

Introduced by:	Ogle, Wolf
Date:	05/05/16
Hearing:	06/16/15
Action:	Enacted
Vote:	8 Yes, 1 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2015-11**

**AN ORDINANCE ESTABLISHING THE NIKISKI
LAW ENFORCEMENT SERVICE AREA**

- WHEREAS,** the Nikiski area is experiencing an increase in the reported frequency and severity of burglaries and other crimes against persons, property and the community; and
- WHEREAS,** due to distance from the nearest trooper station in Soldotna and limited trooper resources, trooper response to calls from Nikiski may not be effective; and
- WHEREAS,** the existing level of service currently provided by the Alaska State Troopers is insufficient to meet the community needs; and
- WHEREAS,** Nikiski has an elementary school and a middle/high school which would experience long response time delays for an incident requiring law enforcement which is a significant community concern; and
- WHEREAS,** the Nikiski Community Action Group (NCAG) held several community meetings, the first of which drew 250-300 members of the community who demonstrated a desire to reduce crime in the area; and
- WHEREAS,** a committee was formed under the auspices of the Nikiski Community Council (NCC) to identify problems and potential solutions concerning the law enforcement issues in the Nikiski area, and which held almost-weekly meetings October 2014 through January, 2015; and
- WHEREAS,** the committee recommended to the NCC that a Nikiski Law Enforcement Service Area (LESA), following the geographic boundaries established by the Nikiski Fire Service Area, be created to address the law enforcement needs of the community; and
- WHEREAS,** at its meeting of January 26, 2015, the NCC unanimously approved sending a letter of endorsement of this proposal to the borough assembly; and
- WHEREAS,** law enforcement services could be provided through the establishment of a LESAs; and
- WHEREAS,** grant opportunities may exist which could aid in the startup of the LESAs; and

WHEREAS, it is anticipated that the Nikiski area may experience an exponential growth as a result of the proposed LNG plant; and

WHEREAS, the formation of this service area is in accordance with the requirements of AS 29.35.450(b); and

WHEREAS, based on public documents, the City of Seward budgets about \$1.8 million for 9 law enforcement (LE) officers; the City of Homer budgets \$2.58 million for 12 LE officers; the City of Kenai budgets \$2.9 million for 18 LE officers; and the City of Soldotna budgets \$2.28 million for 14 LE officers; and

WHEREAS, the committee's research indicates that Nikiski would need a LESA with approximately 9 LE officers to provide LE activities comparable in scope to the City of Seward; and

WHEREAS, taxable property in the area identified for inclusion within the proposed Nikiski LESA is valued at \$1.45 billion, and therefore 1.5 mil would raise approximately \$2.2 million; and

WHEREAS, if the LESA is approved by the voters and after considering recommendations from the service area board and public comments the assembly shall approve either the creation of a borough police department for the Nikiski LESA, or that the borough shall enter into a contract with an existing law enforcement agency, which could be equivalent to or less inclusive than full law enforcement services that might be provided by a borough police department;

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

SECTION 1. That Title 16 of the Kenai Peninsula Borough Code of Ordinances is amended by adding a new chapter to be numbered 16.80, which shall read as follows:

CHAPTER 16.80. NIKISKI LAW ENFORCEMENT SERVICE AREA

16.80.010. Boundaries.

There is established a service area within the borough designated as the "Nikiski Law Enforcement Service Area" in that portion of the borough described as all the following referenced to the Seward Meridian, Alaska:

Commencing at the township line between T5N and T6N R17W S.M., and the mean high water line on the westerly shore of Cook Inlet;

Thence westerly along the township line between T5N and T6N to the westerly boundary of the Kenai Peninsula Borough;

Thence northerly and easterly along the boundary of the Kenai Peninsula Borough through Cook Inlet to the protracted northeast corner of T11N R5W in Turnagain Arm;

Thence southeasterly to the intersection of the southerly mean high water line of Turnagain Arm and the 150th meridian west of Greenwich within T10N R4W S.M.;

Thence southerly along the 150th meridian to the township line between T8N and T9N R4W;

Thence westerly along the township line between T8N and T9N to the northwest corner of T8N R9W S.M.;

Thence southerly along the range line between R9W and R10W to the southeast corner of T6N R10W S.M.;

Thence westerly along the township line between T5N and T6N to the southeast corner of Section 32 T6N R10W;

Thence northerly along the section line between Sections 32 and 33 to the northeast corner of Section 32;

Thence westerly along the section line to the northwest corner of Section 31 T6N R10W on the corporate boundary of the city of Kenai;

Thence northerly and westerly along the corporate boundary of the city of Kenai to the intersection with the mean low water line of Cook Inlet and the section line between Sections 23 and 26 T6N R12W S.M.;

Thence westerly along the section line extended three miles into Cook Inlet;

Thence southwesterly to the protracted southeast corner of 6N R14W in Cook Inlet;

Thence westerly along the protracted township line between T5N and T6N to the mean high water line on the westerly shore of Cook Inlet the true point of beginning.

16.80.020. Board of directors.

There is established a board of directors for oversight of the operations of the Nikiski Law Enforcement Service Area composed of five members who shall be elected by the qualified voters of the service area in the manner provided in the borough election code and KPB 16.04.065 as now enacted or may be hereinafter amended. Board seats to be filled at the first election of board members shall be staggered as follows: Seats A and D for three years; seats B and E for two years; and seat C for one year.

16.80.025. Mill levy.

No mill levy in excess of 1.5 mils shall be levied on behalf of the service area unless an increase is approved by the assembly during the budgetary process.

16.80.030. Board-Meetings-Quorum.

The board shall meet periodically at a regularly scheduled time and place designated by the board. Special meetings of the board may be called by the chair of the board or by any two members upon at least one day's notice thereof published in a newspaper or via radio having general distribution within the service area. The notice shall set forth the time and place of the meeting and shall be communicated by mail, telephone, fax, or email to each board member. All meetings shall be open to the public as provided by law. Except as provided below, three board members shall constitute a quorum and an action shall require the affirmative vote of three board members. If the board membership is less than five, then a quorum shall be the majority of the remaining seated members.

16.80.040. Board-Election of officers.

At the first regular meeting following certification of the election by the assembly, and annually thereafter, the board shall elect by majority vote of the board members, and from the board members, a chair and such other officers as the board shall determine to be desirable who shall hold office until successors are elected.

16.80.050. Board-Terms of office.

Each member of the board of directors shall be elected for a term of three years and shall serve thereafter until his or her successor has been elected, qualified and sworn to assume the duties of the office, except that the first board shall contain members elected for lesser periods to provide for staggered terms as provided in KPB 16.80.020.

16.80.060. Board-Vacancies-Created when

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 primary residence for a period longer than 90 days to a location outside of the jurisdiction from which the board is elected;
- D. Resigns and his or her resignation is accepted;
- E. Is physically or mentally unable to perform the duties of his or her office;
- F. Misses three consecutive regular meetings unless excused; or

- G. Is convicted of an offense involving a violation of his oath of office or is removed from office pursuant to a recall election.

16.80.070. Board–Vacancies–Filling.

Vacancies on the board shall be filled by appointment by the mayor and confirmation by the assembly to serve until the next regular election of the borough at which time a new member shall be elected to fill the unexpired term or for a three-year term if no unexpired term remains. The clerk shall provide at least twenty-one days advance 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, and such other publication as the service area board deems appropriate.

16.80.080 Board–Powers and duties

Pursuant to the provisions of AS 29.35.460 the board of directors of the service area, subject to assembly approval and appropriation of funds, shall have the power to provide and determine the scope and level of law enforcement services in the service area. This shall be either by contract or creation of a new law enforcement department within the service area as approved by the assembly in a manner consistent with law after considering the desires of the community through board and assembly meeting processes. The board shall promptly provide accurate and complete copies of minutes of all board meetings, all board resolutions and reports of other actions taken by the board to the clerk's office for distribution to the mayor and assembly.

16.80.090. Personnel system–Rules and regulations.

Employees of the Nikiski LESA, if any, shall be employees of the Kenai Peninsula Borough. All such personnel employed as police officers must meet the minimum standards of the Alaska Police Standards Council pursuant to Alaska Statutes Title 18 for employment as a non- probationary police officer.

16.80.100 Employee conduct requirements.

Employees of the service area, if any, are employees of the borough, and as such, are required at all times to conduct themselves in an exemplary manner befitting the public service in which they are employed.

16.80.110. Budget and fiscal control.

The formulation of a budget and fiscal control of expenditures of public monies of the service area are under the supervision of the mayor. The finance director of the borough shall provide the board with the rules and regulations governing the appropriation of funds, the budgeting of funds, the authorization of expenditures, and any and all rules and regulations of the borough fiscal policy to which the

service area is subject. The board shall arrange for the preparation of a budget and capital program, which shall be submitted to the mayor for approval. The budget and capital expenditure proposals shall be subject to the procedures for adopting the borough budget and capital expenditures program and its consideration by the assembly. Such public hearings as are necessary shall be a part of the budgetary procedures before the board and the assembly.

16.80.120. Chief law enforcement officer—Appointment, qualifications, and removal.

Unless otherwise provided for by contract, if the chief law enforcement officer is a borough employee, that person shall be appointed by the mayor from the list of most qualified candidate or candidates nominated by the service area board after its consideration of applications received in response to public notice of vacancies. The chief law enforcement officer must have a current intermediate or advanced certificate from the Alaska Police Standards Council. The officer so appointed shall be subject to removal by the mayor. The service area board may independently make a recommendation to the mayor regarding the suspension or discharge of the chief law enforcement officer; however, such suspension or discharge remains within the sole discretion of the mayor. The officer shall administer policy as set by the board.

16.80.130. Chief law enforcement officer—Accountability.

When the chief law enforcement officer of the service area is hired as an employee, that person shall be held accountable to the service area board and the mayor, and shall make written and verbal reports to the board and mayor as required by the board and mayor. If the chief law enforcement officer of the service area is hired pursuant to a contract with an external organization, the accountability shall be as provided by that contract.

16.80.140. Policies-Formulation and Authority—Approval Required.

The board shall formulate policies to govern the operation of the service area subject to approval by the mayor.

16.80.150. Annual reports required.

The board shall make a complete annual report to the mayor within one month after the close of the fiscal year, such report to 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.

16.80.160. Procedure-Conduct of Affairs – Meetings

The board shall adopt bylaws or regulations governing the conduct of its affairs, and rules of procedure for the conduct of its meetings, 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.

16.80.170. Purchasing-Agent.

- A. The purchasing agent for the service area is the borough Purchasing and Contracting Director. All purchases of supplies, materials, equipment, and contractual services, other than any contract for law enforcement services, shall be made in accordance with the rules and regulations adopted by the assembly. Any award of a contract for law enforcement services shall be made in accordance with the rules and regulations adopted by the assembly, including any that it may specifically adopt for that purpose, after considering recommendations presented by the service area board.
- B. All contracts for capital improvements and maintenance performed in connection with the service area shall be administered by the borough capital projects department in accordance with the department's normal procedures.

16.80.180. Accounts-Vouchers-Accounting.

All accounting functions for the service area shall be under the supervision of the borough finance director who shall provide rules, regulations, and procedures governing the issuance and payment of vouchers, the issuance and payment of checks, the use of the central treasury of the borough, and the manner in which all bonds, contracts, leases or other obligations requiring the payment of funds from the appropriations in the service area budget are to be processed and administered.

16.80.190. Fiscal procedures.

The service area shall abide by the fiscal policies and procedures applicable to the borough general government budget not inconsistent with this ordinance.

SECTION 2. That the following proposition shall be placed before the voters of the proposed Nikiski Law Enforcement Service Area at the next regular election to be held October 6, 2015:

PROPOSITION NO. _____

"Shall the Kenai Peninsula Borough be authorized to exercise criminal law enforcement powers in the Kenai Peninsula Borough Nikiski Law Enforcement Service Area within the boundaries defined by Ordinance

2015-11? The mill levy shall not exceed 1.5 mils unless an increase is approved by the assembly during the budgetary process.”

YES _____ A “Yes” vote means the borough may provide criminal law enforcement services in the proposed Nikiski Law Enforcement Service Area and that the service area will be established.

NO _____ A “No” vote means the proposed Nikiski Law Enforcement Service Area shall not be established.

SECTION 3. That notwithstanding KPB 16.04.040 the public hearing held within the proposed service area boundaries may be held after this ordinance was introduced.

SECTION 4. That Sections 2 and 3 of this ordinance shall take effect immediately upon its enactment and Section 1 of this ordinance shall take effect upon approval of the proposition in Section 2 above by a majority of the qualified voters voting on the issue and certification of the election.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2015.

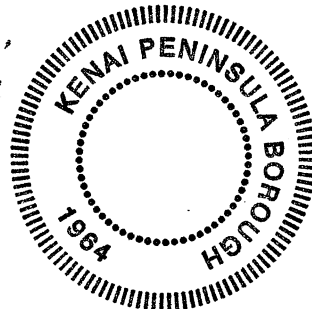
Dale Z Bagley

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