

Introduced by: Cox, Chesley
Date: 10/26/21
Hearing: 12/07/21
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-40**

**AN ORDINANCE AMENDING KPB 2.40.015 REGARDING PLANNING COMMISSION
MEMBERSHIP AND APPORTIONMENT**

WHEREAS, Ordinance 2016-25 (Mayor) Substitute reduced the planning commission membership from 13 members to 11 members, but did not specify how city seats would be distributed; and

WHEREAS, AS 29.40.020(a) requires that planning commission membership be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in home rule and first class cities located in the borough; and

WHEREAS, based on current census information the required apportionment ratio for an 11 member planning commission would be 7 at-large seats and 4 city seats; and

WHEREAS, there are five incorporated first class or home rule cities within the borough; and

WHEREAS, current code does not identify specific city seats or how they would equitably rotate each year and term; and

WHEREAS, Kenai Peninsula Borough cities have voiced a preference to continue having each of their cities represented on the planning commission each year; and

WHEREAS, based on current census information the required apportionment ratio, for all 5 cities to have a seat on the planning commission each year, the planning commission must be composed of at least 13 members with 8 at-large seats; and

WHEREAS, it is in the best interest of all affected parties that this issue be resolved and defined in code by establishing the seats apportionments that work for all parties while remaining in compliance with state statute; and

WHEREAS, clarity of code is of the utmost importance; and

WHEREAS, the assembly, as the legislative branch of the borough, has the responsibility to define and clarify any portions of KPB code that may come under scrutiny due to opposing interpretations or views as to its meaning; and

WHEREAS, borough code is unclear as to whether or not borough residents who live outside a first class or home rule city's boundaries are eligible to serve as a planning commissioner in a city seat; and

WHEREAS, all members are subject to appointment by the mayor and confirmation by the assembly, provided that members serving on city seats must be selected by the mayor from a list of recommendations submitted by the city council; and

WHEREAS, borough code and state law are unclear as to whether or not the required list of recommendations from a city council for their respective commission seat must include more than one recommended applicant; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of November 29, 2021 recommended approval by unanimous consent;

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

SECTION 1. That KPB 2.40.015 is hereby amended as follows:

2.40.015. Membership—Apportionment.

In accordance with AS 29.40.020(a):

- A. The planning commission shall consist of a maximum of [ELEVEN] fourteen members. Commission membership shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in home rule and first class cities located in the borough. No more than one member of the commission may be from any single home rule or first class city in the borough unless more are required to satisfy the statutory apportionment requirement.

- B. City Seats. Only [A] a city resident [MEMBER] may serve on a city seat and shall be selected by the mayor from a list of recommendations submitted by the council. The list will consist of at least one applicant from the respective city whose city seat is vacant or expiring [OF ANY CITIES FROM WHICH NO MEMBER WILL BE ON THE COMMISSION WHEN THE VACANCY IS EFFECTIVE, UNLESS APPORTIONMENT REQUIRES MORE THAN ONE MEMBER FROM A CITY. IN THAT EVENT ALL ELIGIBLE CITY COUNCILS MAY SUBMIT A LIST OF RECOMMENDATIONS FOR THE ADDITIONAL SEAT PROVIDED THAT NO CITY MAY HAVE GREATER THAN ONE MEMBER MORE THAN ANY OTHER HOME RULE OR FIRST CLASS CITY.] Appointments shall be subject to confirmation by the assembly. The city seats are as follows:

1. Homer;
2. Kenai;
3. Seldovia;
4. Seward; and
5. Soldotna.

[B] C. Single Member District. Planning commissioners residing [FROM] outside of first class and home rule cities shall be appointed by the mayor and confirmed by the assembly and [MAY BE AS] representative of the following assembly districts [GEOGRAPHIC AREAS AS PRACTICAL]:

1. [EAST PENINSULA] Assembly District 1 – Kalifornsky;
2. [Southwest Borough] Assembly District 2 – Kenai;
3. [ANCHOR POINT/NINILCHIK /CLAM GULTCH/KASILOF]Assembly District 3 – Nikiski;
4. Assembly District 4 - Soldotna;
- 5.[4. KALIFORNSKY BEACH] Assembly District 5 – Sterling/Funny River;
- 6.[5. RIDGEWAY] Assembly District 6 – East Peninsula;
- 7.[6. STERLING] Assembly District 7 – Central;
- 8.[7. NORTHWEST BOROUGH] Assembly District 8 – Homer;
9. Assembly District 9 – South Peninsula.

Planning commissioners appointed to represent a district shall reside within that district. In the event that no qualified residents of a single member district apply to fill a vacancy for that district’s seat, then that seat may be filled with a qualified resident of the Borough who resides outside of city limits.

[THE GEOGRAPHIC AREAS REFERENCED IN THIS SECTION ARE DEPICTED IN THE MAP ON FILE AT THE BOROUGH CLERK’S OFFICE BEARING THE BOROUGH SEAL AND IDENTIFIED AS THE PLANNING APPORTIONMENT MAP APPROVED IN ORDINANCE 2001-29.]


[C] D. All planning commission members shall be appointed for their expertise and knowledge of the community and shall represent the entire borough.

E. A vacancy or expiring term on the planning commission will be noticed for at least 30 days by the borough clerk’s office. All applications to fill a vacancy or expiring term must be submitted through the borough clerk’s office. Applications to fill a city seat shall be transmitted to the city clerk’s office at the close of the application period.

SECTION 2. That the amendments to KPB 2.40.015 shall not affect current borough planning commissioners and shall only be applicable to a planning commissioner whose term begins after January 1, 2022.

SECTION 3. This ordinance becomes effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF DECEMBER, 2021.

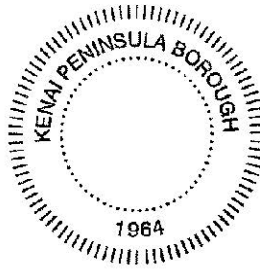


Brent Johnson, Assembly President

ATTEST:



John Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No: None
Absent: None