

Introduced by: Mayor
Date: Dec. 15, 1981
Hearing: Feb. 16, 1982
Vote: 11 Yes, 3 No
Action: Enacted

KENAI PENINSULA BOROUGH

ORDINANCE 81-2
(SUBSTITUTE)

DELEGATING MUNICIPAL ZONING POWERS TO THE CITIES OF THE BOROUGH
AT THE OPTION OF EACH MUNICIPALITY.

WHEREAS, the Borough, pursuant to AS 29.33.070 et seq, currently exercises zoning, planning and platting powers within all areas of the Borough, including those portions of the Borough lying within the boundaries of each city; and

WHEREAS, the Borough Planning Commission and the Borough Assembly have provided for advisory planning commissions within each city; and certain zoning powers, such as granting conditional use permits and variances, have already been delegated; and

WHEREAS, the enforcement of zoning ordinances within each city, is a matter of local concern for the administration of each respective city; and

WHEREAS, the Assembly has delegated its powers as a Board of Adjustment in certain instances to the city councils of each respective city; and

WHEREAS, the Alaska Statutes provide for the delegation of planning and zoning powers to a city; and

WHEREAS, the Assembly finds that zoning is primarily a matter of local concern, and it is desirable and appropriate for each city to guide its own zoning regulation in accordance with local requirements and demands, so long as such decisions and regulations do not conflict with the overall Borough jurisdiction over land use planning and zoning; and

WHEREAS, the Assembly finds that the municipalities should be given the option to request the delegation of municipal zoning powers;

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

Section 1. That the Borough code of ordinances is amended by adding a new Chapter, to be numbered 21.01 which reads:

CHAPTER 21.01

LAND USE PLANNING AND ZONING POWERS IN THE BOROUGH
AND CITIES.

21.01.010. Powers of the Borough and the cities.

A. The Borough shall exercise all planning, zoning and platting powers on an areawide basis within that portion of the Borough designated as the rural district by Section 21.040.010(B) of the Code. The Borough Assembly shall be the Board of Adjustment for appeals made from decisions of the Borough Planning Commission.

B. The Borough Planning Commission shall exercise jurisdiction within the rural district and the municipal districts regarding planning, platting, subdivision approval, the siting of Borough schools, buildings and other Borough facilities, the planning and development of transportation networks and related facilities, the overall economic development of the Borough, and regarding Borough lands and natural resources. The decisions made by the Borough Planning Commission under this subsection shall take into consideration the recommendations of the affected municipalities.

21.01.020 Option--Delegation of zoning powers to cities. A. If a city by resolution of the council requests the Assembly to delegate the power to provide zoning regulation within the city, the Assembly shall delegate the power. A city to which the zoning authority is delegated may exercise all zoning powers within the city to the extent that such powers have been granted to the Borough by statute, except those powers reserved to the Borough by Section 21.01.010.

B. The city council is delegated the power to establish a planning commission to hear all requests for amendments to zoning codes, or for variances, conditional use permits, contract rezoning or to hear all other matters coming under the zoning ordinances enacted by the city. Appeals from a decision of the city planning commission may be made to the council of the respective city, sitting as a Board of Adjustment. Appeals from decisions of the Board of Adjustment shall be made to the Superior Court as provided by law.

C. The Borough will not be responsible for the prosecution of zoning violations arising within cities, or for the defense and enforcement of decisions of the planning commission, the city council, or the Board of Adjustment.

D. The funding for zoning functions in the cities including administrative costs of exercising the delegated powers of zoning will not be the responsibility of the Borough.

E. The Borough will not be responsible to defend against any claims for damages, or other liability arising from the exercise of any zoning power by the city, the city advisory planning commission, or any administrative officer of the city.



21.01.030 Borough and cities--Central files, maps, photographs. The Borough will maintain central files, maps, and other photographs showing the land use status of each area within the city and other areas of the Borough and this information shall be public and made available to the public upon request and payment of any appropriate fee establish by the Borough.

Section 2. That this ordinance takes effect at 12:01 a.m., July 1, 1982, Alaska time.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 16th DAY OF February, 1982.


John G. Davis, Assembly President

ATTEST:


Francis Bryman, by
Borough Clerk

Janice Brindley, City

