

Introduced by: Skogstad  
Date: Jan. 2, 1990  
Hearing: Jan. 16, 1990  
Vote: 13 Yes 2 No  
Action: ENACTED

KENAI PENINSULA BOROUGH

ORDINANCE 90-3

AMENDING THE BOROUGH CODE PROVISIONS REGARDING PROTEST OF LIQUOR LICENSE APPLICATIONS TO ALLOW EXCEPTIONS TO THE MANDATORY PROTEST BASED ON MINIMUM DISTANCE FROM A CHURCH, SCHOOL OR PLAYGROUND.

WHEREAS, the Assembly adopted KP.B 7.10 to govern Borough protest of liquor license applications; and

WHEREAS, KP.B 7.10.020 requires a protest be filed if the property boundary of the proposed location for sale of liquor is within 500 feet of the boundary of a school, church or playground; and

WHEREAS, under some conditions an exception to the mandatory protest would be warranted;

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

Section 1. That KP.B 7.10.020 is amended to add a new subsection D and shall read as follows:

7.10.020 Assembly protest. A. The assembly shall cause a protest to be filed with the State Alcoholic Beverage Control Board on any application submitted for a new license for the sale of alcoholic beverages, or any application requesting approval of a relocation of the licensed premises, or any application requesting approval of a transfer of a license to another person, within the borough, in the following situations:

1. Where borough records indicate that the applicant and/or transferor is in violation of the borough sales and/or personal and real property tax ordinances and regulations; or

2. Where applications for a new license or [requesting] request for approval of a relocation of the licensed premises [in] includes one of the following circumstances in areas of the borough outside cities:

a. [Where] There is insufficient ingress and egress for traffic to the premises; or

b. [Where] The location of the premises would unduly interfere with the flow of traffic; or

c. [Where] The property line of the licenses premises would be within 500 feet by straight line measurement from the property line of a premises utilized as an already established school, playground or church;

d. [Where] The existence or location of the premises would unduly interfere with or impact school operations; or

e. [Where] The existence or location of the premises is inconsistent with surrounding property uses; or

f. [Where] Any other facts are presented that render the particular application objectionable to the assembly.

B. The assembly shall not cause a protest to be filed with the State Alcoholic Beverage Control Board on the application submitted for a renewal by the same licensee of a license for the sale of alcoholic beverages within the borough where the location of the licensed premises remains the same, unless the applicant falls under Sections 7.10.020(A)(1) or 7.10.020(A)(2)(f).

C. Notwithstanding the provisions of this section, the borough is not required to file a protest if the transferor and/or applicant have made satisfactory arrangements with the borough for the discharge of a tax obligation from the proceeds of the transfer or by payment from the person to whom the license is to be transferred.

D. Notwithstanding the provisions of KPB 7.10.020 A(2)(c), the assembly will not file a protest based on distance between property line of less than 500 feet, if after request by the applicant and after a hearing it determines 1) that the governing or supervisory authority for the church, school or playground consents to the licensed location being closer than allowed by KPB 7.10.020 A(2)(c); and 2) that locating the premises within that distance would not unduly impact or interfere with access, the flow of traffic, or the operations of the school, church, or playground. In the absence of such determination or consent, the protest shall be filed as required by this section.

Section 2. That this resolution shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 16th DAY OF January, 1990.

ATTEST:

*Jocelyn B. Bradley*  
Borough Clerk

*James W. Skogstad*  
James W. Skogstad, Assembly President

*Catherine J. DeHase*  
Deputy Borough Clerk