

Introduced by:	Mayor, Cox
Date:	02/27/24
Hearing:	04/02/24
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2024-05**

**AN ORDINANCE AMENDING BOROUGH CODE TO ADD A NEW SECTION OF
CODE RELATING TO PUBLIC NOTICE REQUIREMENTS AND AMENDING
VARIOUS SECTIONS OF CODE TO PROVIDE FOR ALTERNATIVE METHODS OF
PUBLIC NOTICE**

- WHEREAS,** this code amendment ordinance will amend Kenai Peninsula Borough (“KPB”) Code to provide for alternative methods of public notice in instances where Alaska Statutes do not require publication in a newspaper of general circulation; and
- WHEREAS,** alternative public notice methods will serve the public's interests by providing for public notice on platforms that do not require paid subscriptions to access the notice in order to maximize the reach to and diversity of constituents who receive such notices; and
- WHEREAS,** the different methods of notice, as allowed under state law, will provide an alternative, not prohibition, to publishing a notice in a newspaper in instances where state law does not require newspaper publication; and
- WHEREAS,** if future events result in local newspapers' inability to satisfy general circulation requirements, having alternative methods in place will ensure the public receives necessary communications and notices in a manner that is consistent and well-known so that there is no confusion regarding where such notices can be found; and
- WHEREAS,** if this ordinance is enacted, public notices from the KPB will be (1) published in a prominent, consolidated location on the borough's webpage or in a newspaper of general circulation and (2) additionally, the notice will be posted at physical locations or on the KPB's social media platforms; and
- WHEREAS,** sections of code that require notice to be published in a newspaper of general circulation are not changed or impacted by these amendments;

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

SECTION 1. That KPB 1.08.040 is amended as follows:

1.08.040. Definitions and construction and interpretation of terms.

In the construction of this code, and of all ordinances, the following rules [SHALL]will be observed, unless the context clearly indicates otherwise:

- Q. Published: "Published" or "Publication" means in accordance with KPB 1.08.180 except when state law requires publication in a newspaper of general circulation distributed in the municipality or, if there is no newspaper of general circulation distributed in the municipality, posting in three public places for at least five days.
- [Q]R. Real property: "Real property" and "land" include land, buildings, structures, improvements, and fixtures on the land, and all possessory rights and privileges appertaining to it.
- [R]S. State: The word "state" or "this state" when used in this code [SHALL BE CONSTRUED TO] means the State of Alaska.
- [S]T. Time: Words used in any tense include any other tense unless manifestly inapplicable.
- [T]U. Words and phrases: All words and phrases [SHALL]will be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

SECTION 2. That the KPB Code of Ordinances is hereby amended by adding a new section to be numbered KPB 1.08.180 which shall read as follows:

1.08.180. Public notice publication requirements.

- A. All legal notices, public notices, and other advertising published on behalf of the Kenai Peninsula Borough must be by purchase order authorized in accordance with the borough purchasing procedures.
- B. Unless a borough code provision or state law provides otherwise, the following forms of public notice satisfy a publication requirement under borough code:
1. Publication prominently placed on the borough's webpage in a consolidated location; or
 2. Publication in a newspaper of general circulation; and

3. Posting the notice at the borough administration building located at 144 N. Binkley Street, Soldotna, Alaska, at a service area's principal administration building if the notice is specific to a service area, or other public facilities or private facilities that allow for public posting; or
4. Posting the notice on a social media platform regularly maintained and operated by the borough as an official social media account of the Kenai Peninsula Borough.

C. A newspaper of general circulation is defined as a publication that:

1. Is published in newspaper format; and
2. Is distributed at least once a week for at least 50 weeks each year within the affected area as designated in subsection B and C of the section, excluding a period when publication is interrupted by a labor dispute or by a natural disaster or other casualty that the publisher cannot control; and has a total paid circulation or paid distribution of at least 500 copies, or 10 percent of the total population of the affected area as designated by subsections B and C of this section, whichever is less; and
3. Holds a second-class mailing permit from the United States Postal Service;
4. Is not published primarily to distribute advertising; and
5. Is not intended primarily for a particular professional or occupational group.

D. If there is no newspaper of general circulation distributed in the municipality, posting in three public places for at least five days satisfies publication requirements under state law. Other advertising published outside the borough will be published in the appropriate newspapers as determined by the mayor.

SECTION 3. That KPB 1.12.040(A) is hereby amended as follows:

1.12.040. - Publication, posting and public hearing required—Procedure.

- A. In accordance with AS 29.25.020, at least 5 days before public hearing, a summary of each ordinance will be published in a newspaper of general circulation within the borough. Publication must include notice of the time and place of the public hearing. Publication of the title of the ordinance satisfies this requirement so long as the title fairly summarizes the ordinance. [PUBLICATION SHALL BE BY CAUSING A SUMMARY OF EACH ORDINANCE, AND, WHEN AMENDED AND SUBJECT TO FURTHER CONSIDERATION OR AMENDMENT BY THE ASSEMBLY, A SUMMARY OF ITS AMENDMENTS TO BE PUBLISHED AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE BOROUGH TOGETHER WITH A NOTICE OF THE TIME AND PLACE FOR PUBLIC HEARING. PUBLICATION OF THE TITLE SHALL SATISFY THIS REQUIREMENT WHERE THE TITLE FAIRLY SUMMARIZES THE ORDINANCE. ACCOMPANYING PUBLICATION OF ORDINANCE SUMMARIES SHALL BE A STATEMENT ADVISING THE PUBLIC THAT, SUBJECT TO LEGAL

LIMITATIONS, ORDINANCES MAY BE AMENDED BY THE ASSEMBLY PRIOR TO ADOPTION WITHOUT FURTHER PUBLIC NOTICE. THE HEARING SHALL FOLLOW NEWSPAPER PUBLICATION BY AT LEAST 5 DAYS.]

SECTION 4. That KPB 4.10.020 is hereby amended as follows:

4.10.020. Definitions.

In this title, unless the context otherwise requires:

[A.] "Borough election" means any election:

1. To fill a borough office;
2. Upon a proposition submitted to the voters under the ordinances of the borough; or
3. That the borough is required by law to administer.

[B.] "Borough office" means an elective office under the ordinances of the borough.

[C.] "Clerk" means the clerk of the borough, any properly authorized assistant or designee.

[D.] "Day" means a calendar day including Saturday, Sunday and holidays.

[E.] "Election" includes a regular, special or run-off borough election.

[F.] "Election official" means the borough clerk and members of all election boards.

[G. RESERVED.]

[H.] "Election supervisor" means the borough clerk.

[I.] "Oath" includes affirmation on penalty of perjury.

[J.] "Precinct" means the territory within which resident voters may cast votes at one polling place.

[K.] "Proposition" includes question.

[L. "PUBLICATION" MEANS A NEWSPAPER OF GENERAL CIRCULATION OR POSTING IN PUBLIC PLACES.]

[M.] "Qualified voter" means any person who has the qualifications required by this chapter and is not disqualified under Article V of the Alaska State Constitution.

[N.] "Questioned voter" means a voter whose name does not appear on the register in the precinct where [HE]the voter attempts to vote, a voter who has received an absentee ballot and does not turn it in when voting at [HIS]the voter's precinct on election day, a voter who does not bear identification or is not personally known to an election official though [HIS]the voter's name appears on the precinct register, or a voter who is questioned for good cause at the polls in writing.

[O.] "Regular election" means a general election to fill borough offices as required by Alaska Statutes.

[P.] "Registration" or "registered" refers to the form of registration required by the state election code. For borough elections, a person is registered if registered to vote in state elections in the precinct in which that person seeks to vote 30 days prior to the borough election.

[Q.] "Signature" includes any mark intended as a signature or subscription.

[R.] "Special election" means any election held at a time other than when a regular election is held.

[S.] "Swear" includes "Affirm".

[T.] "Total votes cast" means the total number of votes cast in each seat for candidates whose names are printed on the ballot plus votes properly cast for the same seat in the write-in position(s) of the ballot. Ballots which are counted as blank votes in a particular race and ballots which are counted as over votes in a particular race shall not be added into the total votes in determining the percentage of votes cast.

[U.] "Voter" means any person who presents [HIMSELF]oneself for the purpose of registering to vote or voting, either in person or by absentee application or ballot.

SECTION 5. That KPB 17.10.080 is hereby amended as follows:

4.30.070. - Notice of vacancies.

At least three days before nominations are open for each regular election, the clerk will provide notice [SHALL PUBLISH IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE BOROUGH A NOTICE] of offices to be filled at the election in accordance with KPB 1.08.180 and the procedure for filing a declaration of candidacy for the offices.

SECTION 6. That KPB 5.04.050 is hereby amended as follows:

5.04.050. - Budget proposal—Public hearing—Notices required.

The assembly [SHALL]will set dates for two public hearings on the budget proposal. Notice of the hearings [SHALL]will be published in accordance with KPB 1.12.040[A NEWSPAPER OF

GENERAL CIRCULATION IN THE BOROUGH NOT LESS THAN 1 WEEK BEFORE EACH HEARING] and on the borough's webpage. The assembly clerk [shall]will electronically send [ALSO CAUSE THE NOTICE TO BE PUBLISHED, SHALL MAIL]a copy to the city clerk of each city in the borough with a request that it be posted on the city [HALL BULLETIN BOARD]webpage.[, AND SHALL ALSO MAIL A COPY TO EACH POST OFFICE IN THE BOROUGH WITH THE REQUEST THAT IT BE POSTED ON THE POST OFFICE LOBBY BULLETIN BOARD].

SECTION 7. That KPB 5.08.060 is hereby repealed:

[5.08.060. LEGAL ADVERTISING.

- A. ALL LEGAL NOTICES AND OTHER ADVERTISING PUBLISHED ON BEHALF OF THE KENAI PENINSULA BOROUGH MUST BE ORDERED BY PURCHASE ORDER DULY AUTHORIZED, IN ACCORDANCE WITH THE BOROUGH PURCHASING PROCEDURES.
- B. EVERY LEGAL NOTICE OR OTHER ADVERTISEMENT PERTAINING ONLY TO THE CENTRAL PENINSULA AREA WILL BE PLACED IN A WEEKLY OR DAILY NEWSPAPER OF GENERAL CIRCULATION LOCATED IN THAT AREA. LEGAL ADVERTISING THAT PERTAINS ONLY TO THE HOMER AREA WILL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION LOCATED IN THE HOMER AREA; AND LEGAL ADVERTISEMENTS PERTAINING TO THE SEWARD AREA WILL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION LOCATED IN THE SEWARD AREA. LEGAL ADVERTISING THAT PERTAINS ESPECIALLY TO HOMER AND SEWARD AREAS SHALL BE INCLUDED IN LOCAL NEWSPAPER OF GENERAL CIRCULATION IN THE BOROUGH, EITHER FOR BROADER COVERAGE OF INTERESTED PERSONS, OR IN THE EVENT THAT HOMER AND SEWARD DO NOT HAVE A LOCAL NEWSPAPER.
- C. LEGAL ADVERTISING OF BOROUGH-WIDE SIGNIFICANCE WILL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE BOROUGH.
- D. A NEWSPAPER OF GENERAL CIRCULATION IS DEFINED AS A PUBLICATION THAT:
 - 1. IS PUBLISHED IN NEWSPAPER FORMAT;
 - 2. IS DISTRIBUTED AT LEAST ONCE A WEEK FOR AT LEAST 50 WEEKS EACH YEAR WITHIN THE AFFECTED AREA AS DESIGNATED IN THIS SUBSECTION B AND C OF THE SECTION, EXCLUDING A PERIOD WHEN PUBLICATION IS INTERRUPTED BY A LABOR DISPUTE OR BY A NATURAL DISASTER OR OTHER CASUALTY THAT THE PUBLISHER CANNOT CONTROL; AND HAS A TOTAL PAID CIRCULATION OR PAID DISTRIBUTION OF AT LEAST 500 COPIES, OR 10 PERCENT OF THE TOTAL POPULATION OF THE AFFECTED AREA AS DESIGNATED BY SUBSECTIONS B AND C OF THIS SECTION, WHICHEVER IS LESS;
 - 3. HOLDS A SECOND-CLASS MAILING PERMIT FROM THE UNITED STATES POSTAL SERVICE;
 - 4. IS NOT PUBLISHED PRIMARILY TO DISTRIBUTE ADVERTISING; AND
 - 5. IS NOT INTENDED PRIMARILY FOR A PARTICULAR PROFESSIONAL OR OCCUPATIONAL GROUP.

- E. OTHER ADVERTISING PUBLISHED OUTSIDE THE BOROUGH WILL BE PUBLISHED IN THE APPROPRIATE NEWSPAPERS AS DETERMINED BY THE MAYOR.
- F. FAILURE OF A PUBLISHED LEGAL ADVERTISEMENT TO CONFORM TO A PURCHASE ORDER AS TO REQUIRED DATES OR SEQUENCE OF PUBLICATION OR CONTENT WILL VOID THE PURCHASE ORDER. IN THE EVENT THAT THE BOROUGH INCURS ADDITIONAL COSTS DUE TO A NONCONFORMITY, THE PUBLISHER (OR NEWSPAPER) RESPONSIBLE FOR THAT ADVERTISING WILL BE HELD LIABLE FOR THOSE COSTS.
- G. TYPE SIZE FOR ALL LEGAL ADVERTISEMENTS WILL BE DETERMINED BY THE MAYOR AND SPECIFIED IN ANY REQUESTS FOR PROPOSALS TO PUBLISH.]

SECTION 8. That KPB 5.12.350 is hereby amended to read as follows:

5.12.350. Other taxes and tax liens—Tax liens—Enforcement on personal property—Procedures—Borough attorney authority.

- B. After the assembly has so specified, a copy of the roll containing the names and total amount due, together with a notice of the date collection actions will commence [SHALL]will be published in accordance in accordance with KPB 1.08.180[THE MANNER PRESCRIBED BY SECTION 5.12.260]. The notice [shall]will specify that if payment is not received by the date included in the published notice, the obligation [SHALL]will be referred to the borough attorney for collection.

SECTION 9. That KPB 5.28.210(B) is hereby amended to read as follows:

5.28.210. Solicitation and acceptance of bids.

- B. Public notice of the invitation for bids [SHALL]will be made accessible through the borough's website, published at the office of the purchasing officer, and in accordance with KPB 1.08.180 at least [ONCE IN THE NEWSPAPERS OF GENERAL CIRCULATION IN THE BOROUGH] 10 days before the last day on which bids will be accepted. The mayor [SHALL]will determine whether the services or products sought by each individual contract are of a type available from businesses located within the borough, and [SHALL]may cause additional publication of the invitation for bids within each region of the borough where such availability has been determined to exist. The contents of the notice [SHALL]must be sufficient to inform interested readers of the general nature of the supplies, services or construction being procured and the procedure for submitting a bid.

SECTION 10. That KPB 5.28.500(C) is hereby amended to read as follows:

5.28.500. Surplus disposal of tangible property.

- C. Public notice of the sale by sealed bid or at public auction [SHALL BE PUBLISHED AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE BOROUGH] will be published in accordance with KPB 1.08.180 at least 10 days before the last day on which bids will be accepted or the auction held. Such notice [shall]will also be posted at the borough purchasing office.

SECTION 11. That KPB 5.35.160(B) is hereby amended to read as follows:

5.35.160. Notice of assessment.

- B. Within 5 days after the statements are mailed, the finance director shall publish a notice in accordance with KPB 1.08.180 that such assessments have been mailed and that the assessment roll is on file in the office of the borough clerk.

SECTION 12. That KPB 14.06.240(B) is hereby amended to read as follows:

14.06.240. Road decertification.

- B. *Procedure.* Any road decertification must comply with the following procedures:
2. *Notice and hearing.* A public hearing [shall]will be held before the RSA board regarding decertification. Notice of the hearing will be published in accordance with KPB 1.08.180[SHALL BE PUBLISHED ONCE A WEEK FOR FOUR CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE BOROUGH PRIOR TO HEARING WITH THE LAST PUBLICATION APPEARING WITHIN 14 DAYS BEFORE THE HEARING DATE]. A notice of the decertification hearing [SHALL]will also be posted for a four-week period prior to the date of the first hearing at the beginning and ending points of the road proposed for decertification.
 5. *Assembly—Hearing required.* A public hearing [SHALL]will be held before the assembly regarding a decertification recommended by the RSA board that is subject to objections as set forth in KPB 14.06.240(B)(3)(b), in conjunction with consideration of a decertification resolution. Notice of the public hearing [SHALL]will be published in accordance with KPB 1.12.040[A NEWSPAPER OF GENERAL CIRCULATION ONCE A WEEK DURING EACH OF THE TWO CALENDAR WEEKS PRIOR TO THE HEARING].

SECTION 13. That KPB 14.10.055 is hereby amended as follows:

14.10.055. Public hearing and notice required.

- A. The planning commission [SHALL]will publish a notice stating street names to be changed, time and place of the public hearing, and a contact person. The public notice will be published in accordance with KPB 1.08.180. [SHALL BE PUBLISHED ONCE A WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA OF THE RENAMED STREET.] Notice [SHALL]will be sent by regular mail to property owners fronting the street to be renamed, as shown on borough tax rolls.
- B. When the name change [ONLY] involves only a change in the suffix, the planning commission will publish a notice in accordance with KPB 1.08.180[SHALL PUBLISH A NOTICE AS PROVIDED IN] this subsection. The notice must provide: (1) a list of all streets with existing suffixes and proposed changes; (2) the time and place of the public hearing and a contact person; and (3) a vicinity map of the affected area. [SHALL CONTAIN A LIST OF ALL STREETS WITH EXISTING SUFFIXES AND PROPOSED CHANGES, AND THE TIME AND PLACE OF THE PUBLIC HEARING AND A CONTACT PERSON. THE NOTICE SHALL INCLUDE A VICINITY MAP OF THE AFFECTED AREA. THE NOTICE SHALL BE PUBLISHED TWICE A WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA OF THE PROPOSED RENAMED STREET SUFFIX AND POSTED IN A CENTRAL LOCATION UTILIZED BY RESIDENTS AFFECTED BY THE PROPOSED RENAMING. IF PRACTICABLE, PUBLIC SERVICE ANNOUNCEMENTS WILL BE BROADCAST ON LOCAL RADIO STATIONS.]

SECTION 14. That KPB 14.40.070(A) is hereby amended as follows:

14.40.070. Oversize and overweight permits—Size and weight restrictions.

- A. *Regulation establishment.* If it is determined by the RSA director that oversize and overweight regulations are needed within the road service area, the RSA director shall decide to which rights-of-way the restrictions will apply. The rights-of-way proposed for regulation will be published in accordance with KPB 1.08.180. [SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE BOROUGH AT LEAST ONCE BEFORE IMPOSITION, WITH THE FIRST DATE OF PUBLISHED NOTICE BEING AT LEAST SEVEN DAYS PRIOR TO IMPOSITION. THE NOTICE SHALL BE PUBLISHED TWO ADDITIONAL TIMES IN A NEWSPAPER OR NEWSPAPERS OF GENERAL CIRCULATION WITHIN THE ROAD SERVICE AREA WHILE THE RESTRICTIONS ARE IN PLACE.] The RSA director [SHALL]will provide a report of the restrictions to the service area board prior to or at the next meeting of the road service[D] area board. The RSA board may modify the restrictions. Restrictions for particular rights-of-way remain in place unless modified or discontinued by the RSA director through publication of a notice in a newspaper of general circulation within the road service area. The RSA director may also post individual roads with load limits based on the condition of the road and traffic.

SECTION 15. That KPB 14.40.110 is hereby repealed:

[14.40.110. OVERSIZE AND OVERWEIGHT PERMITS—SIGNAGE.

THE RSA DIRECTOR MAY POST INDIVIDUAL ROADS WITH LOAD LIMITS BASED ON THE CONDITION OF THE ROAD AND TRAFFIC. POSTING DOES NOT NEGATE THE REQUIREMENT FOR PUBLISHED NOTICE SET FORTH IN KPB 14.40.070(A).]

SECTION 16. That KPB 14.40.070(A) is hereby amended as follows:

16.04.040. Public hearing—Required where—Notice—Assembly authority.

The assembly or mayor [SHALL]will fix the time and place of a public hearing to consider the necessity for the proposed service area or expanded service area. The place of the public hearing [SHALL]must be within the boundaries of the area proposed to be established as a service area or an expansion thereof, or in a publicly-owned building in closest proximity to any of the boundaries of the proposed service area, in the event that facilities within the boundaries are not adequate to hold the public meeting. When expansion of a service area is being considered, a public hearing [SHALL]will be held in each area under consideration for expansion. Notice of the hearing will be published in accordance with KPB 1.08.180[SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PROPOSED SERVICE AREA OR EXPANDED AREA NOT LESS THAN ONE WEEK PRIOR TO THE HEARING, THE NOTICE OF THE HEARING TO BE POSTED IN EACH POST OFFICE WHICH IS UTILIZED BY THE RESIDENTS OF THE PROPOSED SERVICE AREA OR EXPANDED SERVICE AREA]. After hearing the interested persons favoring or opposing the proposed service area, the assembly may extend or shorten the boundaries of the proposed service area or expansion thereof and may introduce an ordinance at the next regular meeting of the borough assembly to establish the proposed service area or expand an existing service area with whatever boundary changes are made by the assembly as a result of the information received on the petition and at the public hearing. The boundaries of a road service area must consist of one or more election precincts as provided in this chapter. The public hearing provided for in this section may be held by a special committee of less than the whole assembly; provided, that the special committee [SHALL MAKE A] report [OF] its findings and recommendations to the whole assembly at a regular meeting prior to the assembly's action on the proposed service area or expansion thereof. The president of the assembly [SHALL]will appoint the members of the special committee to hold the public hearing at a time and place fixed by the assembly. This section [SHALL] only applies[y] to proposed new service areas and service area expansions for which voter approval is required in either AS 29.35.450 or AS 29.35.490.

SECTION 17. That KPB 16.16.030 is hereby amended as follows:

16.16.030. 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 chairman of the board or by any 2 members upon [1 DAY'S NOTICE THEREOF PUBLISHED IN A NEWSPAPER HAVING GENERAL DISTRIBUTION WITHIN THE SERVICE AREA] twenty-four hour notice published in accordance with KPB 1.08.180. The notice [SHALL]will set forth the time and place of the meeting and [SHALL]will be mailed or telephoned to each board member. The attendance of a board

member at a meeting constitutes a waiver of notice of the meeting. All meetings are open to the public as provided by law. [IN AS 29.23.580 AND AS 44.62.310 AND IN ACCORDANCE WITH THE POLICIES SET FORTH IN AS 44.62.312. 3] Three board members shall constitute a quorum; however, any action shall require the affirmative vote of [3] three board members.

SECTION 18. That KPB 16.20.040 is hereby amended as follows:

16.20.040. 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 [ONE DAY'S NOTICE THEREOF PUBLISHED IN A NEWSPAPER OR VIA RADIO HAVING GENERAL DISTRIBUTION WITHIN THE SERVICE AREA]24 hour notice published in accordance with KPB 1.08.180. The notice [SHALL]will set forth the time and place of the meeting and shall be mailed or telephoned to each board member. All meetings [SHALL BE]are open to the public as provided by law. Three board members shall constitute a quorum; however, an action shall require the affirmative vote of three board members.

SECTION 19. That KPB 16.28.030 is hereby amended as follows:

16.28.030. Board—Meetings—Quorum.

The board [SHALL]will meet periodically at a regularly scheduled time and place designated by the board. Special meetings of the board may be called by the chairman of the board or by any 2 members upon [1 DAY'S NOTICE THEREOF PUBLISHED IN A NEWSPAPER OR VIA RADIO HAVING GENERAL DISTRIBUTION WITHIN THE SERVICE AREA]twenty-four hour notice published in accordance with KPB 1.08.180. The notice [SHALL]will set forth the time and place of the meeting and [SHALL]will be mailed or telephoned to each board member. The attendance of a board member at a meeting constitutes a waiver of notice of the meeting. All meetings are open to the public as provided by law[IN AS 29.23.580 AND AS 44.62.310 AND IN ACCORDANCE WITH THE POLICIES SET FORTH IN AS 44.62.312]. Three board members shall constitute a quorum; however, any action shall require the affirmative vote of [3]three board members.

SECTION 20. That KPB 16.28.040 is hereby amended as follows:

16.30.040. Board—Meetings—Quorum.

The board [SHALL]will meet periodically at a regularly scheduled time and place designated by the board. Special meetings of the board may be called by the chairman of the board or by any two members upon [ONE DAY'S NOTICE THEREOF PUBLISHED IN A NEWSPAPER OR VIA RADIO HAVING GENERAL DISTRIBUTION WITHIN THE SERVICE AREA]24 hour notice published in accordance with KPB 1.08.180. The notice [SHALL]will set forth the time and place of the meeting and [SHALL]will be mailed or telephoned to each board member. All meetings are open to the public as provided by law[IN AS 29.23.580 AND AS 44.62.310 AND IN ACCORDANCE WITH THE POLICIES SET FORTH IN AS 44.62.312]. Three board members shall

constitute a quorum; however, an action shall require the affirmative vote of three board members.

SECTION 21. That KPB 16.41.030 is hereby amended as follows:

16.41.030. Board—Meetings—Quorum.

- A. *Regular meetings.* The board [SHALL]will meet periodically at a regularly scheduled time and place designated by the board.
- B. *Special meetings.* Special meetings of the board may be called by the chairman of the board or by any three members upon [ONE DAY'S NOTICE THEREOF PUBLISHED IN A NEWSPAPER OR VIA RADIO HAVING GENERAL DISTRIBUTION WITHIN THE SERVICE AREA]24 hour notice published in accordance with KPB 1.08.180.

SECTION 22. That KPB 16.50.040 is hereby amended as follows:

16.50.040. Board—Meetings—Quorum.

The board [SHALL]will 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 [ONE DAY'S NOTICE THEREOF PUBLISHED IN A NEWSPAPER OR VIA RADIO HAVING GENERAL DISTRIBUTION WITHIN THE SERVICE AREA]24 hour notice published in accordance with KPB 1.08.180. The notice [SHALL]will set forth the time and place of the meeting and [SHALL]will be mailed or telephoned to each board member. All meetings [SHALL BE]are open to the public as provided by law. Four board members shall constitute a quorum; however, an action shall require the affirmative vote of four board members.

SECTION 23. That KPB 16.80.040(B) is hereby amended as follows:

16.80.040. Board—Meetings—Quorum.

- B. *Special meetings.* Special meetings of the board may be called by the chair of the board or by any three members upon [AT LEAST TWO DAYS' NOTICE THEREOF PUBLISHED IN A NEWSPAPER OR VIA RADIO HAVING GENERAL DISTRIBUTION WITHIN THE BOROUGH AND POSTING NOTICES AT THE BOROUGH ADMINISTRATIVE OFFICES AT 144 N. BINKLEY STREET, SOLDOTNA, ALASKA]24 hour notice published in accordance with KPB 1.08.180. Notice [SHALL ALSO BE MAILED OR ELECTRONICALLY TRANSMITTED]will also be emailed to each board member. The attendance of a board member at a meeting constitutes a waiver of notice of the meeting.

SECTION 24. That KPB 17.08.010(B) is hereby amended as follows:

17.08.010. Authority to dispose of forest resources.

- B. The mayor [SHALL]may identify harvest areas of at least 40 acres containing commercially valuable amounts of dead and mature timber. Notice of the parcels proposed for salvage or

harvest of dead and mature timber [SHALL BE PUBLISHED PER KPB CODE 5.08.060]will be published in accordance with KPB 1.08.180 and [SHALL] inform prospective purchasers of the size, location and other pertinent information about the harvest area. The mayor may request that proposals be submitted by interested parties stating the parcels from which the parties propose to salvage or harvest their timber and the amount which the prospective purchaser would pay to the borough for harvest of timber.

SECTION 25. That KPB 17.10.080(H) is hereby amended as follows:

17.10.080. Classification and reclassification of borough lands.

- H. Notice of the proposed classification will be published in accordance with KPB 1.08.180. [SHALL BE PUBLISHED TWO TIMES IN A NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL AREA IN WHICH THE CLASSIFICATION IS PROPOSED. IN AREAS NOT SERVED BY DAILY NEWSPAPERS, THE NOTICE SHALL BE POSTED IN THE POST OFFICE OF THE IMPACTED COMMUNITY AND SENT TO THE APPROPRIATE ADVISORY PLANNING COMMISSION.] The notice [SHALL]must contain the description of the property to be classified, the general location, proposed classification, where written comments may be submitted, the last date for which written comments may be submitted, and the date, time and location of the planning commission public hearing. [AT THE BEGINNING OF THE NOTICE PERIOD A COPY OF THE NOTICE SHALL BE SENT BY REGULAR MAIL TO ALL OWNERS AND/OR] LEASEHOLDERS OF RECORD OF PROPERTY LOCATED WITHIN A RADIUS OF ONE-HALF MILE OF THE LANDS TO BE CLASSIFIED.] Notice [SHALL]will also be sent to applicable local, state or federal government agencies, advisory planning commissions, all owners and leaseholders of record of property located within a radius of one-half mile of the lands to be classified[and other interested groups]. The public comment period [SHALL]will not be less than thirty (30) calendar days from the date of the first publication of the notice. When land is classified in conjunction with the adoption or implementation of a community land use plan that was adopted as an element of a comprehensive plan, or within a city with a zoning ordinance the classification is excepted from the requirement that public notice be mailed to all owners and[/OR] leaseholders of record property located within a radius of one-half mile of the land to be classified.

SECTION 26. That KPB 17.10.110 is hereby amended as follows:

17.10.110. Notice of disposition.

Notice of disposition of land sales will be published in accordance with KPB 1.08.180[SHALL BE PUBLISHED FOUR TIMES IN THE THIRTY DAY PERIOD IMMEDIATELY PRECEDING THE DATE OF THE SALE]. The last notice of disposition must appear not less than five calendar days prior to the date of disposal. [IN AREAS NOT SERVED BY DAILY NEWSPAPERS, THE NOTICE SHALL BE POSTED IN APPROPRIATE POST OFFICES AND SENT TO APPROPRIATE ADVISORY PLANNING COMMISSIONS.] The notice [SHALL]must contain a brief description of the land, the general location of the land and the terms of the sale as fixed by the assembly by ordinance.

SECTION 27. That KPB 17.10.130(F)(2) is hereby amended as follows:

17.10.130. Conveyance of the land.

- F. Where the conveyance instrument contains deed restrictions, those restrictions may be modified by:
2. Within 60 calendar days from the date of receipt of the petition, notice of the petition will be published in accordance with KPB 1.08.180[SHALL BE PUBLISHED TWO TIMES IN A NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL AREA IN WHICH THE PROPERTY IS LOCATED. IN AREAS NOT SERVED BY DAILY NEWSPAPERS, THE NOTICE SHALL BE POSTED IN THE POST OFFICE OF THE IMPACTED COMMUNITY AND SENT TO THE APPROPRIATE ADVISORY PLANNING COMMISSION. THE NOTICE SHALL CONTAIN THE DESCRIPTION OF THE PROPERTY, THE GENERAL LOCATION, PROPOSED RESTRICTION MODIFICATION, WHERE WRITTEN COMMENTS MAY BE SUBMITTED, THE LAST DATE FOR WHICH WRITTEN COMMENTS MAY BE SUBMITTED, AND THE DATE, TIME AND LOCATION OF THE PLANNING COMMISSION MEETING. AT THE BEGINNING OF THE NOTICE PERIOD A COPY OF THE NOTICE SHALL BE SENT BY REGULAR MAIL TO ALL OWNERS AND/OR LEASEHOLDERS OF RECORD OF PROPERTY LOCATED WITHIN A RADIUS OF ONE-HALF MILE OF THE LANDS UNDER PETITION. NOTICE SHALL ALSO BE SENT TO APPLICABLE LOCAL, STATE OR FEDERAL GOVERNMENT AGENCIES, ADVISORY PLANNING COMMISSION AND OTHER INTERESTED GROUPS.] The public comment period shall not be less than 30 calendar days from the date of the first publication of the notice.

SECTION 28. That KPB 17.10.190(C) is hereby amended as follows:

17.10.190. Casual use of borough land.

- C. The mayor may close any and all borough land to casual use by issuing a written order that contains a finding that an emergency exists and a statement of the facts on which the finding is based. The mayor [SHALL PUBLISH]will publish a notice of the location of borough land that the mayor has closed to casual use in accordance with KPB 1.08.180.

SECTION 29. That KPB 17.10.250 is hereby amended as follows:

17.10.250. Definitions.

In this chapter, unless the context otherwise requires:

- [A.] "Agriculture" means activities that result in products for human or animal use. Agriculture activities may include raising crops, animals, or grazing animals. Agriculture does not include human habitation.
- [B.] "Borough land" means land or interest in land to which the borough holds legal and/or equitable title.
- [C.] "Casual use" means a use of borough land that is nonexclusive and involves only minimal disturbance to the land. Nonexclusive examples of a casual use are hiking, cross country skiing, snow machining, berry picking, hunting, brushing survey lines or trails

where roots are not disturbed, livestock drives, and the use of all-terrain vehicles off an established road or right-of-way but on an existing trail. However, hiking trails or consistent use for hiking and establishing hunting camps do not constitute a casual use.

- [D.] "Commercial" means lands suitable for development or location of service oriented facilities such as stores, offices, medical clinics, restaurants, lodges, vehicular service stations, hotels, and camper parks. Lands must be able to support on-[SIGHT]site water and sewer systems or capable of receiving water and/or sewer service, located near public utilities and be in proximity to residential areas.
- [E.] "Date of Sale" means the calendar date for which the sale is scheduled to take place, not the date of closing.
- [F.] "Dedication" means the deliberate grant of land by an owner to the public for any general and public use, with the owner reserving no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted and the borough has formally accepted it.
- [G.] "Easement" means an interest held by one party in land or another whereby the first party is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the rights of the fee owner to the use and enjoyment of his land.
- [H.] "Emergency" means an unforeseen circumstance which demands immediate action.
- [I.] "Established material site" means those former state permit sites which were transferred to the borough.
- [J.] "Fair market value" means the estimated price that land would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels. The borough assessor shall determine fair market value unless the mayor determines in writing that a fee appraiser shall determine fair market value.
- [K.] "Fair market rental value" means the estimated rental price that land would rent for in an open market and under the then prevailing market conditions in a lease between a willing lessor and a willing lessee both conversant with the property and with prevailing general rent levels. The borough assessor shall determine the fair market rental value unless the mayor determines in writing that a fee appraiser shall determine fair market rental value.
- [L.] "Final Decision" or "selected approved" means lands acquired under the borough's general land grant entitlement and have been approved by receipt of a final decision from the State, but patent has not been issued to the borough. Management authority for these lands has been passed from the state to the borough.
- [M.] "General grant land entitlement" means a grant of land pursuant to A.S. 29.65 and also may be referred to as "municipal entitlement land".

- [N.] "Geophysical hazard" includes, but is not limited to, a hazard such as an earthquake, slumping, flooding, erosion, or avalanche.
- [O.] "Government" means lands that may be or are required for use by a federal, state or local governmental entity. Such uses include existing and future school sites; sites for service area facilities; or, any governmental use determined to be beneficial to the public.
- [P.] "Grazing lands" means those lands which in their natural state have the physical and climatic features that make them primarily useful for the pasturing of domestic livestock. This classification is not exclusive and may overlap any other classification thereby allowing other nonconflicting uses.
- [Q.] "Heavy industrial" means lands suitable for processing chemicals or manufacturing from or extraction of raw materials, stockyards, fish processing plants, distilleries, or uses that may discharge water, create hydrocarbons, excessive noise, odors, danger of explosions, or waste material, making them incompatible with most other land uses. Lands should not be located in or immediately adjacent to residential development; parcels should be of sizes reasonably appropriate to accommodate the activities together with sufficient buffers zones for the activity associated with this class of use. Appropriate access shall be available or feasible without going through residential areas. The lands shall be in a location that is reasonably convenient to conduct the activity.
- [R.] "Institutional" means lands which may be of value for the location of churches, private schools, clubs, associations, nonprofit organizations, cemeteries.
- [S.] "Light Industrial" means lands suitable for industrial uses that generally do not have offensive characteristics and can be conducted primarily inside closed buildings. Such uses may include warehousing, storage inside enclosed areas, and light manufacturing not inside buildings.
- [T.] "License" means permission to do something which without the license would not be allowable. A license does not grant any interest in the land.
- [U.] "Materials" means common varieties of sand, gravel, rock, peat, pumice, pumicite, cinders, clay and sod.
- [V.] "Person" means any person, firm, corporation or partnership.
- [W.] "Preservation" means lands needed for stabilization or maintenance of natural features, historic value, known nesting areas of migratory birds or required to maintain the integrity of certain types of easements or as buffers, green belts, water sheds or other reservations to preserve natural resources and aesthetic qualities. Soils may be of such a nature as to not be usable for construction of buildings.
- [X.] "Public purpose" or "public use" means a present or future purpose or use that will promote the health, safety, morals, general welfare, security, prosperity and happiness or the residents of the borough as a community at large rather than as individuals.

[Y.] "Public utility" means an agency that is licensed, authorized, and regulated to provide utility services for public use.

[Z.] "Public utility easement" means a portion of land reserved for the purpose of providing utility services by an agency or public utility.

[AA. "PUBLISH" MEANS APPEARING AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION DISTRIBUTED IN THE BOROUGH.

[BB.] "Qualified appraiser" means a real estate appraiser or firm that employs an appraiser that is in good standing and is certified by the State of Alaska in accordance with AS 08.87.020, AS 08.87.110, and AS 08.02.030. An appraiser who is certified by the Alaska Association of Assessing Officers as an Alaska Certified Assessor/Appraiser. It shall also mean that the appraiser shall hold the appropriate level certification commensurate with the appraisal assignment.

[CC.] "Recreational" means land located in an area where the potential for recreational use exists. This may include both indoor and outdoor uses such as gun ranges, archery ranges, camping, golf courses, snow machine trails, cross country trails, skiing, boating, fishing or which may provide access to those activities. Recreational does not include use of lands for amusement parks. Site conditions for any authorized use must be appropriate and suited for such uses. Recreational lands disposed of to private parties must allow public use unless specifically waived by ordinance. If recreational lands are for sale or lease then restrictions may be imposed for appropriate uses given conditions and surrounding use. Not all activities are suitable for all sites.

[DD.] "Residential" means lands suitable for development for single family or multifamily settlement of a permanent nature. Residential parcels may be located adjacent to existing communities or are determined to be necessary for future community development. Residential parcels must be able to support on-site water and sewer systems or capable of receiving water and/or sewer service, have legal access and feasible physical access, suitable terrain and appropriate with the given surrounding uses.

[EE.] "Resource" as used in this chapter means sand, gravel, timber, peat, turf, soil, rock, shale, water, or such other natural material having value.

[FF.] "Resource development" means land containing resources of sufficient volume and quality and located so that on-going development or production of those resources would yield an overall net economic return. Lands so classified may be sold or leased subject to appropriate restrictions concerning operations or future reclamation. Lands so classified may be retained by the borough and resources on those lands may be sold or permitted for use.

[GG.] "Resource management" means land having resources which may be extracted as an interim use in manner which will not create a negative impact on the most appropriate use of the land. This classification is not exclusive and may overlap any other classification thereby allowing other non-conflicting uses. Resources on these lands may be sold or permitted for use.

[HH.] "Rural" means lands which are located in a remote area. This classification will have no restrictions.

[II.] "Short term lease" means the lease of borough land for a period not to exceed five years.

[JJ.] "Subdivision":

1. Means the division of a parcel of land into two or more lots or other division for the purpose of sale or building development, includes resubdivision, and relates to the process of subdividing or to the land subdivided.
2. Does not include cadastral plats, cadastral control plats, open-to-entry plats, or remote parcel plats created by or on behalf of the state regardless of whether these plats include easements or other public dedications.

[KK.] "Temporary use" means a use of borough land that is either exclusive or nonexclusive, but the use is not pursuant to an authorized lease, easement, extraction license, or commercial sale of borough sand, gravel, or green wood timber sources. Examples of a temporary use are the use of borough land for temporary access or a construction easement, one day only events, staging areas, or annual civic events.

[LL.] "Trespass" means the unauthorized use or possession of borough land.

[MM.] "Unapproved selection" or "unapproved lands" means those lands selected under the borough's general land grant entitlement for which approval has not been obtained from the State.

[NN.] "Unintentional trespass" means the inadvertent location of a structure on borough land.

[OO.] "Utility/transportation" (not including oil and gas and electricity generation or production facilities) means lands which may be of value for airports, port and harbor facilities, power lines, pipelines, utility services, rights-of-way, easements and related activities but does not include general and production facilities for oil and gas and electricity.

[PP.] "Waste handling" means land with suitable characteristics and location for the express purpose of providing facilities to handle solid waste, recyclable materials, transfer stations, junked or wrecked vehicles, demolition refuse, septic and sewage

waste and industrial waste. Disposal or use of any tract so classified will be subject to determination of the tract being suitable for a particular proposed activity.

SECTION 30. That KPB 17.50.040 is hereby amended as follows:

17.50.040. Notice of forest resource disposal.

The mayor or designee [SHALL GIVE]will publish notice for disposal of forest resources in accordance with KPB 1.08.180[BY CONTRACT BY LEGAL ADVERTISEMENT PUBLISHED ONCE IN A PUBLICATION OF GENERAL CIRCULATION IN THE BOROUGH]. Public notice [SHALL]will be advertised a minimum of 30 days prior to the disposal of forest resources and [SHALL]will include the following:

- A. Type of contract;
- B. Location of proposed disposals;
- C. Minimum acceptable bid, if applicable;
- D. Method of bidding;
- E. Time and place of bidding;
- F. Duration of contract; and
- G. Location of detailed information on the disposal

SECTION 31. That KPB 20.10.100 is hereby amended as follows:

20.10.100. Notice; Public Hearing.

- A. Notice of any public hearing required under this title shall be given in accordance with this section.
- B. Required forms of notice are as follows:
 - 1. Publication in a newspaper of general circulation in the borough prior to the public hearing or, if there is no newspaper of general circulation distributed in the municipality, posting in three public places for at least five days.
 - 2. Notices [SHALL]will be mailed at least 14 days before the public hearing to all record owners of property within a distance of [600]300 feet of the exterior boundary of the property that is the subject of the application or hearing. All notices [SHALL]will be mailed to the record owner at the address listed in the current property tax record of the borough assessor.

3. Notice of the public hearing will also be posted on the borough's webpage [MUST BE POSTED ON THE BOROUGH PLANNING DEPARTMENT'S WEBSITE] and posted on the planning department's bulletin board located at 144 N. Binkley Street, Soldotna, Alaska.
4. The planning director may direct that additional notice of the public hearing be given. The planning commission, at its discretion, may also direct additional notice of the public hearing be given. However, the failure to give such additional notice shall not affect the validity of any proceeding under this title.

SECTION 32. That KPB 20.90.010 is hereby amended as follows:

20.90.010. Definitions generally.

In this title, unless otherwise provided, or the context otherwise requires, the following definitions shall apply.

"Agenda" means the list of items to be considered by the planning commission or plat committee, in the order in which they are to be taken up, and includes the time and location of the meeting. [; THE AGENDA ALSO SERVES AS PUBLIC NOTICE, PUBLISHED IN LOCAL PAPERS AND ONLINE, AND POSTED IN PUBLIC LOCATIONS.]

SECTION 33. That KPB 20.90.010(A) is hereby amended as follows:

21.04.020. Notification of proposed zoning district creation or change and hearing.

- A. When a public hearing is to be held by the Assembly concerning the creation, amendment, or abolishment of a zoning district other than the rural district, a notice containing the following information shall be published in accordance with KPB 1.12.040 and posted on the borough's webpage [AT LEAST TWICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE SUBJECT ZONING DISTRICT DURING EACH OF THE TWO CALENDAR WEEKS PRIOR TO THE PUBLIC HEARING DATE]. Additionally, a copy of the notice will be mailed to all real property owners of record whose property is located in the specific district where the district boundaries overlaying that property are proposed to be created, amended, or abolished. If the subject district is an overlay district this notice by mail requirement will not apply to owners of property in other districts that are not located in the subject overlay district.

SECTION 34. That KPB 21.11.020(A) is hereby amended as follows:

21.11.020. Public hearing notice.

- A. Notice of the public hearing will be published in accordance with KPB 1.08.180 [SHALL BE PUBLISHED AT LEAST TWICE IN A PAPER OF GENERAL CIRCULATION WITHIN THE CITY. THE NOTICE SHALL BE PUBLISHED DURING EACH OF THE 2 CALENDAR WEEKS PRIOR TO THE PUBLIC HEARING DATE].

SECTION 35. That KPB 21.25.060 is hereby amended as follows:

21.25.060. Notice.

Notice of the pending application will be published in accordance with KPB 1.08.180 and sent by regular mail to all owners and leaseholders of record of property located with a radius of one-half mile of the subject property [SHALL BE PUBLISHED TWO TIMES IN A NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL AREA IN WHICH THE LAND USE IS PROPOSED. THE NOTICE SHALL ALSO BE POSTED IN THE POST OFFICE(S) OF THE IMPACTED COMMUNITY. AT THE BEGINNING OF THE NOTICE PERIOD A COPY OF THE NOTICE SHALL BE SENT BY REGULAR MAIL TO ALL OWNERS AND/OR LEASEHOLDERS OF RECORD OF PROPERTY LOCATED WITH A RADIUS OF ONE-HALF MILE OF THE SUBJECT PROPERTY]. The notice shall contain a description of the proposed location, the type of proposed land use, the applicant's name, where written comments may be submitted, the last date for which written comments may be submitted, and the date, time and location of the public hearing.

SECTION 36. That KPB 22.10.030 is hereby amended as follows:

22.10.030. Advertisement and selection.

- A. The assembly president, upon being informed of the vacancy of the borough clerk, [SHALL CAUSE ANNOUNCEMENTS OF THE VACANCY TO BE PUBLISHED AT LEAST ONCE IN EACH NEWSPAPER WITHIN THE BOROUGH AND OTHER MAJOR NEWSPAPERS AND SHALL] will publish notice of the vacancy in accordance with KPB 1.08.180 and give notice to the Alaska Municipal League, stating in summary the qualifications for appointment, the salary range, and the time and manner of making application for the position.

SECTION 37. That this ordinance shall be effective immediately.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 2ND DAY OF APRIL, 2024.

Brent Johnson

Brent Johnson, Assembly President

ATTEST:

Michele Turner

Michele Turner, CMC, Borough Clerk



Yes: Cooper, Cox, Ecklund, Elam, Hibbert, Ribbens, Tunseth, Tupper, Johnson

No: None

Absent: None