

Introduced by: P&P Com.
Amended by: Nash
Date: August 19, 1986
Hearing: Nov. 18, 1986 Pstp
Vote: 12 Yes, 2 No
Action: Enacted as amended

KENAI PENINSULA BOROUGH

ORDINANCE 86-80(SBST)

ESTABLISHING CODE PROVISIONS ON ACCESS TO PUBLIC RECORDS.

WHEREAS, the borough has not adopted a policy on what records should not be subject to inspection under the public records statute; and

WHEREAS; records may be exempted from disclosure due to "necessity"; and

WHEREAS, it is in the best interest of the public to clearly define the records that are not subject to inspection and copying; and

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

Section 1. That a new chapter KPB 2.54 of the Borough Code, entitled "Access to Public Records", is enacted to read:

ACCESS TO PUBLIC RECORDS

Chapter 2.54

Sections:

- 2.54.010 Kenai Peninsula Borough Policy
- 2.54.020 Definitions
- 2.54.030 Information Available to the Public
- 2.54.040 Exemptions for Particular Records
- 2.54.050 Disclosure to Litigants or Their Agents
- 2.54.060 Response to Requests for Access to Public Records
- 2.54.070 Costs and Expenses

2.54.010 Kenai Peninsula Borough Policy. It is the policy of the Kenai Peninsula Borough to provide reasonable and prompt public access to non-excepted or non-confidential public records. This chapter shall be construed to require disclosure of all public records in the possession or control of the Borough except those specifically exempted under Section 2.54.040 of this chapter.

2.54.020 Definitions. For purposes of this chapter:

A. "Record" means any existing recorded information as defined in KPB 2.52.020, and developed or received under law or in connection with the transaction of official business by the Borough.

2.54.030 Information Available to the Public. Except as provided by Section 2.54.040 of this chapter, or by other provisions of Borough ordinance, state or federal law, all public records shall be open to inspection by the public during regular Borough business hours, subject to the provisions of this chapter.

2.54.040 Exemption for Particular Records. This chapter shall not be construed to require disclosure of:

A. Communications between any Borough department, board, assembly or commission and the Borough attorney's office concerning pending or actual litigation.

B. Files maintained by the Borough attorney's office concerning pending or actual litigation, or any document prepared in the provision of legal services or legal advice to the Borough or the assembly, or any of its departments, boards, commissions, subdivisions, officers or employees by the Borough attorney's office.

C. Personnel, payroll, medical files or other files which reveal the personal, financial or medical status of any specific individual other than gross pay and average cost of benefits allocated in the budget except upon the specific written authorization of the individual concerned.

D. The name, address, telephone number or other identifying information about complainants in actions to enforce Borough ordinances.

E. Records of engineering or other technical data which if released would provide a competitive advantage to any person or corporation engaged in similar or related activities.

F. Proprietary information which a manufacturer, consultant or provider reasonably requires to be kept privileged or confidential to protect the property interests of persons providing the information or data.

G. Information which municipal governments engaged in collective bargaining consider to be privileged or confidential for purposes of successful collective bargaining.

H. Information obtained by and in the custody of insurance carriers insuring the Borough, and their attorneys and agents, regarding possible and pending claims against the Borough; and records maintained in the Borough regarding such claims.

I. Health, mental health, medical or juvenile information obtained or prepared by the Borough with respect to any person for whom treatment or services were provided.

J. Personal information given to the Borough with the legitimate expectation of privacy in conjunction with Borough services.

K. Records disclosing individual reserve levels on claims against the borough, or records or documents pertaining to any claims against the borough or school district, including, but not limited to, risk management files under any insurance or self-insurance program.

L. Any record, nondisclosure of which is authorized by a valid Alaska or federal statute or regulation, or by a privilege, exemption or principal recognized by the courts, or by a protective order authorized by law.

2.54.050 Disclosure to Litigants or Their Agents. If the person requesting to inspect Borough records or the person's principal is in litigation with the Borough in a judicial or administrative forum, disclosure of any Borough records relevant to that litigation or reasonably likely to lead to the discovery of relevant evidence is governed by the rules or orders of that forum, and not by this chapter.

2.54.060 Response to Requests for Access to Public Records. All Borough officers and employees shall, consistent with the orderly conduct of Borough business, make a good faith and diligent effort to provide a rapid and intelligible response to requests for inspection of records made pursuant to this chapter. To effectuate this policy, the following guidelines are adopted:

A. Request Referral -- Records or Access to Be Provided.

1. All requests to inspect or copy public records shall be referred to the division or department head who is responsible for those records.

2. The division or department head, or delegate, shall promptly and reasonably attempt to provide the records or information requested, or access thereto, unless the information requested is exempt from disclosure, privileged or confidential.

B. Request for Records Exempt From Disclosure.

1. Where there is a question as to whether the information or records requested are exempt from disclosure, privileged or confidential, the request shall be referred to the Mayor for a determination as to whether the material is subject to disclosure.

2. If the information requested is determined to be exempt from disclosure, the person requesting the information shall be advised in a writing, stating the applicable law or rule of exemption, within three (3) working days of receiving the request; such writing shall be signed by the department or division head or delegate, or the Mayor or Administrative Officer, if applicable.

C. Requests Insufficient to Describe Record Sought. If the request is vague or so broad as to make it difficult to determine or identify the records or information requested, the employee shall so advise the requesting person within three (3) days of receiving the request.

D. Records Cannot Be Located. If the records cannot be located in time to make a response within three (3) working days of the request, the requesting party shall be promptly so advised; if the requesting party still desires the information or records, a reasonable and diligent search shall be made for them.

E. Original Records. Original records or information shall not leave the custody of the Borough.

2.54.070 Cost and Expenses. A. The Borough may require the requestor to prepay all costs and expenses associated with responding to a request for records, including reasonable personnel, administrative overhead and copying costs and expenses.

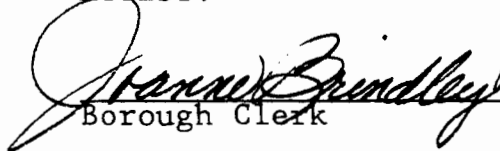
B. Nothing in this chapter requires the borough to organize, coordinate, collate, modify, create, interpret, program, translate, transcribe, decode or otherwise convert information and any request for public records in a form which requires the borough or any of its employees to do such acts may be granted only on a time available basis and only upon prepayment of all costs and expenses, including salary and administrative overhead, reasonably required to provide the records in the form requested.

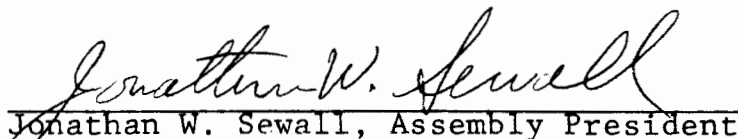
C. The mayor may waive imposition of costs when in the best interests of the Borough.

Section 2. That this ordinance takes effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 2nd DAY OF December, 1986.

ATTEST:


Borough Clerk


Jonathan W. Sewall, Assembly President