

Introduced by: Mayor
Date: 06/06/23
Hearing: 06/20/23
Action: Enacted
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-13**

**AN ORDINANCE ISSUING AN ORDER OF CONDEMNATION AND PROVIDING AN
EXCEPTION TO KPB 21.16.010 TO ALLOW FOR EXPEDITED REMOVAL OF A
HAZARDOUS AND DANGEROUS BUILDING**

WHEREAS, Zipmart, owned and operated by Whittier Properties, Inc., was a vehicle fueling station business that began operations in 1985; and

WHEREAS, according to a report published by the State of Alaska’s contractor that was engaged to monitor and perform remediation work at the Zipmart site, soil and groundwater contamination was first discovered in 1995; in 2001, an assessment found 13 inches of fuel in groundwater monitoring wells at the Zipmart property due to a break in the gasoline tank fill pipe which caused an estimated 53,000 gallons of fuel to be released to the environment; and

WHEREAS, in early 2002, the State of Alaska’s Department of Environmental Conservation (ADEC) assumed management of cleanup activities related to the Zipmart site, soil, and groundwater contamination; and

WHEREAS, the recently collapsed Zipmart building is a hazard to public health, safety, and general welfare; and

WHEREAS, the collapsed Zipmart building is a danger and attractive nuisance to the Sterling area youth and local residents; and

WHEREAS, this ordinance provides for an exception to code to waive the requirement to wait 30 days between the Planning Commission’s show cause hearing and the Assembly’s order of removal so that the Borough Administration may immediately proceed with removal of the hazardous building; and

WHEREAS, as further justification for providing an exception to Borough Code to allow for immediate removal, the Borough will not charge the cost of the removal to the property which is already in significant arrears to the Borough for unpaid property taxes and to the State for costs of site cleanup and remediation; and

WHEREAS, at its regularly scheduled meeting on June 8, 2023, the Planning Commission issued an order for the property owner to show cause why the Zipmart building should not be condemned and set the show cause hearing for June 12, 2023;

WHEREAS, at its regularly scheduled meeting on June 12, 2023, the Planning Commission held a show cause hearing and following the hearing the Planning Commission approved by unanimous consent a resolution recommending the Assembly issue an order of condemnation; and

WHEREAS, it is in the best interests of the Borough for the Assembly to issue an order of condemnation and order the removal of the hazardous Zipmart building in order to protect citizens against threats to public health, safety, and general welfare;

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

SECTION 1. That the Assembly issues this order of condemnation and declares the building, known as the Zipmart building located at 38525 Swanson River Road, Sterling, Alaska, KPB Parcel Identification No. 06349049, to be a health hazard or public nuisance. The Assembly, in consideration of the Planning Commission's recommendation, further orders that the Zipmart building be demolished and removed.

SECTION 2. That, notwithstanding KPB 21.16.010, the Assembly finds it is in the best interest of public safety, health, and general welfare to provide an exception to the requirement to wait 30 days between the hearing before the Planning Commission and the Borough removes or demolishes the collapsed, hazardous building based on the following findings:

1. The Zipmart building is a public health hazard and attractive nuisance that must be removed as soon as possible.
2. The Zipmart owners are not willing or able to take action to address the structure hazard and no longer have site control at the property and have not responded to any Borough notices regarding the condemnation of the building.
3. Upon enactment of this ordinance, the Borough may immediately proceed with demolition and removal of the building on the condition that the charges of the removal will not be charged back to the property.
4. By not charging the removal costs to the property, it is appropriate to provide for an exception to allow the Borough to remove the hazard. The building is not salvageable.

SECTION 3. That Whitter Properties, LLC was first provided notice, by certified mail, of the condemnation proceedings on May 10, 2023.

SECTION 4. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH 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