

Introduced by: Mayor  
Date: 07/19/94  
Hearing: 08/16/94  
Action: Enacted  
Vote: Unanimous

KENAI PENINSULA BOROUGH  
ORDINANCE 94-32

**AN ORDINANCE AMENDING SECTIONS 20.04.020 THROUGH 20.04.040 OF  
THE BOROUGH CODE OF ORDINANCES TO CLARIFY STATUTORY  
AUTHORITY, JURISDICTION AND PLATTING REQUIREMENTS**

**WHEREAS,** certain amendments have been made to Alaska Statute Title 29 which affect Chapter 20.04 of the Borough Code of Ordinances; and

**WHEREAS,** certain language of Chapter 20.04 is confusing; and

**WHEREAS,** the Planning Commission at its regularly scheduled meeting of June 13, 1994 recommended enactment of Ordinance 94-32 by unanimous consent;

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

**SECTION 1.** That Section 20.04.020 is hereby amended to read as follows:

**20.04.020. Statutory Authority.**

This title is adopted under the authority of former AS 29.33.150 to AS 29.33.240, now AS 29.40. and AS 40.15.

**SECTION 2.** That Section 20.04.030 is hereby amended to read as follows:

**20.04.030. Jurisdiction of Provisions and Commission.**

A. This title shall govern subdivision of all land within the Kenai Peninsula Borough. No subdivision plat requiring commission approval shall be recorded unless approved by the commission. If any subdivision not approved by the planning commission is tendered by deed or plat for recordation, the subdivider shall be deemed guilty of a misdemeanor.

B. The borough may request judicial action enjoining the conveyance or attempted conveyance of any tract or parcel of land that contravenes this title.

C. No person *[OR HIS AGENT]* shall transfer, sell or enter into a contract to sell any lots, tracts, parcels, or other division of land which must be subdivided under this ordinance until an approved final plat has been recorded.

D. Breach of subsection A of Section 20.04.030 or C. of Section 20.04.030 shall constitute a misdemeanor punishable by a fine not to exceed 500 dollars and by imprisonment not to exceed 30 days for each violation. Each transfer, sale or entry into a contract to sell any land subdivided in violation of this title shall constitute a separate offense.

*[AN AGENT SHALL BE INDEPENDENTLY LIABLE IN THE SAME DEGREE AS AN OWNER WHEN INVOLVED IN THE TRANSFER, SALE OR ENTRY INTO A CONTRACT TO*

*SELL LAND SUBDIVIDED IN VIOLATION OF THIS TITLE .]*

**SECTION 3.** That Section 20.04.040 of the Borough Code of Ordinances is hereby repealed and a new Section 20.04.040 is enacted to read as follows:

**20.04.040. Plats – Required when – Exceptions.**

A plat, prepared and submitted in accordance with the applicable provisions of this title, is required for all subdivisions of land, except for:

A. Subdivisions which qualify under the provisions of AS 29.40.090 (b) provided an application is submitted with sufficient evidence to support a finding that:

1. The parcel is not subdivided into more than four lots.
2. Each lot created will have adequate frontage upon a previously dedicated public street.
3. A dedication or vacation of public right-of-way is not involved or required.
4. The subdivision does not require a variance from the subdivision regulations.
5. Each lot created contains a minimum of five acres.

B. Subdivisions meeting all provisions of the above subsection A. shall be granted a waiver of platting regulations by resolution of the commission which shall be recorded in the appropriate district recording office within 30 days after adoption or the waiver shall lapse. The applicant shall pay recording fees.

C. Subdivisions may be exempt from survey and monumentation requirements of Section 20.16.160 provided an application is submitted with sufficient evidence to support a finding that:

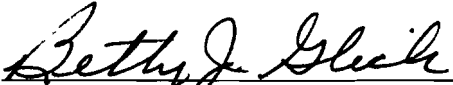
1. The subdivision will not create more than four parcels.
2. Each parcel created contains a minimum of five acres.
3. The approximate location of each lot shall be readily identifiable to an individual by the presence of prominent topographic features, monumentation on adjoining subdivisions, or other identifiable features sufficient to reference the location of the property.

D. Survey and monumentation waivers under the above subsection C. are discretionary with the commission.


E. The planning department shall prepare application forms and provide information to parties seeking waivers under the provisions of this section.

**SECTION 4.** That this ordinance shall become effective immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16th DAY OF AUGUST, 1994.**

  
Betty J. Glick, Assembly President

ATTEST:

  
Gaye J. Vaughan, Borough Clerk