

Introduced by: Mayor  
Date: 04/21/09  
Hearing: 05/19/09  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2009-26**

**AN ORDINANCE AMENDING KPB CHAPTERS 20.12 AND 20.20 TO ESTABLISH A  
SUBDIVISION OR REPLAT SUBMITTAL PROCEDURE FOR SECOND CLASS  
CITIES WITHIN THE BOROUGH AND TO CLARIFY REGULATIONS REGARDING  
MINIMUM LOT SIZE AND AMENDING KPB CHAPTER 21.01 REGARDING  
DELEGATION OF PLANNING, PLATTING, AND ZONING POWERS TO CITIES**

**WHEREAS,** AS 29.40.010(a) states that first and second class boroughs shall provide for platting, planning, and zoning on an areawide basis; and

**WHEREAS,** AS 29.40.010(b) allows the assembly to delegate any borough power or duty to a city, providing the city consents by ordinance to the delegation; and

**WHEREAS,** KPB 21.01.020 establishes a process only for the delegation of zoning to cities; and

**WHEREAS,** KPB 20.12.050 provides a subdivision or replat submittal procedure only for first class and home rule cities; and

**WHEREAS,** KPB 20.20.190 provides an exception to borough standards regarding minimum lot sizes only for cities with zoning powers;

**WHEREAS,** at its meeting of April 26, 2009, the Kenai Peninsula Borough Planning Commission recommended enactment by unanimous consent;

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

**SECTION 1.** That KPB 20.12.055 is hereby enacted as follows:

**20.12.055 Subdivision or replat in second class city submittal procedure.**

- A. Preliminary subdivision plats or replats lying within the corporate boundary of a second class city shall be first submitted to the city for review prior to submittal of the plat to the Borough Planning Department.**
- B. To the extent limited platting authority has been delegated to a second class city, a preliminary plat shall not be submitted to the borough planning department for review unless the aspects of the subdivision subject to city authority have been first approved by the city.**

- C. The preliminary plat submitted to the city shall comply with the requirements of Sections 20.12.060 and 20.12.070.
- D. The city council or its designee, and, if necessary, other appropriate municipal departments, shall review the plat or replat of a proposed vacation action and prepare written comments which shall be included with the submittal of the plat to the borough. The subdivider bears the responsibility for presentations to, and discussions with, the city so that the final plat will conform to lawful ordinances and requirements of said city.
- E. Final plats submitted to the borough for approval will be submitted by the borough to said city for review when the design deviates from the preliminary plat in a manner which has not been recommended by the city. In such instances, the city or its designee shall have 49 days from the date of receipt in which to review the final plat and take action.
- F. To the extent a city has been delegated limited platting authority, a final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.

**SECTION 2.** That KPB 20.20.190 is hereby amended as follows:

**20.20.190. Lots—Minimum size.**

Except in cities where zoning and subdivision regulations prescribe[s] different minimums, lots must be designed to meet the following area requirements:

- A. Lots shall contain 6,000 square feet if served by public sewer and water.
- B. Lots shall contain 40,000 square feet if both the well and sewage disposal are to be provided on the lot unless it can be demonstrated to the satisfaction of the commission that a smaller lot size is adequate for the safe location and operation of an on site well and sewage disposal system.
- C. Subdivisions designed to be served with public sewer and water systems but not yet served by such systems may be permitted to contain lots of less than 40,000 square feet if the following conditions are met:
  - 1. Adequate provisions are made to assure each lot allowed to be built upon will have available 40,000 square feet for locating the well and sewage disposal systems until a common water and sewer system are available. The available area may be reduced to 20,000 square feet when common water or sewer system [ARE] is available;

2. A statement from an engineer affixed with his seal and signature attesting that the proposed lot design and associated building restrictions will assure adequate area is available to each building site for safe on-site well and sewage disposal until such time as common or public sewer and/or water services are available.

**SECTION 3.** That KPB 21.01.020 is hereby amended as follows:

**21.01.020. Option—Delegation of zoning, planning, and platting powers to cities.**

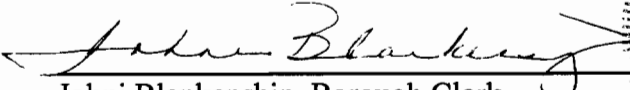
- A. If a city by resolution of the council requests the assembly to delegate the power to provide zoning, planning, and platting regulation within the city, the assembly shall delegate the power. A city to which the [ZONING] authority is delegated may exercise all [ZONING] powers within the city to 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.] A city that has been delegated any powers pursuant to subsection A of this section shall provide for an appeal from an administrative decision made in the enforcement, administration, or application of a regulation adopted pursuant to the delegated power.
- 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.

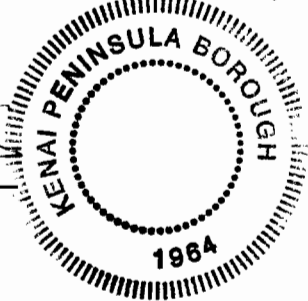
**SECTION 4.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF MAY, 2009.**

  
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Milli Martin, Assembly President

ATTEST:

  
\_\_\_\_\_  
Johni Blankenship, Borough Clerk



- Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin
- No: None
- Absent: None