

Introduced by: Johnson, Cox, Dunne  
Date: 09/07/21  
Hearing: 10/12/21  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2021-35**

**AN ORDINANCE AMENDING KPB 10.08 TO PROHIBIT SMOKING IN ALL KENAI  
PENINSULA BOROUGH BUILDINGS AND VEHICLES, AND AMENDING KPB  
1.24.090 THE MINOR OFFENSE PENALTY SCHEDULE**

**WHEREAS,** KPB 10.08.010 prohibits smoking in the assembly room of the Kenai Peninsula borough at any time the assembly is in session at a public meeting; and

**WHEREAS,** the ordinance that led to KPB 10.08.010 was introduced by Assemblyman John Davis in 1980 and passed 10-6 in January of 1981; and

**WHEREAS,** the 1980-81 preamble to the ordinance contained a clause that read, in part “the Alaska legislature has enacted a state law which prohibits smoking in public places and vehicles and which specifically prohibits smoking in meeting places or public assemblies under control of the State or an agency of it;” and

**WHEREAS,** the 1980-81 preamble to the ordinance also contained a clause which stated that the prohibition on smoking does not extend to the smoking in assembly rooms of municipalities; and

**WHEREAS,** Senator Peter Micciche introduced a bill every year from 2015 to 2017 to ban smoking in workplaces; and

**WHEREAS,** in July of 2018 Governor Walker signed Senator Micciche’s bill (which by then had 21 co-sponsors) into state law; and

**WHEREAS,** AS 18.35.301(a) states that an individual may not smoke in an enclosed area in a public place; and

**WHEREAS,** AS 18.35.301(a)(5) further prohibits an individual from smoking at a place of government or public assembly located on property that is owned or operated by the state or a municipality; and

**WHEREAS,** AS 18.35.301(b)(3) prohibits an individual from smoking in an enclosed area in a place of employment, including a vehicle; and

**WHEREAS,** AS 18.35.301(c)(4)(B) prohibits an individual from smoking within 20 feet of an entrance, open window, or heating or ventilation system air intake vent at a place where smoking is prohibited; and

**WHEREAS,** KPB 10.08 has not been amended in over 40 years and should reflect current Alaska law;

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

**SECTION 1.** That KPB 10.08 is hereby amended as follows:

**10.08.010. Smoking Prohibited**

[SMOKING IS PROHIBITED IN THE ASSEMBLY ROOM OF THE KENAI PENINSULA BOROUGH AT ANY TIME THAT THE ASSEMBLY IS IN SESSION AT A PUBLIC MEETING.]

A. Smoking is prohibited at the following places:

1. All enclosed areas on properties owned or controlled by the Kenai Peninsula Borough, including the Kenai Peninsula Borough School District, and including every room, chamber, place of meeting or public assembly under the control of the assembly, a commission, committee, board, or assembly authority.
2. All areas that are within twenty feet (20') of each entrance to enclosed areas on properties owned or controlled by the Kenai Peninsula Borough including the Kenai Peninsula Borough School District, and including every room, chamber, place of meeting or public assembly under the control of the assembly, a commission, committee, board, or assembly authority.
3. Outdoors within ten feet (10') of playground equipment at a borough owned facility;
4. All areas within fifty feet (50') of each entrance to a Kenai Peninsula Borough service area hospital.
5. All vehicles owned, operated or controlled by the Kenai Peninsula Borough, including the Kenai Peninsula Borough School District.

B. Nothing in this chapter shall be construed or interpreted to provide any person a right to smoke on premises or property owned, leased or under the control of another.

**10.08.020. [NO SMOKING SIGNS POSTED] Definitions.**

[THE MAYOR SHALL CAUSE NOTICE TO BE POSTED AND MAINTAINED AT THE ASSEMBLY MEETING ROOM.]

"E-cigarette" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person through inhalation of vapor or aerosol from the product, of any size or shape, whether the product is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or any other product name or descriptor; "e-cigarette" does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration as those terms are defined in 21 U.S.C. 301 - 392 (Food, Drug, and Cosmetic Act), unless the use of those products simulate smoking or expose others to vapor or aerosol.

"Smoking" means using an e-cigarette or other oral smoking device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette, pipe, or tobacco or plant product intended for inhalation.

**10.08.030. Violations and penalties.**

Any violation of this chapter is an infraction. The fine for offenses in this title is the fine provided in the minor offense fine schedule found in KPB 1.24.090. If no fine is listed in the fine schedule for an offense, then the defendant must appear in court and is subject to the fine provided in KPB 1.24.070.

**SECTION 2.** That KPB 1.24.090 is hereby amended as follows:

**1.24.090. Minor offense penalty schedule.**

Section	Offense Title	Fine Amount
KPB 5.12.117(B)	False Representations re: Exemptions on Property Taxes	\$500
KPB 5.12.380(B)	False Representations re: Property Taxes	\$500
KPB 5.18.620(A)	Failure to Timely File Sales Tax Returns or Remit Taxes	\$500
KPB 5.18.630	Failure to Keep Adequate Sales Tax Records	\$500
KPB 5.18.640(A)	Misuse of Resale or Exempt Card	\$500
<u>KPB 10.08.010(A)(1)</u>	<u>Smoking in public building</u>	<u>\$100</u>
<u>KPB 10.08.010(A)(2)</u>	<u>Smoking within 20 feet of public building</u>	<u>\$100</u>
<u>KPB 10.08.010(A)(3)</u>	<u>Smoking within 10 feet of playground</u>	<u>\$100</u>
<u>KPB 10.08.010(A)(4)</u>	<u>Smoking within 50 feet of hospital</u>	<u>\$100</u>
<u>KPB 10.08.010(A)(5)</u>	<u>Smoking inside municipal vehicle</u>	<u>\$100</u>

KPB 10.18.020	Use of Fireworks within the Borough	\$500
KPB 10.18.050	Sale of Fireworks	\$500
KPB 10.20.080	Fail to Report Hazardous Materials	\$750
KPB 11.10.030	Operation of Gambling Establishment or Game of Chance	\$1,000
KPB 12.04.020	Parking in a designated No Parking Area	\$100
KPB 12.04.070	Parking in Manner that Impedes Traffic or Maintenance	\$100
KPB 12.08.020(b)	Abandoned Vehicle on Property not Designated for Vehicle Disposal	\$100
KPB 12.08.030(c)	Abandoned Vehicle on Private Property	\$100
KPB 12.08.040(a)	Junk Vehicle Placed or Remaining on Borough Property or ROW	\$100
KPB 12.40.300(A)	Encroachment without a Permit	\$100
KPB 20.10.030(F)	Sale of subdivision land prior to Final Plat	\$750

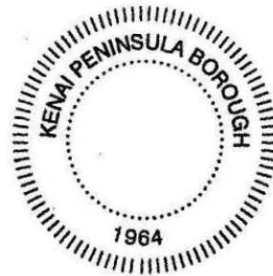
**SECTION 3.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 12TH DAY OF OCTOBER, 2021.**

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Brent Hibbert, Assembly President

ATTEST:

\_\_\_\_\_  
Jonni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert

No: None

Absent: None