

Introduced by: Ecklund
Date: 07/11/23
Hearing: 08/01/23
Action: Withdrawn by the Sponsor

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-16**

**AN ORDINANCE ESTABLISHING THE COOPER LANDING EMERGENCY
SERVICE AREA AND PROVIDING FOR AN APPOINTED BOARD SUBJECT
TO VOTER APPROVAL**

WHEREAS, Resolution 2023-44, initiated the process to establish the Cooper Landing Emergency Service Area; and

WHEREAS, pursuant to Borough Code, a written Mayor's Report was sent on June 12, 2023, to the Assembly concerning the need for and the estimated cost of the service area;

WHEREAS, on June 28, 2023, a public hearing within the boundaries of the proposed service area was held to consider the necessity for the proposed service area in accordance with Borough Code and was attended by approximately 65 Cooper Landing area residents; and

WHEREAS, the fire and emergency medical services in the proposed service area have been historically provided by Cooper Landing Emergency Services, a volunteer organization, since 1973; and

WHEREAS, the proposed Cooper Landing Emergency Service Area is to provide additional resources to meet the needs of the residents of the service area; and

WHEREAS, due to the remote location of the proposed service area, and its distance from other cities in the Kenai Peninsula Borough such services cannot be provided more efficiently or effectively by an existing service area, by annexation to a city, or by incorporation as a city; and

WHEREAS, improvements on the Sterling Highway are expected to increase traffic volume and with it the possibility of increased emergency response calls in the area; and

WHEREAS, funding the service area is estimated to necessitate a mill rate of 3.95 in order to provide for a staff of a full-time fire chief and a half-time administrative assistant, plus sufficient funding for basic needs, administrative costs, equipment and minimal fund balance; and

WHEREAS, the enactment of a new chapter of Borough Code to establish the Cooper Landing

Emergency Service Area is only effective upon ratification of the service area by a majority of voters within the service area;

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

SECTION 1. Title 16 of the Kenai Peninsula Borough Code of Ordinances is amended by adding a new chapter 16.10, which shall read as follows:

CHAPTER 16.10. - COOPER LANDING EMERGENCY SERVICE AREA

16.10.010. Establishment—Boundaries.

There is established a service area within the borough designated as the "Cooper Landing Emergency Service Area," in that portion of the borough described as follows:

16.10.020. Board of directors.

There is established a board of directors for oversight of the operations of the Cooper Landing Emergency Service Area composed of five members who are appointed by the mayor and confirmed by the assembly.

16.10.030. Board--Meetings--Quorum.

- A. *Regular meetings.* The board must 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 at least two days' notice thereof published in a newspaper having general distribution within the service area, unless there is no such newspaper available, on the borough's website under the service area's designated webpage, or via radio. Notice will also be sent electronically to each board member. The attendance of a board member at a meeting constitutes a waiver of notice of the meeting.
- C. *Notice.* The notice for all Cooper Landing Emergency Service Area board meetings provide the date, time and place of the meeting, and provide the tentative agenda for the meeting. The notice will be posted at the place designated by the board for its meetings, and on the borough's website. The notice will be sent

electronically transmitted to each board member. 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.* Three board members constitute a quorum. Any action of the board will require the affirmative vote of three or more board members.
- F. *Agenda.* The published tentative agenda may be amended by vote of three or more board members at the meeting.

16.10.040. Board—Election of officers.

Annually, at the first regular meeting in October, or as soon thereafter as possible, the board must elect by majority vote of the board members, and from the board members, a chairman and such other officers as the board deems to be desirable, who will hold office until successors are elected. A board member who resigns or is removed from the board cannot be an officer.

16.10.050. Board—Terms of office.

Each member of the board of directors will be appointed for a term of three years and may serve thereafter, unless otherwise removed from office, until a successor has been appointed, qualified and sworn to assume the duties of the office. Nothing in this section may be construed to prohibit a member of the board from resigning or their seat from being vacated as provided in this chapter.

16.10.060. Board—Vacancies

Vacancies on the board are created upon declaration of vacancy by the board if a member:

- A. Fails to qualify or take office within 30 days after his or her election or appointment;
- B. Is physically absent from the service area for a 90-day period, unless excused by the board;
- C. Changes his or her residency for a period longer than 60 days to a location outside of the jurisdiction from which the board is elected;
- D. Resigns;
- E. Is physically or mentally unable to perform the duties of the office, as determined by a majority vote of the board;
- F. Misses three consecutive regular meetings unless excused;
- G. Is convicted of a felony or of an offense involving a violation of the member's oath of office; or

- H. Is removed from office by the mayor and the assembly has confirmed the removal.

Vacancies on the board will be filled by appointment by the mayor and confirmed by the assembly to fill the unexpired term or for a three-year term if no unexpired term remains. The clerk will provide at least twenty-one days' public notice before filling the vacancy. Public notice may be provided by publication through print or broadcast media, posting at the primary service area office or at the borough administration building, on the borough website, or such other publication as the clerk deems appropriate in consultation with the mayor.

16.10.070. Board—Powers and duties.

The board of directors of the service area, subject to assembly approval and appropriation of funds, and subject to the executive authority of mayor, will have the power to provide for fire protection and emergency medical services within the service area, review and recommend the annual service area budget, and perform such additional functions as the assembly may authorize. The service area board may advise and make recommendations to the mayor and the assembly concerning the administration and operation of the service area and will provide accurate and complete copies of the minutes of all board meetings to the mayor within one week of the board meeting.

16.10.080. Personnel system.

The borough personnel system and Title 3 of the borough code apply to personnel employed by the Cooper Landing Emergency Service Area.

16.10.090. Budget and fiscal control.

The formulation of a budget and fiscal control of expenditures of public monies of the Cooper Landing Emergency Service Area are the responsibility of the service area under the supervision and direction of the mayor and the assembly. The borough finance director will provide the board with the rules, regulations, and procedures governing fiscal controls, including accounting functions, the appropriation of funds, the budgeting of funds, the authorization of expenditures, requesting and issuing checks, and any and all rules and regulations of the borough fiscal policy to which the service area is subject and as applicable to the borough general government budget.

16.10.100. Chief administrative officers—Accountability.

The fire chief and other administrative officers of the service area are accountable and under the supervision of the mayor in accordance with Title 3 of borough code. The fire chief will make written and verbal reports to the mayor and the board as required by the mayor and the board.

16.10.110. Policies.

The board, or its designee, may formulate policies to govern the operation of the service area departments. Prior to implementation, such policies must be approved by the assembly by resolution.

16.10.120. Annual reports required.

The board is responsible for the services and efficiencies of the service area and will make a complete annual report to the mayor within one month after the close of the fiscal year. The report should include the information specified by the rules and regulations of the borough, together with comparative data for previous years and recommendations for improving the service to the service area.

16.10.120. Procedure--Conduct of affairs--Meetings.

The board may adopt bylaws or regulations governing the conduct of its affairs so long as such bylaws are procedural in nature and do not conflict with the substantive rules and regulations governing the board in its delegated powers. Board meetings will operate in accordance with Robert's Rules of Order, current edition.

16.10.130. Purchasing—Contracts

The purchasing agent for the service area is the borough purchasing and contracting director. All purchases of supplies, materials, equipment, and contractual services, including capital improvements, will be made in accordance with KPB Chapter 5.28.

16.10.140. - Ambulance billing.

Revenues collected from ambulance billing by the Cooper Landing Emergency Service Area as approved by the assembly pursuant to KPB 1.26.010 will be recorded as revenue within that service area.

SECTION 2. That the assembly hereby grants an exception to the requirement under KPB 1.12.010 that 25 days be allowed to pass before the public hearing and vote for a code change ordinance. The assembly finds this exception is justified due to the fact that a public hearing on establishing the service area was held within the boundaries of the proposed service area on June 28, 2023 and the establishment of Cooper Landing Emergency Service Area is not effective until ratified by a majority of voters within the service area at the October 3, 2023 regular election.

SECTION 3. That the following proposition will be placed before the voters of the Cooper Landing Emergency Service Area at the next regular election to be held October 3, 2023:

PROPOSITION:

“Is the Kenai Peninsula Borough authorized to exercise powers necessary to provide fire protection and emergency medical service within the Cooper Landing Service Area established by Ordinance 2023-____.”

YES ____ a YES vote approves of the Kenai Peninsula Borough establishing the Cooper Landing Emergency Service Area
NO ____ a NO vote would prohibit the Kenai Peninsula Borough establishing the Cooper Landing Emergency Service Area

SECTION 4. That Sections 2 and 3 of this ordinance take effect immediately upon enactment. Section 1 shall take effect upon approval of the proposition in Section 3 by the majority of voters in the service area voting on the proposition at the regular borough election to be held on October 3, 2023.

SECTION 5. That this ordinance will also only take effect following: appointment and confirmation of at least a quorum of the service area’s board of directors; appointment and confirmation of a fire chief for the service area; and the Cooper Landing Emergency Services, Inc. (CLES) non-profit organization, transfer or conveyance of free and clear title, ownership, and possession of all real and personal property located in or obtained for use at or by CLES, to the Kenai Peninsula Borough on behalf of, and for the use of, the Cooper Landing Emergency Service Area, on or before March 1, 2024.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent: