

Introduced by: Cooper, Mayor  
Date: 02/14/17  
Hearing: 03/07/17  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2017-01**

**AN ORDINANCE AMENDING CHAPTER 16.04 TO SET FORTH THE PROCEDURES  
FOR ESTABLISHING A SERVICE AREA AS AUTHORIZED BY AS 29.35.490**

**WHEREAS,** AS 29.35.490(a) currently authorizes a second class borough to exercise in a service area any power granted a first class city by law or a nonareawide power that may be exercised by a first class borough if: (1) the power is approved by a majority of the voters residing in the service area, or (2) all owners of real property in the service area consent in writing to the exercise of the power if no voters reside in the service area; and

**WHEREAS,** KPB Chapter 16.04 sets forth the procedures for establishing a service area where the power is approved by a majority of the voters residing in the service area; and

**WHEREAS,** KPB Chapter 16.04 currently does not set forth the procedures for establishing a service area in which no registered voters reside; and

**WHEREAS,** it is in the interest of borough residents that the borough have the authorization to exercise emergency service powers along portions of the state highway corridor; and

**WHEREAS,** in order to exercise emergency service powers along portions of the state highway corridor, KPB Chapter 16.04 must be revised to set forth the procedures for establishing a service area in which no registered voters reside;

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

**SECTION 1.** That KPB 16.04.010 is hereby amended as follows:

**16.04.010. Initiation by [—] Petition [REQUIRED].**

The citizens of any given area may petition the borough assembly for establishment of a service area to perform [1] one or more governmental services authorized by law; provided, however, that a proposed road service area must follow election precinct boundaries established by the Lieutenant Governor of the State of Alaska, and must include one or more election precincts as the proposed road service area.

**SECTION 2.** That KPB 16.04.020 is hereby amended as follows:

**16.04.020. Petition—Form—Contents required—Filing—Borough clerk responsibilities.**

The petition shall be in a form prescribed by the borough assembly and shall include:

- A. A designation of the governmental service to be exercised by the service area;
- B. A [MAP WHICH INCLUDES] a legal description or map of the area to be encompassed by the proposed service area which shall consist of one or more election precincts if it is a road service area; and
- C. If any voters reside [THE SIGNATURES OF ELIGIBLE VOTERS] within the area comprising the proposed service area, the signatures of such voters in a number equal to at least 15 percent of the eligible voters within the area comprising the proposed service area who voted in the last regular election of the Kenai Peninsula Borough.

The petition when signed shall be filed with the borough clerk. The borough clerk shall proceed to make a determination as to the validity of the signatures on the petition and whether the petition contains the required number of signatures. The borough clerk shall then deliver the petition to the mayor.

**SECTION 3.** That KPB 16.04.025 is hereby enacted as follows:

**16.04.025. Initiation by the Assembly.**

- A. A service area establishment process may be initiated by resolution of the assembly, provided the assembly finds the public interest may be served through formation of a service area; and
- B. A resolution initiating a service area establishment process under this section shall contain:
  - (1) findings required in subsection (A);
  - (2) a statement of services proposed; and
  - (3) a legal description or map of the area to be encompassed by the proposed service area.

**SECTION 4.** That KPB 16.04.030 is hereby amended as follows:

**16.04.030. – [PETITION—]Mayor survey and report duty.**

[UPON RECEIPT BY THE MAYOR OF THE PETITION FROM THE BOROUGH CLERK,] The borough clerk shall refer to the mayor petitions certified by the borough clerk under KPB 16.04.020 and resolutions of the assembly authorized by KPB 16.04.025 for analysis and recommendation. [t]The mayor shall make a survey and report to the assembly concerning the need for and the estimated cost of the service area. For a proposed service area requiring voter approval under AS 29.35.450 or AS 29.35.490, [T]the report shall contain a plan defining the service area, stating the total assessed valuation within the area proposed to be established as a service area and giving the population of the area proposed to be established as a service area. The report of the mayor shall be made to the assembly in written form at least 15 days before a public hearing on the necessity for the proposed service area. For a proposed service area which does not require voter approval under AS 29.35.450 or AS 29.35.490, the report shall contain a plan defining the service area, stating the number of registered voters residing in the service area, if any, and identifying any additional requirements under AS 29.35.490 which must be satisfied prior to the ordinance establishing the proposed service area taking effect. Upon completion, the mayor's analysis and recommendation shall be submitted to the assembly.

**SECTION 5.** That KPB 16.04.050 is hereby amended as follows:

**16.04.050. Establishment by ordinance—Contents.**

A. The ordinance establishing a service area may provide for appointed or elected boards to supervise the furnishing of special services in the service area, and determine that the new service cannot be provided by any existing service area, or by annexation to a city or incorporation as a city.

B. For a proposed service area requiring voter approval under AS 29.35.450 or AS 29.35.490, the ordinance shall call for submission of the question of formation of the proposed service area to qualified voters of the next regular election. For a proposed service area which does not require voter approval under AS 29.35.450 or AS 29.35.490, the ordinance shall contain either language establishing the service area immediately upon its passage by the assembly or, if there are additional requirements under AS 29.35.490 that have not been satisfied when the ordinance is enacted, language establishing the service area upon the borough clerk's or borough mayor's certification, as applicable, that the additional requirements of AS 29.35.490 have been satisfied.

**SECTION 6.** That KPB 16.04.060 is hereby amended as follows:

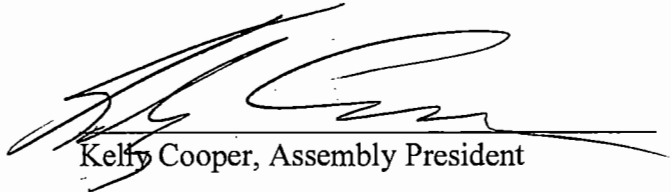
**16.04.060. Election to establish governmental powers required when.**

If the borough assembly shall by ordinance establish a service area requiring voter approval under AS 29.35.450 or AS 29.35.490, the proposition whether or not to

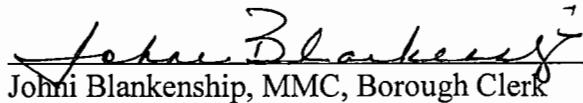
exercise the particular governmental power for which the service area has been established shall be placed on the ballot at the next general or a special election of the borough; except, however, an area that has once been considered and rejected by the eligible voters at either a special or general election shall thereafter be placed before the voters only at a subsequent general election. If the ordinance establishing the service area has provided for elected boards to supervise the furnishing of special services in the service area, then the candidates for election to such board shall be placed on the ballot at the same election for election by the qualified voters residing within the service area.

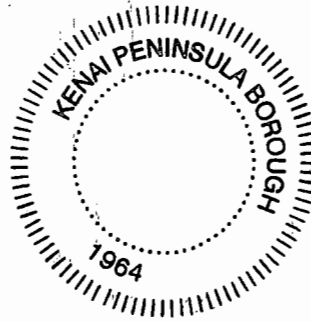
**SECTION 7.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF MARCH, 2017.**

  
Kelly Cooper, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Dunne, Fischer, Hibbert, Holmdahl, Ogle, Schaefer, Welles, Cooper  
No: None  
Absent: None