

Introduced by: Johnson at the Request of
the Borough Clerk
Date: 05/07/24
Hearing: 06/04/24
Action: Enacted
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2024-08**

**AN ORDINANCE AMENDING KPB CHAPTER 7.10 RELATING TO LIQUOR
LICENSE PROTESTS TO ACCOUNT FOR LICENSE ENDORSEMENTS AND
DEADLINES FOR A PROTEST**

WHEREAS, the State Alcohol Control Board has been working on updating its regulations since the passage of SB 9 in 2022; and

WHEREAS, as it impacts current KPB processes, a significant change is with regard to license endorsements; and

WHEREAS, this ordinance amends code to recognize changes in state law, establishes a 60 day deadline for protests in accordance with state law, exempts endorsement applications from requiring assembly review, and provides for administrative approval of such applications;

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

SECTION 1. That KPB Chapter 7.10. – Liquor License Protests, is hereby amended to read as follows:

CHAPTER 7.10. LIQUOR LICENSE PROTESTS

7.10.010. Assembly review—Applications—Renewals.

- A. The assembly shall review applications submitted to the State Alcoholic Beverage Control Board concerning the sale of alcoholic beverages, or the continued operation of a license during the second year of the biennial license period, within the borough in the following situations:
1. applications for a new license; or
 2. applications requesting approval of a relocation of the licensed premises; or

3. applications requesting [THE APPROVAL OF THE ISSUANCE OR] transfer of ownership of a restaurant or eating place license; or
 4. other applications, excluding license endorsement applications, or continued operation of licenses for the second year of the biennial license period that fall under Section 7.10.010.
- B. The assembly shall not review either continued operations of licenses for the second year of the biennial license period or applications submitted for a renewal by the same licensee of a license for the sale of alcoholic beverage within the borough, where the location of the licensed premises also remains the same or where the licensed premises lies within a city in the borough, unless the applicant falls under sections 7.10.020(A)(1) or 7.10.020(A)(2)(f).
- C. After assembly review and action as provided in KPB 7.10.020, the borough clerk shall provide a letter to the Alcoholic Beverage Control Board informing it of the assembly's non-objection, approval, or protest, as appropriate 7.10.020. Assembly protest. If code does not require assembly review, then the borough clerk will provide a letter of non-objection to the Alcoholic Beverage Control Board.

7.10.020. Assembly protest.

- A. The assembly [SHALL]may cause a protest to be filed with the State Alcoholic Beverage Control Board within 60 days of the date of the notice of filing of the application [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,] for the issuance, renewal, relocation, or transfer to another person of a license, issuance, renewal, or transfer to another person of a license with one or more endorsements, or issuance of an endorsement. A notice of protest for the continued operation of a license for the second year of the biennial license period will be sent to State Alcoholic Beverage Control Board and the licensee, along with the reasons for the protest, by January 31 of the second year of the license[,]. Protests of liquor licenses within the borough, shall be issued 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, has failed to comply with any of the filing, reporting or payment provisions of the borough ordinances or regulations, or has any unpaid balance due on tax accounts for which the applicant and/or transferor is liable. A protest shall not be filed for balances due secured by a payment agreement authorized by borough ordinances, as long as:
 - a. The applicant or transferor is in compliance with the payment agreement; and
 - b. The payment agreement requires payment in full by the end of the next license year; and
 - c. The applicant or transferor is involved in no more than two payment agreements within the prior five (5) years.
2. Where applications for a new license or request for approval of a relocation of the licensed premises in the following circumstances includes one of the following circumstances in areas of the borough outside cities:
 - a. There is insufficient ingress and egress for traffic to the premises; or
 - b. The location of the premises would unduly interfere with the flow of traffic; or
 - c. The public entrance of the licensed premises would be within 500 feet of an established school, church building in which religious services are regularly conducted, or the outer boundaries of a playground, measured by the shortest pedestrian route from the outer boundaries of the school ground or playground or the public entrance of the church building; or
 - d. The existence or location of the premises would unduly interfere with or impact school operations; or
 - e. The existence or location of the premises is inconsistent with surrounding property uses; or
 - f. 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 for the continued operation of a license for the second year of the biennial license period, or on the application submitted for a renewal by the same licensee of the license for the sale of alcoholic beverages within the borough where the location of the licensee's 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. Further, if the proposed transferee holds a security interest in the license or licensed premises and seeks the transfer as part of an action foreclosing or protecting that security interest the borough will not protest a transfer to the holder of the security interest so long as satisfactory arrangements have been made by the transferee to pay the delinquent taxes in accordance with this chapter and other provisions of the borough code and no other provisions of this chapter would cause or allow a protest to be made.
- D. Notwithstanding the provisions of KPB 7.10.020(A)(2)(c), the assembly will not file a protest based on distance between property lines 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.
- E. The assembly may cause a protest to be filed with the State Alcoholic Beverage Control Board where the information on the application does not align with current information available on the entity database maintained by the State of Alaska or where the entity is not in compliance with forms required by Alaska Statutes. Except when the State Alcohol & Marijuana Control Office requests otherwise, [T]he entity name, officer names and owner names listed on the application submitted [SHALL] should match those listed on the entity database maintained by the State of Alaska, Division of Corporations, Business and Professional Licensing public database and as required by Alaska Statutes under AS 10.06, as amended.

F. For purposes of KP.B 7.10, the term "applicant" shall have the same meaning as set forth in KP.B 7.30.900.

SECTION 2. That this ordinance shall be effective immediately.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF JUNE, 2024.



Brent Johnson, Assembly President

ATTEST:



Michele Turner, CMC, Borough Clerk



Yes: Cox, Cooper, Ecklund, Elam, Hibbert, Tunseth, Tupper, Johnson

No: None

Absent: Ribbens