

Introduced by:

Mayor, Martin

Date:

06/03/03

Hearing:

07/08/03, 08/05/03

Action:

Enacted as Amended

Vote:

5 Yes, 4 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2003-22**

**AN ORDINANCE ESTABLISHING THE KENAI PENINSULA BOROUGH  
TRAILS SERVICE AREA**

- WHEREAS,** in 1997, a trails commission was formed to study and make recommendations for the assembly regarding trails issues, and on June 16, 1998, the trails commission delivered a report to the assembly recommending adoption of borough trail powers as set forth in goal 1 of the trails commission report; and
- WHEREAS,** the borough's comprehensive plan at chapter 4 notes considerable public support for expanding and improving the condition of local trails for the safety and convenience of borough residents and visitors as well as expanding and improving the network of recreational trails; and
- WHEREAS,** in Ordinance 98-23, the borough assembly authorized placing on the ballot the question of whether to adopt non-areawide trail powers and approving an ordinance effecting those powers and establishing a trails commission; and
- WHEREAS,** in the October 1998 regular election, the voters defeated the proposition; and
- WHEREAS,** the trails commission formed in 1997 continued to study and make recommendations regarding trail issues without exercising trail powers; and
- WHEREAS,** since 1998, interest in trails in the borough appears to have significantly increased with the expansion of numerous existing trails operated by private and public organizations; and
- WHEREAS,** given the increasing interest in trails, it seems appropriate to ask the voters if they would like to approve a service area to provide trail services in areas of the borough outside of the cities; and
- WHEREAS,** due to the size of the proposed service area and the proposed level of services, the services cannot be provided by an existing service area, by annexation to a city, or by incorporation as a city; and
- WHEREAS,** while the North Peninsula Recreation Service Area ("NPRSA") presently provides for some trails within its boundaries, this service area would provide trail services at a different level, and in coordination with NPRSA;

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

**SECTION 1.** Notwithstanding the provisions of KPB 16.04.010, .020, .030, and .040 a service area is hereby established by amending Title 16 of the Kenai Peninsula Borough Code of Ordinances by adding a new chapter 16.80, which shall read as follows:

**Chapter 16.80. Kenai Peninsula Borough Trails Service Area.**

**16.80.010. Boundaries.**

There is established a service area within the borough designated as the “Kenai Peninsula Borough Trails Service Area” in that portion of the borough described as all lands lying within the established boundaries of the Kenai Peninsula Borough, excepting therefrom all lands lying within the corporate city limits of each home rule and general law city in the borough.

**16.80.020. Mill levy.**

No mill levy in excess of .1 mills shall be levied on behalf of the service area unless an increase is approved during the budgetary process.

**16.80.030. Board of Directors.**

- A. Established. There is established a board of directors for oversight of the operations of the Kenai Peninsula Borough Trails Service Area composed of seven members who shall be appointed by the mayor and confirmed by the assembly. Board members shall be qualified voters of the borough and residents of the Kenai Peninsula Borough Trails Service Area (TSA).
- B. Membership. The board shall consist of at least one member from each of the northern, central, eastern, and southern regions of the Kenai Peninsula Borough Road Service Area, as defined in the Road Service Area Rules and Regulations, and three members at large.
- C. Membership criteria. The following criteria shall be considered when appointing board members:
  - 1. Familiarity with trails in the Kenai Peninsula Borough;
  - 2. Financial and budgetary management capability;
  - 3. Expertise in grant programs and management;
  - 4. Expertise in trail and bridge maintenance, improvement, and construction; and
  - 5. Familiarity with regulatory requirements.

**16.80.030. Board—Meetings—Quorum.**

- A. *Regular meetings.* The board shall meet periodically at a regularly scheduled time and place designated by the board.
- B. *Special meetings.* Special meetings of the board may be called by the chair of the board or by any three members upon one day's notice thereof published in a newspaper or via radio having general distribution within the service area.
- C. *Notice.* The notice for all trail service area board meetings shall set forth the time and place of the meeting, shall state the tentative agenda and specific matter or matters to be included on the agenda, and shall be mailed, faxed, or telephoned to each board member, and shall be posted on the borough Web page. The attendance of a board member at a meeting constitutes a waiver of notice of the meeting.
- D. *Meetings open.* All meetings are open to the public as provided in AS 29.20.020 and AS 44.62.310, and in accordance with the policies set forth in AS 44.62.310 and AS 44.62.312.
- E. *Quorum.* Four board members shall constitute a quorum; however, any action shall require the affirmative vote of four or more board members.
- F. *Agenda.* The published tentative agenda may be amended by vote of four or more board members at the meeting.

**16.80.040. Board—Election of officers.**

Election of officers shall be held annually at the board's first meeting in October or as soon thereafter as practical. The board shall elect by majority vote of the board members and from the board members a chair, vice-chair, and such other officers as the board shall determine to be desirable in its bylaws who shall hold office until successors are elected.

**16.80.050. Board—Terms of office.**

A member of the board of directors shall be appointed for a term of 3 years and shall serve thereafter until his or her successor has been appointed and sworn to assume the duties of the office. Terms of board members are staggered so that two directors are appointed one year, three directors are appointed the following year, and two directors are appointed in the third year of the rotation. Two at-large directors shall be appointed in the same year; the central, south, and east region directors shall be appointed in the same year; and the north region and an at-large position shall be appointed in the same year.

**16.80.060. Board—Vacancies.**

- A. Vacancies on the board are created upon declaration of vacancy by the board if a member:
1. Fails to take office within 30 days after his or her appointment;
  2. Is physically absent from the service area for a 90-day period, unless excused by the board;
  3. Resigns and the resignation is accepted;
  4. Is physically or mentally unable to perform the duties of his or her office;
  5. Is removed from office by the mayor and the assembly has confirmed the removal;
  6. Misses three consecutive regular meetings unless excused by the board;
  7. Is convicted of a felony or of an offense involving a violation of his or her oath of office.
  8. Changes his or her residency to a location outside of the service area for a period longer than 60 days.
- B. Vacancies on the board shall be filled as prescribed in Section 16.80.020 above. The appointment shall be to fill the unexpired term or for a 3-year term if no unexpired term remains.

**16.80.070. Board—Powers and duties.**

- A. *Powers.* Pursuant to the provisions of As 29.35.490, the board of directors of the service area, subject to assembly approval and appropriation of funds, shall have the power to provide the following:
1. The acceptance, improvement, management, construction, and maintenance of public trails within the borough, provided that the board is not authorized to consider the involuntary acquisition of any private property;
  2. Annually provide a list of priorities and goals regarding trail acceptance, improvement, management, maintenance, and construction to the administration and planning commission;

3. Make recommendations to the planning commission and assembly regarding the location and acceptance of easements for trails within the Kenai Peninsula Borough;
  4. Update the catalog of existing and future trails, and make recommendations regarding multi-use trail needs and trail use conflicts;
  5. Support or oppose grant applications to other organizations for trail purposes;
  6. Develop criteria for considering the award of grant funds for trail purposes;
  7. Award grants for trails purposes subject to the appropriation and availability of funds; and
  8. When appropriate, coordinate with other local trail associations, commissions, and local, federal, and state governments in trail planning and development for the Kenai Peninsula Borough Trails Service Area.
  9. Coordinate with the North Peninsula Recreation Service Area Board to ensure there is no duplication of services by the two service areas.
- B. *Minutes.* The board shall furnish accurate and complete copies of minutes of all board meetings to the mayor and borough clerk.

**16.80.080. Rules and regulations—Formulation and authority—Approval required.**

The service area board, or its designee, shall formulate a set of rules and regulations to govern the operation of the service area and shall be responsible to the mayor for execution of the powers and duties delegated by the mayor and assembly. Such rules and regulations shall be approved by the TSA board by resolution and may address matters including, but not limited to, service area programs, contract services, general procedural rules, and organization of the service area. Such rules and regulations shall not conflict with any assembly ordinances or resolutions governing the TSA. Prior to adoption, the rules and regulations shall be submitted to the borough attorney's office for approval as to conformity with the borough code and other applicable provisions of law.

**16.80.090. Procedure—Conduct of affairs—Meetings.**

The service area board shall adopt bylaws or regulations governing the conduct of its affairs. The service area board shall adopt rules of procedure for the conduct of its meetings. The service area board may form subcommittees composed of board members with the assistance of borough staff to investigate specific matters

within the board's jurisdiction. The bylaws, rules of procedure, and functions of any subcommittee formed shall not conflict with the assembly ordinances or resolutions governing service area matters.

**16.80.100. Trails coordinator.**

Subject to the appropriation and availability of funds, a trails coordinator shall be employed to provide services for the trails service area and the TSA board. In addition to other duties, the trails coordinator shall be responsible for preparing minutes of the board meetings, investigating trail needs and conditions and other matters related to trails as directed by the trails service area board, financial status of the service area, and other matters as required by the service area board.

**16.80.110. Service area board—Reports required—Annual.**

The service area board shall make a complete annual report to the mayor within six months after the close of the fiscal year regarding formal board actions, construction and capital improvement projects, maintenance issues, other trail related issues pending before the board or to be addressed by the board, and recommendations for future service area actions.

**16.80.120. Employee conduct requirements.**

Employees of the trail service area are employees of the borough, and as such employees are required at all times to conduct themselves in an exemplary manner befitting the public service in which they are employed. Unless otherwise provided, the borough personnel system and Title 3 of this code shall be applied to any person employed in connection with the service area, excluding independent contractors.

**16.80.130. Administrative employees—Appointment, qualifications, and removal.**

The coordinator and other administrative employees as determined necessary by the assembly and as defined by KPB 3.04.070 shall be appointed by the mayor after consideration of a recommendation from the service area board. Administrative employees serve at the pleasure of the mayor who may suspend or discharge such employees in his sole discretion. The service area board may independently make a recommendation to the mayor regarding the suspension or discharge of administrative employees; however, such suspension or discharge remains within the sole discretion of the mayor.

**16.80.140. Administrative employees—Accountability.**

The coordinator and other administrative officers shall be held accountable to the mayor and the service area board only, and they shall make written and verbal reports to the mayor and the service area board as required by the mayor and the

service area board. All other service area employees below the administrative service level shall be accountable to the coordinator or to such administrative employees as are designated by the mayor, which may be upon the recommendation of the service area board.

**16.80.150. Budget and fiscal control.**

- A. Budget. The formulation of a budget and fiscal control of expenditures of public moneys of the trail service area are under the supervision and direction of the mayor and the assembly. The trail service area board shall make recommendations regarding the budget and fiscal matters to the borough assembly and shall be responsible for budget and fiscal decisions delegated by the mayor or assembly as appropriate. Public hearings are necessary and shall be a part of the budgetary procedures before submitting the budget to the borough assembly. The finance director of the borough shall provide the service area board with the policies and procedures governing the appropriation of funds, the budgeting of funds, the authorization of expenditures, and any borough fiscal policy to which the service area is subject. Policies and procedures include assembly ordinances and resolutions and applicable administrative policies or practices.
- B. All accounting functions of the service area shall be under the supervision of the borough finance director who shall provide policies and procedures governing the issuance and payment of invoices, the issuance and the payment of checks, the use of the central treasury of the borough, and the manner in which all bonds, contracts, leases or other obligations requiring the payment of funds from the appropriations in the service area budget are to be processed and administered. Policies and procedures include assembly ordinances and resolutions and applicable administrative policies or practices.

**16.80.160. Purchasing—Agent.**

Procurement and contractual matters for the service area are within the authority of the purchasing and contracting officer. All purchases of supplies, materials, equipment, and contractual services shall be made in accordance with applicable laws and administrative policy, procedures, and practices applicable to purchasing and contracting.

**16.80.170. Legal counsel.**

Legal services are provided or procured by the borough attorney for the service area.

**SECTION 2.** That Chapter 2.75 of the Kenai Peninsula Borough Code is hereby repealed.

**SECTION 3.** That the following proposition shall be placed before the voters of the Kenai Peninsula Borough Trails Service Area at the next regular election to be held October 7, 2003:

**PROPOSITION:**


Do you approve the exercise of powers necessary to provide trails services within the Kenai Peninsula Borough Trails Service Area established by Kenai Peninsula Borough Ordinance 2003-22? It is expected that services provided by this service area would be funded by property taxes.

YES \_\_\_\_\_

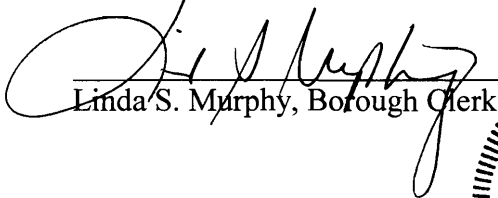
NO \_\_\_\_\_

**SECTION 4.** That Sections 3 and 4 of this ordinance take effective immediately upon enactment of this ordinance. Sections 1 and 2 shall take effect upon approval of the proposition in Section 2 by the majority of voters in the service area voting on the proposition at the regular borough election to be held on October 7, 2003, and upon the date the October 7, 2003, election is certified by the borough assembly or the date the U.S. Department of Justice issues its nonobjection to preclearance, whichever is later. If the U.S. Department of Justice does not issue a nonobjection to preclearance, the effective date shall be 60 days from the date of receipt of the ballot proposition for preclearance by the U.S. Department of Justice or the date of the certification of the election results, whichever is later. If an objection is imposed by the U.S. Department of Justice, the ordinance shall not be effective until the objection is resolved.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF AUGUST, 2003.**

  
Pete Sprague, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

