

## **E. NEW BUSINESS**

- 3. Ordinance 2025-09: Authorizing and approving the Land Affordability Program (Staff person responsible Land Management Office Aaron Hughes)**



# Kenai Peninsula Borough


## Planning Department – Land Management Division

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### MEMORANDUM

**TO:** Peter Ribbens, Assembly President  
Members, KPB Assembly

**THRU:** Peter A. Micciche, Mayor   
Robert Ruffner, Planning Director 

**FROM:** Aaron Hughes, Land Management Officer 

**DATE:** April 24, 2025

**RE:** Ordinance 2025-09, Authorizing and Approving the Land Affordability Program (Mayor)

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The Kenai Peninsula Borough (KPB) administration has been working hard to develop a comprehensive approach to general land sales with a focus on providing KPB residents an opportunity to become land owners and develop lands sold by the KPB for residential purposes. Toward that end, this Ordinance will establish a Land Affordability Program (LAP). The LAP's purpose is to support additional opportunities for KPB residents to obtain affordable residential property, and to encourage residential property development. The intent is to identify "LAP Eligible" properties for KPB land sales. The "LAP Eligible" properties will be consistent with residential parcels. High-value, tax foreclosure, or recreational properties will not be considered "LAP Eligible".

The full terms and legal obligations of the program will be detailed in the Ordinance, legal documents and contracts between the KPB and the "LAP participant". The below summary outlines the high-level terms of the LAP:

- An LAP property must be improved with a permanent foundation and Property Class Codes 110 or 112, as determined by the KPB Assessing Department. An acceptable alternative to the foregoing is an owner provided professional appraisal showing that the property is a habitable residential dwelling qualifying for conventional financing.
- An LAP participant must demonstrate Alaska residency and be domiciled in the KPB upon the LAP property closing date or comply with the requirements to prove a demonstratable intent to immediately establish Alaska residency and be domiciled within the KPB.
- A LAP participant may not have more than one LAP property with an active LAP lien against it.
- LAP properties may be financed through the KPB at an authorized rate and term. KPB financing is not a requirement of the program.
- Qualified buyers will be eligible, subject to the terms of the LAP program including recapture and development provisions, to receive a 25% discount off the winning bid

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amount at the time of sale if they choose to participate in the LAP.

- Qualified buyers will be responsible to pay 75% of the winning bid amount over the term of the agreement ("LAP Amount").
- A down payment of 10% of the LAP Amount is required, with the remaining 90% of the LAP Amount eligible for KPB financing.
- If KPB tax records indicate construction of a structure on a permanent foundation with a Property Class Codes 110 or 112, as determined by the Assessing Department, on the property and the LAP participant has provided the affidavit of occupancy, the LAP requirements and lien will be deemed satisfied.
- If the property is sold or ownership is transferred without addressing the provisions of LAP lien, the lien will immediately be due and payable. The KPB reserves the right to foreclose any LAP lien that is not satisfied within 90 days of being due and payable.
- The LAP lien shall run with the property until LAP terms have been satisfied, the LAP recapture has been paid in full, or 30 years

Your consideration is appreciated.

Introduced by:	Mayor
Date:	05/06/25
Hearing:	05/20/25
Action:	
Vote:	

**KENAI PENINSULA BOROUGH  
ORDINANCE 2025-09**

**AN ORDINANCE AUTHORIZING AND APPROVING THE LAND  
AFFORDABILITY PROGRAM**

**WHEREAS,** the Kenai Peninsula Borough (KPB) recognizes the need to promote affordable land purchase and residential housing development opportunities for residents; and

**WHEREAS,** this ordinance authorizes and approves a Land Affordability Program (LAP) to provide an opportunity for qualifying participants to purchase certain residential properties identified as "LAP Eligible" under an approved sale ordinance; and

**WHEREAS,** the LAP is designed to support residential development and homeownership while maintaining and ensuring a competitive bid process for authorized KPB land sale offerings; and

**WHEREAS,** high-value (a reserve price equal to or greater than \$120,000), tax foreclosure, and recreational properties will not be considered "LAP Eligible" properties under this program; and

**WHEREAS,** it is in the best interests of the KPB to establish a program that provides residents additional opportunity to become land owners and develop KPB sold lands for residential purposes, while mitigating speculative land purchases and maintaining a competitive bid process;

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

**SECTION 1.** Classification. This is a non-code ordinance.

**SECTION 2.** Definitions. For the purposes of this ordinance, unless the context otherwise requires, the following definitions apply:

- (a) "Affidavit of occupancy" means an executed affidavit validly executed by the LAP participant affirming that the LAP property is occupied as a primary residence.
- (b) "Alaskan residency" means a person who establishes residency in the state by being physically present in the state for no less than the preceding 30

consecutive days with the intent to remain in the state indefinitely and to make a home in the state.

- (c) "High-value" means a set reserve amount equal to or greater than \$120,000.
- (d) "Domiciled in the KPB" means physical presence and residence in the KPB along with an intent to remain permanently.
- (e) "LAP participant" means the initial buyer of a KPB designated "LAP property".
- (f) "Permanent foundation" means a foundation constructed of durable materials such as concrete, treated wood, steel piles, or mortared masonry and is site-built.
- (g) "Property Class Code 110" means a residential single unit dwelling.
- (h) "Property Class Code 112" means a residential 2-4 unit dwelling.
- (i) "Recreational Properties" means any property not legally accessed by a dedicated and developed road right-of-way.
- (j) "Tax Foreclosure" means any property disposed as part of a tax foreclosure action.

### **SECTION 3. Purpose and eligibility**

- (a) The established purpose for the KPB's Land Affordability Program (LAP) is to support additional opportunities for KPB residents to obtain affordable residential property, and to encourage residential property development.
- (b) The LAP will apply only to KPB-selected residential properties specifically identified and authorized for the program under an approved sale ordinance. Such properties must be clearly identified as "LAP Eligible".
- (c) The "LAP Eligible" properties will be consistent with residential parcels. High-value, tax foreclosure, or recreational properties will not be considered "LAP Eligible".

### **SECTION 4. LAP Parameters, Qualifications, and Restrictions.**

- (a) An LAP property must be improved with a permanent foundation and a Property Class Code 110 or 112, as determined by the KPB Assessing Department. An acceptable alternative to the foregoing is an owner provided professional appraisal showing that the property is a habitable residential dwelling qualifying for conventional financing.
- (b) An LAP participant must demonstrate Alaska residency and be domiciled in the KPB upon the LAP property closing date. An individual who intends to immediately establish Alaska residency and be domiciled in the KPB may qualify as an LAP participant by providing:

- (1) a properly executed affidavit affirming: (a) that the individual will be a permanent resident of the KPB by the closing date; (b) that the individual intends to develop the property; and (c) that upon completion of construction, the property will be occupied as a primary residence; and
  - (2) a Alaska driver's license showing a an address within the KPB; or
  - (3) a statement of employment from a sales tax compliant employer within the KPB stating that the LAP participant is employed within the KPB.
- (c) An LAP participant must prequalify prior to the sale through a process administered by the KPB.
  - (d) A property subject to an LAP Lien may not be subdivided without first satisfying all LAP requirements and release of the LAP lien.
  - (e) An LAP participant may not assign their approved interest in the program.
  - (f) An LAP participant may not have more than one LAP property with an active LAP lien against it.

**SECTION 5. Financial terms, requirements, and lien**

- (a) LAP properties may be financed through the KPB at an authorized rate and term. KPB financing is not a requirement of the program.
- (b) Financing and LAP lien documents must include recapture provisions and be secured through the recording of a deed of trust and or LAP lien.
- (c) Qualified buyers will be eligible, subject to the terms of the LAP program including recapture and development provisions, to receive a 25% discount off the winning bid amount at the time of sale if they choose to participate in the LAP.
- (d) Qualified buyers will be responsible to pay 75% of the winning bid amount over the term of the agreement ("LAP Amount").
- (e) A down payment of 10% of the LAP Amount is required, with the remaining 90% of the LAP Amount eligible for KPB financing.
- (f) Financing documents must identify the total winning bid amount, down payment, and recapture provisions.
- (g) LAP participants who do not satisfy the LAP terms will be subject to Section 6 and Section 7, below.

**SECTION 6. LAP Satisfaction, Lien, Release, Assignment, and Foreclosure:**

- (a) If KPB tax records indicate construction of a structure on a permanent foundation with Property Class Codes 110 or 112, as determined by the Assessing Department, on the property and the LAP participant has provided the affidavit of occupancy, the LAP requirements and lien will be deemed satisfied. Alternatively, a professional appraisal establishing that a habitable residential dwelling on a permanent foundation is complete in a manner necessary to qualify for conventional financing will satisfy the residential construction verification requirement in this subsection.
- (b) As a condition of the program, the KPB will require a Deed of Trust (LAP lien) be filed against the subject property as formal notice of the recapture terms, provisions and conditions of the LAP.
- (c) Should the Buyer utilize the seller financing option made available to participants of the sale, the LAP lien will be filed in a second position to the purchase money lien.
- (d) If Buyer elects to pay cash at the time of closing, only the LAP lien will be recorded as part of closing. No monthly payment obligations will result from the LAP.
- (e) The LAP lien may be released at any time without satisfying the LAP terms upon payment of the full recapture amount: 25% of the initial winning bid amount plus 50% of the current sales price, or appraised value, whichever is greater, less the initial bid amount. Upon request, consideration will be given for improvements made to the property with valuations of improvements determined by KPB assessor or as identified in a third-party appraisal.
- (f) Upon confirmation all terms of the LAP have been satisfied, the LAP recapture will be waived and LAP lien released.
- (g) No assignment of the LAP lien will be allowed.
- (h) If the property is sold or ownership is transferred without addressing the provisions of LAP lien, the lien will immediately be due and payable. The KPB reserves the right to foreclose any LAP lien that is not satisfied within 90 days of being due and payable.
- (i) The LAP lien shall run with the property until LAP terms have been satisfied, the LAP recapture has been paid in full, or 30 years.

## **SECTION 7. Recapture provisions**

- (a) Upon resale of LAP property:
  - (1) If KPB determines that Section 6(a), above, is complied with then the recapture amount of the LAP lien will be waived and KPB will release the LAP lien.

- (2) If KPB determines that Section 6(a), above, is not complied with, then the LAP recapture amount will be 25% of the winning bid amount plus 50% of the current sales price, less the initial bid amount, or appraised value whichever is greater. The LAP recapture amount must be paid in full to satisfy the LAP lien. Upon request, consideration will be given for improvements made to the property with the valuations for the improvements determined by the KPB Assessor, or as identified in a third-party appraisal provided by the owner, in a form approved by the KPB.
- (b) Upon conventional refinance, construction loan, payoff, or completion of loan term without qualified use:
  - (1) If KPB determines that Section 6(a), above, is complied with then, the LAP requirements will be deemed satisfied and the recapture amount of the LAP lien will be waived and KPB will release the LAP lien.
  - (2) If KPB determines that Section 6(a), above, is not complied with, then, the LAP recapture amount will be 25% of the winning bid amount plus 50% of the current appraised value, less the initial bid amount. The LAP recapture amount must be paid in full to satisfy the LAP lien. Upon request, consideration will be given for improvements made to the property with the valuations for the improvements determined by the KPB Assessor, or as identified in a third-party appraisal provided by the owner, in a form approved by the KPB.
  - (3) With full payoff of KPB financing (if any), the LAP lien may be subordinate to the new construction loan upon review of the final settlement statement and approval from the Finance Director. The LAP lien will continue to be active until such time as the LAP requirements have been satisfied or the LAP terms expire.

## **SECTION 8. Implementation and Enforcement.**

- (a) The KPB Administration will be responsible for overseeing program administration, ensuring compliance with financing and recapture provisions, and maintaining proper financial records.
- (b) The Mayor, or designee, may adopt administrative policies as necessary to implement the LAP effectively.
- (c) The KPB may take legal action to recover unpaid recapture amounts in accordance with this ordinance.
- (d) The KPB may, at its sole discretion, accept a “Deed in lieu of Foreclosure” from a property owner that is no longer willing or able to participate in the program.



**SECTION 9.** Severability. If any provision of this ordinance or its application is determined to be invalid, the remaining provisions shall continue in full force and effect.

**SECTION 10.** Effective Date. This ordinance shall be effective immediately.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \* DAY OF \*, 2025.**

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Peter Ribbens, Assembly President

ATTEST:

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Michele Turner, CMC, Borough Clerk

Yes:

No:

Absent: