

Introduced by: Mayor  
Date: 11/25/14  
Hearing: 01/06/15  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2014-37**

**AN ORDINANCE AMENDING KPB 2.54.060 TO REFER PUBLIC RECORD  
REQUESTS TO THE BOROUGH CLERK TO DETERMINE WHETHER THE  
RECORDS ARE SUBJECT TO DISCLOSURE**

**WHEREAS,** access to public records is governed by Alaska Statute Chapter 40.25 and KPB Chapter 2.54; and

**WHEREAS,** KPB 2.54 was adopted in 1986 and has not been updated since that time; and

**WHEREAS,** as a general principle, both state and local law support broad and open access to public records for inspection by the public; and

**WHEREAS,** under state and local law there are certain classes of records that are exempt from public disclosure; and

**WHEREAS,** determining whether requested records are exempt from disclosure generally requires legal analysis; and

**WHEREAS,** in current practice, the legal department evaluates all record requests to determine whether a requested record should be kept confidential or otherwise meets the exemptions established by state or local law; and

**WHEREAS,** in contrast, KPB 2.54.060(B) in its current form requires the mayor to make a final determination about whether requested records are subject to disclosure; and

**WHEREAS,** it is most appropriate for the borough clerk to make these determinations as the clerk is required by Alaska Statute 29.20.380(a)(3) to assure that public records are available for public inspection as required by law;

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

**SECTION 1.** That KPB 2.54.060(B) is hereby amended as follows:

**2.54.060. Response to requests for access to public records.**

**B. Request for Records Exempt From Disclosure.**

1. Where there is a question as to whether the information or records requested are exempt from disclosure, privileged or confidential, the request shall be referred to the [MAYOR] borough attorney or designee for a [DETERMINATION] legal recommendation as to whether the material is subject to disclosure. The Borough Clerk shall make the final determination regarding disclosure after considering the advice of the borough attorney or designee.
  
2. If the information requested is determined to be exempt from disclosure, the person requesting the information shall be advised in [A] writing, stating the applicable law or rule of exemption, within 3 working days of receiving the request; such writing shall be signed by the [DEPARTMENT OR DIVISION HEAD OR DELEGATE, OR THE MAYOR OR ADMINISTRATIVE OFFICER, IF APPLICABLE] Borough Clerk or designee.

**SECTION 2.** That this ordinance takes effect immediately upon its enactment.

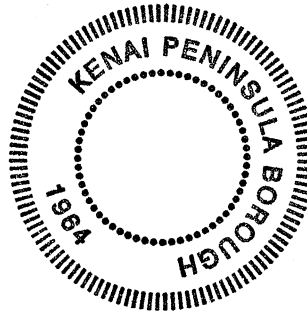
**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JANUARY, 2015.**

*Dale L Bagley*

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Dale Bagley, Assembly President

ATTEST:

*John Blankenship*  
\_\_\_\_\_  
John Blankenship, MMC, Borough Clerk



Yes: Cooper, Haggerty, Gilman, Johnson, McClure, Ogle, Welles, Wolf, Bagley  
No: None  
Absent: None