

Sections:

- 21.102.010 Intent.
- 21.102.020 General Conditions.
- 21.102.030 Applications for Conditional Use Permits.
- 21.102.040 Procedures.
- 21.102.050 Time Limitations.
- 21.102.060 Revocation and Amendment.

21.102.010 Intent. It is the intent of this section to provide the flexibility necessary to permit a use within a district under specified conditions which are in addition to regulations applying to uses permitted outright within the district. Only uses which have been listed as "Conditional Uses" for each district may be permitted under this Chapter.

21.102.020 General Conditions. Prior to granting a conditional use permit, it shall be established that the use satisfies the following conditions:

- A. The use as proposed is consistent with the purpose of this ordinance and the purpose 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 comprehensive plan and with surrounding land uses;
- D. Public services and facilities are adequate to serve the proposed use; and
- E. Any and all specific measures deemed necessary by the City Planning Commission to fulfill the above mentioned conditions shall be met by the applicant. Measures relating to access, screening, site development, building construction, operation of the use and other similar aspects of the proposed use may be utilized by the Commission to assure the specified conditions are met.

21.102.030 Application for Conditional Use Permits. 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 a description of neighboring land use including any necessary maps and diagrams.
- D. The fee established by Commission Resolution.
- E. Any additional information which the administrative official or the city Planning Commission may require to determine if all conditions will be satisfied.

21.102.040 Procedures. A. If the application is in order, the City Manager shall schedule a public hearing of the proposal as specified in Chapter 21.11 of this Title.

B. Approval of any conditional use permit shall require a concurring majority plus one vote of the City Planning Commission.

21.102.050 Time Limitations. Failure to meet any time limits imposed by the conditional use permit granted by the City Planning Commission shall void the conditional use permit.

21.102.060 Revocation and Amendment. A. Upon a determination that any required conditions are not being met, the administrative official shall notify the violator via certified mail and order compliance within 90 days. If the violation is not corrected, the conditional use permit shall be deemed administratively revoked and the administrative official shall begin the procedures for abating a violation specified in Chapter 21.110.

B. The conditional use permit may be amended if it is determined that additions or modifications are required to satisfy the general conditions in Section 21.102.020. Proposals to amend the conditional use permit shall be subject to the public hearing, notice and voting requirements of Section 21.102.040.

Section 13. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.104, which shall read as follows:

CHAPTER 21.104

SELDOVIA DISTRICT--VARIANCES

Sections:

- 21.104.010 Intent.
- 21.104.020 Conditions Precedent to Granting a Variance.
- 21.104.030 Application for Variance.
- 21.104.040 Procedures.

21.104.010 Intent. 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.

21.104.020 Conditions Precedent to Granting a Variance. A.
All of the following conditions shall be found before a variance may be granted:

1. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.

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 the 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.

21.104.030 Application for a Variance. Application for a variance shall be filed with the City Manager and 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 21.104.020.

21.104.040 Procedures. Procedures shall be as follows:

A. If the application is in order, the City Manager shall schedule and conduct a public hearing of the proposal as specified in Chapter 21.11 of this Title.

B. Approval shall require the concurring majority vote plus one of the City Planning Commission.

Section 14. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.106, which shall read as follows:

CHAPTER 21.106

SELDOVIA DISTRICT--CONTRACT ZONING

Sections:

21.106.010 Intent.

21.106.020 Procedures.

21.106.010 Intent. It is the intent of this section to provide a means of insuring that the type of land use proposed in a rezoning request is the one which occurs if the rezoning is granted. "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 City and 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.

21.106.020 Procedures. A. A petition for contract zoning shall be submitted to the City Manager. The applicant's petition shall contain detailed information on the proposed development and use of the land. Proposed covenants, guarantees or other forms of agreement to assure the development and use of the land as proposed shall also be submitted. A time schedule for the development and use shall be included with the petition.

B. The City Manager shall present the petition to the City Planning Commission. The City Planning Commission may consider the petition upon finding that:

1. The proposed land use is beneficial to the public interest and can be developed in a manner to be compatible with development in adjacent zoning districts.

2. Existing public facilities, services and utilities can accommodate the proposed use without any detrimental effect on adjacent zoning districts.

3. Rezoning accomplished under this section does not constitute "spot zoning".

4. Unrestricted rezoning to a district ordinarily permitting the proposed use would permit other uses which would not be compatible with the adjacent land use.

C. The City Planning Commission may reject, modify or accept the applicant's proposals submitted under subsection "A" of this section. If the applicant agrees, in writing, to the City Commission's acceptance or modification of the applicant's proposal, the Commission shall initiate the ordinance amendment procedures of Chapters 21.10 and 21.118. Action taken by the Commission pursuant to this section shall not be construed to limit the Commission's authority to reject or modify the applicant's proposal during the zoning ordinance amendment process.

D. The applicant may appeal a City Planning Commission action pursuant to subsection "C" of this section as provided in Chapter 21.116.

Section 15. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.108, which shall read as follows:

CHAPTER 21.108

SELDOVIA DISTRICT--NONCONFORMITY

Sections:

- 21.108.010 Intent.
- 21.108.020 Nonconforming lots.
- 21.108.030 Nonconforming structures.
- 21.108.040 Nonconforming Uses.
- 21.108.050 Elimination of nonconforming lots, structures, and uses.

21.108.010 Intent. When any lot, 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.

21.108.020 Nonconforming Lots. Each parcel of land of record on the effective date of this ordinance or amendments thereto may be developed in conformity with all other provisions of this ordinance even though such parcel fails to meet the minimum lot size required. However, owners of contiguous parcels on the effective date of this ordinance or amendments thereto, which parcels would not meet the minimum lot size if considered separately shall not be permitted to sell or develop the contiguous parcels in a manner which increases the number of nonconforming parcels.

21.108.030 Nonconforming Structures. Nonconforming structures are subject to the following restrictions:

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

B. Any such structure which is moved for any reason for any distance whatever shall thereafter conform to the regulations for the zone in which it is located after it is moved.

21.108.040 Nonconforming Uses. 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 structures.

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.

21.108.050 Elimination of Nonconforming Lots, Structures and Uses. A reasonable schedule for the termination of a nonconforming lot, structure or use, or combination thereof, which significantly impairs the public health, safety, and general welfare or the rights of neighboring property owners pursuant to this ordinance, shall be established by amendment to the Seldovia District Zoning Ordinance.

Section 16. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.110, which shall read as follows:

CHAPTER 21.110

SELDOVIA DISTRICT--ADMINISTRATION AND ENFORCEMENT

Sections:

- 21.110.010 Administrative Official.
- 21.110.020 Duties of the Borough Planning Director.
- 21.110.030 Duties of the City Manager.
- 21.110.040 Procedures for Abating Violations.
- 21.110.050 Criminal Penalties.

21.110.010 Administrative Official. A. The Seldovia City Manager shall be the Administrative Official relating to all actions taken by the Seldovia City Planning Commission and the City Council sitting as the Board of Adjustment.

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

C. This chapter shall govern all enforcement of the Seldovia District Zoning Ordinance.

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

A. Maintaining records of all zoning text and district changes related to this ordinance, and

B. Notifying adjacent property owners as required by Chapter 21.11 for zoning amendments and notifying adjacent property owners as required for other administrative and enforcement actions, or as requested by the City Manager.

C. Providing technical assistance upon request by the City Manager.

21.110.030 Duties of the City Manager. 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 and applications made under this ordinance.

21.110.040 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, and proposed ordinance interpretations and abatement actions shall be presented to the Seldovia City Planning Commission at its next regular meeting.

B. If the violation is not corrected within the stated period, the Seldovia City Manager is authorized to retain an attorney to represent the City of Seldovia by initiating action to abate the violation, including the filing of criminal charges as necessary. No action may be initiated without the prior consent of the Borough Attorney.

21.110.050 Criminal Penalties. A. Every act prohibited by this Seldovia Zoning Code or any rule or regulation adopted in pursuance thereof is declared unlawful and every violation of this ordinance shall constitute a misdemeanor. Every person convicted of a violation of any provision 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 continue after the expiration of any grace period specified in the notice of violation constitutes a new and separate offense.

B. The penalties provided by this section shall, unless other penalty is expressly provided, apply to every portion of "Seldovia District Zoning Ordinance", Chapters 21.80 through 21.118 inclusive, and to all amendments to that Zoning Code. All costs and attorney fees shall be borne by the City of Seldovia.

Section 17. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.112, which shall read as follows:

CHAPTER 21.112

RESPONSIBILITIES OF BOROUGH PLANNING COMMISSION AND SELDOVIA CITY PLANNING COMMISSION

Sections:

- 21.112.010 Borough Planning Commission Responsibilities.
- 21.112.020 Seldovia City Planning Commission Established.

21.112.010 Borough Planning Commission Responsibilities.

A. The Borough Planning Commission shall prepare and recommend zoning ordinance amendments to the Borough Assembly pursuant to Chapter 21.10 of this Title.

B. The Borough Planning Commission shall adopt by resolution procedural rules to be followed when hearing and deciding an appeal. The adopted procedures shall meet or exceed the requirements of Section 21.116.060.

C. The fee schedule relating to Borough administration and enforcement procedures shall be established by resolution of the Borough Planning Commission.

21.112.020 Seldovia City Planning Commission Established.

A. In order to maximize local involvement in the implementation and modification of the Seldovia Zoning Ordinance, the Seldovia City Planning Commission is hereby established. City Planning Commission jurisdiction is limited to the area within the Seldovia City boundaries.

B. The City Planning Commission shall have seven members. Members shall be residents of the City of Seldovia and appointed by the Mayor subject to confirmation by the City Council.

C. Members shall be appointed for three-year terms. Appointments to fill vacancies are for the unexpired term.

D. The local Advisory Planning Commission existing at the time this amendment becomes effective shall become the Seldovia City Planning Commission for the balance of their current term. These members may be reappointed to the City Planning Commission.

E. The Seldovia City Planning Commission shall, when exercising local zoning enforcement authority as delegated by the Borough Planning Commission:

1. Interpret initially the provisions of this Zoning Ordinance and make zoning compliance determinations when requested by the local administrative official, and

2. Act initially upon requests for variances and conditional use permits, and

3. Prepare and recommend to the Borough Planning Commission modifications to the Seldovia District Zoning Ordinance.

F. The Seldovia City Planning Commission shall follow the applicable procedural rules of the Borough Planning Commission. The Seldovia City Planning Commission may adopt additional procedural rules with the prior approval of the Borough Planning Commission. All meetings shall be conducted as public meetings in accordance with the policies and procedures set forth in A.S. 44.62, Article 6.

G. The fee schedule shall be established by resolution of the City Council after approval by the Borough Planning Commission.

Section 18. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.114, which shall read as follows:

CHAPTER 21.114

SELDOVIA DISTRICT--BOARD OF ADJUSTMENT

Sections:

- 21.114.010 Board of Adjustment Established.
- 21.114.020 Powers and Duties.
- 21.114.030 Procedures.
- 21.114.040 Appeals to Superior Court.

21.114.010 Board of Adjustment. The Seldovia City Council is hereby declared to be the Board of Adjustment.

21.114.020 Powers and Duties. The Board of Adjustment shall hear and decide appeals consistent with the provisions of this ordinance and AS 29.33.110 - 130.

21.114.030 Procedures. Appeals heard by the Board of Adjustment shall be conducted as set forth in Section 21.116.060 of this ordinance and the rules and regulations governing city council activity as specified in the Seldovia City Code.

21.114.040 Appeals to the Superior Court. All appeals from any actions of the Seldovia City Council sitting as a Board of Adjustment shall be taken directly to the Superior Court for the State of Alaska. The costs of defending an action taken by the Seldovia City Council sitting as the Board of Adjustment shall be borne by the City of Seldovia.

Section 19. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.116, which shall read as follows:

CHAPTER 21.116

SELDOVIA DISTRICT--APPEALS

Sections:

- 21.116.010 Purpose.
- 21.116.020 Who May Appeal.
- 21.116.030 Period for Appeal.
- 21.116.040 Appeal Application.

- 21.116.050 Body to Hear Appeals.
- 21.116.060 Appeals Procedure.

21.116.010 Purpose. This section governs all appellate actions and determinations taken under the Seldovia District Zoning Ordinance.

21.116.020 Who May Appeal. Any person or persons with interests in land which is affected by an action or determination taken under this ordinance may appeal said action or determination.

21.116.030 Period for Appeal. An appeal must be filed within thirty (30) days of the action or determination being appealed.

21.116.040 Appeal Application. All applications for administrative appeal shall be filed with the City Clerk, shall be in writing, and shall contain, but are not limited to, the following information:

- A. The name and address of the applicant.
- B. A description of the action or determination from which the appeal is sought.
- C. The matter appealed, the reason for the appeal, and must include a description of the harm which the appellant will suffer.

The City Clerk shall upon receipt of all applications for appeal, immediately transmit a copy to the Borough Planning Director. The period for any decision by the Borough Planning Commission shall not begin to run until a copy of any notice of appeal has been received by the Borough Planning Director.

21.116.050 Body to Hear Appeals. A. Appeals from action or determination of the City Manager are heard by the Seldovia City Planning Commission, unless otherwise provided by this Title.

B. Appeals from the Seldovia City Planning Commission are heard by the Seldovia Board of Adjustment, unless otherwise provided by this Title.

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

21.116.060 Appeals Procedure. A. This section governs all administrative appeals made under this ordinance.

B. All appeals must be decided by the agency with whom the appeal has been filed within 60 days after the appeal has been filed with that agency.

C. The appellant and all parties who have participated in the decision below shall be provided with 15 days notice of the scheduling of the appeal hearing. Affected property owners shall be notified as set forth in Chapter 21.11 of this Title.

D. The notice of hearing shall specify that all persons who wish to appear before the agency hearing the appeal notify that agency of their plans at least three (3) days prior to the hearing.

E. All persons taking part in the appeal may be represented by such persons as they desire, may produce additional new evidence as necessary, and may dispute evidence introduced by any party.

F. An electronic recording shall be kept of the entire proceeding and shall be preserved for one year unless required for further appeals.

G. All decisions shall be in writing and made solely upon the record before the agency hearing the appeal and shall make reference to evidence contained in the record. The agency shall include in its record the officially adopted minutes and decision of the agency from which the appeal was taken.

H. The agency deciding an appeal shall adopt as part of its decision an official statement of findings and reasons supporting its decision. This statement shall refer to specific evidence in the record and to the controlling sections of this ordinance. Upon express vote, the agency may adopt, as its statement of findings and reasons, those findings and reasons officially adopted by the agency below from which the appeal was taken.

I. Copies of the agency's decision and official statement shall be promptly mailed to all parties participating in the appeal hearing.

J. Any party participating in an appeal hearing shall have 30 days to appeal the decision to a higher agency or court. Any decision not appealed within that period shall become final.

Section 20. That Title 21 of the Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered 21.118, which shall read as follows:

CHAPTER 21.118

SELDOVIA DISTRICT--AMENDMENT PROCEDURES

Sections:

21.118.010 Amendment Procedure.

21.118.010 Amendment Procedure. A. Amendments to this Zoning Code shall be proposed and adopted by the Borough Assembly in accordance with procedures and provisions as provided in Chapter 21.10 of this Title.

B. The City Commission shall study any application for an amendment and will consider and determine:

1. The need and justification of the proposed amendment;
2. Whether the proposed amendment is in conformance with the Comprehensive Plan or will further the purposes of the Plan;

3. The effect of the proposed change on surrounding properties or the area; and

4. The amount of undeveloped land in the general area having the same district classification as that requested by the proposed amendment.

Section 21. This ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH

THIS 19th DAY OF June, 1979.

John Davis, Vice President



for Joan Elson, Assembly President

ATTEST:

Frances Brymer
Borough Clerk