

Introduced by: Mayor
Date: 10/14/14
Hearing: 11/25/14
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2014-31**

**AN ORDINANCE AUTHORIZING THE RELEASE OF A DEED RESTRICTION AT
THE REQUEST OF THE HOMER CITY COUNCIL ON A PARCEL OF LAND
CONTAINING THE FORMER HOMER INTERMEDIATE SCHOOL THAT WAS
DEEDED TO THE CITY OF HOMER BY THE KENAI PENINSULA BOROUGH**

- WHEREAS,** Tract 2 Homer School Survey 1999 City Addition. Plat No 2000-22, Homer Recording District contains the former territorial school and the former Homer Intermediate School facility; and
- WHEREAS,** through KPB Ordinance 98-42, Tract 2 was determined to be surplus to borough and school district needs and was deeded to the City of Homer; and
- WHEREAS,** in accordance with Ordinance 98-42, a restriction was placed on the deed by the borough, which states “the site shall be owned in perpetuity by the City of Homer or its successor and managed for the use and benefit of the general public”; and
- WHEREAS,** the City of Homer has managed the property for the use and benefit of the general public; and
- WHEREAS,** the Homer City Council adopted Resolution 13-096 requesting the Borough to “amend...the quit claim deed on the...Old Middle School property to allow the City to sell the property and dedicate and direct the sale proceeds to the use and benefit of the general public”; and
- WHEREAS,** without the restriction, the city would be able to determine how the parcel would best serve public interests under the city’s authority and public processes; and
- WHEREAS,** the city has indicated it would demolish the buildings and utilize the site for a public safety building or sell the parcel and use the proceeds to further public purposes;
- WHEREAS,** public notice has been published per KPB 17.10.130(F)(2); and
- WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of November 10, 2014, recommended approval by unanimous consent;

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

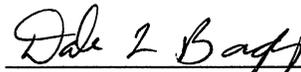
SECTION 1. That pursuant to KPB 17.10.130(F)(4), the mayor is hereby authorized to release the deed restriction Tract 2, Homer School Survey 1999 City Addition. Plat No 2000-22, Homer Recording District, set forth in Book 303 Page 614 Homer Recording District, based on the following findings of fact:

- a. Through Ordinance 98-42 the property was determined to be surplus to borough and school district needs.
- b. The property was conveyed to the City of Homer pursuant to KPB Ordinance 98-42 on July 7, 2000, subject to the restriction that the site shall be owned in perpetuity by the City of Homer or its successor and be managed for the use and benefit of the general public.
- c. Through Resolution 13-096 the City of Homer has indicated it cannot afford to operate and maintain the buildings and has also indicated it does not have a suitable future use for the buildings.
- d. The city has indicated it is considering siting its new public safety building on the parcel or may sell the parcel and use the proceeds for public purposes.
- e. The Kenai Peninsula Borough does not have a foreseeable need for use of the property.
- f. Public notice of the proposed action was delivered and published in accordance with KPB 17.10.130(F)(2).
- g. The planning commission considered the petition in accordance with KPB 17.10.130(F)(3), and recommended approval.

SECTION 2. The mayor is authorized to sign the *Release of Deed Restriction* in a form substantially similar to the documents attached hereto, and any other documents necessary to effectuate the intents and purposes of this ordinance.

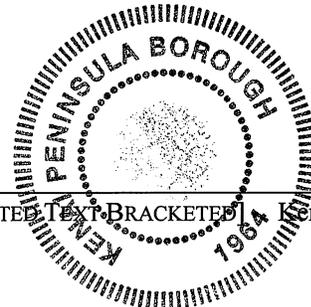
SECTION 3. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 25TH DAY OF NOVEMBER, 2014.


Dale Bagley, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Cooper, Haggerty, Gilman, Johnson, McClure, Ogle, Welles, Wolf, Bagley
No: None
Absent: None

RELEASE OF DEED RESTRICTION

WHEREAS, the Kenai Peninsula Borough conveyed the below described property to the City of Homer by quitclaim deed recorded at **Book 303, Page 614 in the Homer Recording District** pursuant to KPB Ordinance 98-42 on July 7, 2000:

Tract 2, Homer School Survey 1999 City Addition, According to Plat No. 2000-22 on file in the Homer Recording District, Third Judicial District, State of Alaska

WHEREAS, said conveyance instrument contained the following restriction:
"FURTHER SUBJECT TO the restriction that the site shall be owned in perpetuity by the City of Homer or its successor and be managed for the use and benefit of the general public"; and

WHEREAS, on November 25, 2014 the Kenai Peninsula Borough Assembly enacted Ordinance 2014-31 authorizing the release of said restriction.

NOW, THEREFORE, the GRANTOR, KENAI PENINSULA BOROUGH, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669, for the sum of one dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Assembly Ordinance 2014-31, enacted November 25, 2014, releases forever the GRANTEE, CITY OF HOMER, an Alaska municipal corporation, whose address is 491 East Pioneer Avenue, Homer, AK 99603, its successors and assigns, from the above-stated restriction on the use and ownership of the above described real property set forth in the quit claim deed recorded at Book 303, Page 614, Homer Recording District, Third Judicial District, State of Alaska.

Dated this ____ day of _____, 2014.

KENAI PENINSULA BOROUGH:

Mike Navarre, Mayor

ATTEST:

APPROVED AS TO FORM
AND SUFFICIENCY

Johni Blankenship
Borough Clerk

Holly B. Montague
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014 by Mike Navarre, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

Please return to: Kenai Peninsula Borough
Planning Department
144 North Binkley Street
Soldotna, Alaska 99669