

Introduced by: Elam
Date: 05/02/23
Hearing: 06/06/23
Action: Amended by Substitute
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-11**

**AN ORDINANCE AMENDING BOROUGH CODE, KPB 2.40.015 AND KPB 2.40.030,
TO REDUCE THE NUMBER OF SEATS ON THE PLANNING COMMISSION AND
PROVIDE FOR AN ORDERLY PROCESS FOR THE SEAT REDUCTION**

- WHEREAS**, the Kenai Peninsula Borough (“Borough”) is a second class borough with a population of 58,799 as of April 1, 2020 U.S. Census totals; and
- WHEREAS**, The Alaska State Legislature amended AS 29.40.020(a) in 2022 to provide the Borough with flexibility to apportion its Planning Commission seats in a manner that the Assembly deems appropriate; and
- WHEREAS**, presently, there are fourteen members of the Borough Planning Commission, and there do not appear to be any other planning commissions in the State of Alaska with so many members; and
- WHEREAS**, presently, there are nine members on the Borough Assembly; and
- WHEREAS**, Borough code requires the Borough to compensate its Planning Commission members at the rate of \$175.00 per regular or special meeting attended except the chairperson, who will be compensated at the rate of \$200.00 per regular or special meeting; and
- WHEREAS**, Borough code requires the Borough to compensate its Planning Commission members serving on the plat committee at an additional rate of \$25.00; and
- WHEREAS** aligning the number of Planning Commission member seats to be consistent with the number of Assembly member seats will reduce the aggregate cost of compensation the Borough must pay to its Planning Commission members by approximately \$40,698.00; and
- WHEREAS**, a code provision for elimination of a Planning Commission member seat will allow for an orderly and fair process when Planning Commission member seats are consolidated;

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

SECTION 1. That KPB 2.40.015 is amended to read as follows:

2.40.015. Membership—Apportionment.

In accordance with AS 29.40.020(a):

A. The planning commission [SHALL CONSIST OF A MAXIMUM OF FOURTEEN MEMBERS] will consist of the same number of member seats as the number of assembly member seats. Commission membership [SHALL BE APPORTIONED SO THAT THE NUMBER OF MEMBERS FROM HOME RULE AND FIRST CLASS CITIES REFLECTS THE PROPORTION OF BOROUGH POPULATION RESIDING IN HOME RULE AND FIRST CLASS CITIES LOCATED IN THE BOROUGH. NO MORE THAN ONE MEMBER OF THE COMMISSION MAY BE FROM ANY SINGLE HOME RULE OR FIRST CLASS CITY IN THE BOROUGH UNLESS MORE ARE REQUIRED TO SATISFY THE STATUTORY APPORTIONMENT REQUIREMENT] will be apportioned consistent with assembly member district seats.

[B. CITY SEATS. ONLY A CITY RESIDENT MAY SERVE ON A CITY SEAT AND SHALL BE SELECTED BY THE MAYOR FROM A LIST OF RECOMMENDATIONS SUBMITTED BY THE COUNCIL. THE LIST WILL CONSIST OF AT LEAST ONE APPLICANT FROM THE RESPECTIVE CITY WHOSE CITY SEAT IS VACANT OR EXPIRING. APPOINTMENTS SHALL BE SUBJECT TO CONFIRMATION BY THE ASSEMBLY. THE CITY SEATS ARE AS FOLLOWS:

1. HOMER;
2. KENAI;
3. SELDOVIA;
4. SEWARD; AND
5. SOLDOTNA.]

[C] B. SINGLE MEMBER DISTRICT. [PLANNING COMMISSIONERS RESIDING OUTSIDE OF FIRST CLASS AND HOME RULE CITIES SHALL BE APPOINTED BY THE MAYOR AND CONFIRMED BY THE ASSEMBLY AND REPRESENTATIVE OF THE FOLLOWING ASSEMBLY DISTRICTS:

1. ASSEMBLY DISTRICT 1 - KALIFORNISKY;
2. ASSEMBLY DISTRICT 2 - KENAI;
3. ASSEMBLY DISTRICT 3 - NIKISKI;
4. ASSEMBLY DISTRICT 4 - SOLDOTNA;
5. ASSEMBLY DISTRICT 5 - STERLING/FUNNY RIVER;
6. ASSEMBLY DISTRICT 6 - EAST PENINSULA;
7. ASSEMBLY DISTRICT 7 - CENTRAL;
8. ASSEMBLY DISTRICT 8 - HOMER; AND
9. ASSEMBLY DISTRICT 9 - SOUTH PENINSULA.

PLANNING COMMISSIONERS APPOINTED TO REPRESENT A DISTRICT SHOULD RESIDE WITHIN THAT DISTRICT. IN THE EVENT THAT NO QUALIFIED RESIDENTS OF A SINGLE MEMBER DISTRICT APPLY TO FILL A VACANCY FOR THAT DISTRICT'S SEAT, THEN THAT SEAT MAY BE FILLED WITH A QUALIFIED RESIDENT OF THE BOROUGH WHO RESIDES OUTSIDE OF CITY LIMITS. ONLY RESIDENTS LIVING WITHIN THE RESPECTIVE CITY OR SINGLE MEMBER DISTRICT MAY APPLY FOR A LOCATION SPECIFIC VACANCY. ANY BOROUGH RESIDENT WHO RESIDES OUTSIDE OF CITY LIMITS MAY APPLY "AT-LARGE" AND MAY BE SELECTED IN THE EVENT NO QUALIFIED RESIDENTS OF A SINGLE MEMBER DISTRICT APPLY TO FILL A VACANCY FOR THAT DISTRICT'S SEAT.] Each district will have one representative. Commissioners may only serve in the district in which they reside.

[D] C. All planning commission members [SHALL] will meet the minimum qualifications of the appointed planning commission member seat description. All planning commission members will be appointed for their expertise and knowledge of the community, borough land use, and planning issues, as well as their familiarity with regulations and land use code, and [SHALL] must represent the entire borough. Prospective planning commission members must be in compliance with KPB Titles 14, 17, 20, and 21 and must not have any pending or unresolved code enforcement actions.

E. A vacancy or expiring term on the planning commission will be noticed for at least 30 days by the borough clerk's office. All applications to fill a vacancy or expiring term must be submitted through the borough clerk's office. [APPLICATIONS TO FILL A CITY SEAT SHALL BE TRANSMITTED TO THE CITY CLERK'S OFFICE AT THE CLOSE OF THE APPLICATION PERIOD.]

SECTION 2. That KPB 2.40.030 is amended to read as follows:

2.40.030. Terms—Vacancy filling—Seat Elimination—Compensation—Voting restrictions.

Members and membership of the planning commission shall be subject to the following conditions:

- A. Members of the commission shall be qualified voters of the borough as defined in KPB 4.20.010(A) and who are duly appointed and confirmed as provided in AS § 29.40.020(a).
- B. Vacancies on the commission are created under the following conditions and upon declaration of vacancy by the borough mayor when the member
 1. Fails to qualify or be confirmed by the assembly or take office within 30 days after his appointment;
 2. Is physically absent from the borough [, OR IN THE CASE OF A CITY REPRESENTATIVE FROM THE CITY] for a 90-day period, unless excused by the commission;
 3. Resigns and [HIS] the resignation is accepted by the borough mayor;
 4. Is physically or mentally unable to perform the duties of [HIS] the office;
 5. Is removed from office by the borough mayor in order to bring commission apportionment into compliance with statutes or [COMPLETES HIS TERM] no longer resides in the district as defined in KPB 2.40.015 as it presently exists or later is amended;

- 6. Misses 3 consecutive regular meetings unless excused by the commission; or
- 7. Is convicted of a felony or of an offense involving a violation of [HIS] the oath of office.

C. Seat elimination. The Mayor may remove commissioners when seats are consolidated to comply with state statutes or borough code. In the event a seat is eliminated and the elimination necessitates the removal of a member, the member may:

- 1. Voluntarily resign to achieve a single-member district representative; or
- 2. Interview with the Mayor, or designee, and Planning Department staff. The Mayor will make the final selection in consultation with the Planning Director based on the qualifications set forth in KP.B 2.40.015(C) as it presently exists or later is amended.

[C] D. The [borough] [m]Mayor and the [borough] [p]Planning [d]Director shall be additional members ex officio and shall have the privilege of the floor, but may not vote.

[D] E. Duly appointed, confirmed and qualified official members of the commission will be compensated monthly at the rate of \$175.00 per regular or special meeting attended except the chairperson, who will be compensated at the rate of \$200.00 per regular or special meeting. Members serving on the plat committee will be compensated at an additional rate of \$25.00 per plat committee meeting.

SECTION 3. This ordinance shall become effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JUNE, 2023.

Brent Johnson

 Brent Johnson, Assembly President

ATTEST:

Michele Turner

 Michele Turner, CMC, Acting Borough Clerk



Yes: Chesley, Cox, Derkevorkian, Ecklund, Hibbert, Ribbens, Tupper, Johnson
 No: None
 Absent: Elam