

CHAPTER 21.44 - LOCAL OPTION ZONING

21.44.010. - Purpose.

- A. The purpose of this chapter is to provide property owners in the rural district an opportunity to request the borough adopt greater restrictions on land use than otherwise provided by this title. This chapter shall:
1. control building sites, placement of structures and land uses through:
 - a. separating conflicting land uses,
 - b. regulating certain uses detrimental to residential areas,
 - c. setting minimum lot sizes, widths and setback standards,
 - d. setting standards for the number and type of structures developed on a parcel;
 2. preserve open space; and
 3. provide consistency with the goals and objectives of the Kenai Peninsula Borough Comprehensive Plan and Coastal Management Program.

21.44.020. - State and federal agencies regulated.

To the extent allowed by law, all state and federal agencies are required to comply with this ordinance and obtain all necessary permits.

21.44.030. –Formation methods.

- A. Any number of property owners within the rural district interested in forming a local option zoning district (LOZD) may meet with the planning department to discuss application requirements and proposed LOZD boundaries. Application forms for LOZDs are available from, and shall be submitted to, the Borough Planning Department. The planning department shall process an application for an LOZD.
- B. Any type of LOZD may be proposed at the time of preliminary or final plat approval. Recommendations for a specific LOZD must be in concurrence with the current owners of the property subject to the plat. The planning commission shall make a recommendation to the assembly regarding the formation of the LOZD. Plats must be 12 contiguous lots or more, separated only by a street, alley, right-of-way, or easement.

21.44.040. –Formation requirements.

- A. Except as otherwise provided, the minimum area that may be included in an LOZD is 12 lots. At least 30 percent of the lots within a proposed R-W district must be waterfront lots. Lots in an LOZD must be contiguous and separated only by a street, alley, right-of-way, or easement. The Planning Department shall create a proposed local option zoning map for a proposed district based on land use, location, access, soils, topography, availability of utilities, encumbrances and permits. Conditional land uses governed by KPB 21.25.040 shall not be permitted within a 500-foot radius of the boundary of an LOZD. An LOZD may be established within a 500-foot radius of an existing KPB 21.25.040 conditional land use permit. The 500-foot radius is measured from parcel boundaries.
- B. An LOZD may be initiated by the record owners of at least six lots within the proposed LOZD filing an application to form an LOZD. The applicants shall be owners of parcels

proposed for regulation. The formation of the LOZD may include portions of subdivisions. The application shall:

1. show opposite each signature of an applicant lot owner, a street address if available and adequate legal description of the property owned,
 2. set forth whether the district will form a R-1, R-2, R-R, R-W or R-M zone, and
 3. include a map of the proposed LOZD area.
- C. The planning department shall hold a meeting in a public facility regarding the application. After considering the standards set forth in KPB 21.44.010(A) and land attributes set forth in KPB 21.44.040(A) the planning department shall make a recommendation to the planning commission and assembly regarding the formation and boundaries of the proposed LOZD. The date of introduction for assembly consideration of the LOZD shall be within 90 days after filing the completed application with the planning department.
- D. The date of application shall be the date for determining whether a proposed LOZD meets the formation requirements set forth in this section. If there is an approved preliminary plat within the area of the proposed LOZD that does not meet the formation requirements for the type of LOZD proposed the area may not be included in the LOZD.
- E. The owner of a parcel contiguous to a proposed LOZD which is larger than the maximum allowed lot size within the LOZD may request that the borough include the parcel in the LOZD.

21.44.050 - Public hearings and notification requirements.

The planning commission shall hold at least one public hearing on local option zoning applications. Public notice of the hearing shall comply with KPB 21.11.020. In addition, property owners within the proposed district and within 300 feet of the boundaries of the district shall receive a copy of the public notice at least seven days prior to the hearing. The planning commission shall recommend to the assembly approval, disapproval, or modifications of the proposed LOZD.

21.44.060. - Assembly action.

The assembly shall approve, disapprove, or modify the proposed LOZD. The assembly, in its legislative capacity, may disapprove an LOZD notwithstanding the district's meeting the criteria of this chapter. Any LOZD approved must meet the formation criteria set forth in KPB 21.44.040 and the minimum requirements of the LOZD being formed. Prior to assembly action the planning department will provide the owners of each parcel within the proposed LOZD an opportunity to sign an advisory statement in favor or against the LOZD.

21.44.080. - Application.

- A. The standards of the LOZD shall be effective within 30 days after approval by the assembly.
- B. This ordinance does not repeal, abrogate or impair any existing deed restrictions, covenants or easements. The borough will not enforce private covenants, easements, or deed restrictions.
- C. All property in an LOZD must comply with applicable local, state, and federal regulations.

21.44.090. - Local option zoning map.

Within 30 days after assembly approval, a map of the boundaries of the adopted LOZD shall be available on the borough's website or at the planning department upon request.

21.44.095. - Variances.

Variances may be granted within an LOZD pursuant to the terms of KPB 21.05.

21.44.100. - Prior existing structures.

Any structure, which existed prior to the formation of an LOZD that does not meet the provisions of this chapter, shall be allowed to continue subject to the following conditions:

- A. No alterations may be made which increase the nonconformity;
- B. Any prior existing building which has been destroyed or damaged to the extent of 50 percent or more of the assessed value of the structure shall thereafter conform to the provisions of this chapter. The right to reconstruct in nonconformity with this chapter is forever lost if
 1. the application for reconstruction is not made within 12 months of the date of damage, or
 2. the application for reconstruction is approved but the structure is not reconstructed within 24 months of the date of the approval of the application for reconstruction.
- C. Nothing in this section prohibits reconstruction at any time in conformity with this chapter.

21.44.110. - Nonconforming uses.

- A. Determination. Nonconforming uses in effect on the date of initial adoption of the LOZD are allowed to continue operation. The burden of proof that the nonconforming use existed before adoption of an LOZD is on the applicant. If the planning director denies nonconforming use status, the applicant must comply with the requirements of the LOZD. Failure to apply for a nonconforming use determination within one year from the date of notice of the adoption of an LOZD ordinance shall result in termination of all right to continued operation as a nonconforming use and require full compliance with all provisions of this chapter. Written notice of the nonconforming use application requirements shall be given by certified mail or personal delivery to all property owners within an LOZD. If notice cannot effectively be given by these methods, the planning director may post the subject property.
- B. Decision. The planning director shall give notice of the application for a nonconforming use determination to property owners within the district. The notice shall include a summary of the application, a vicinity map, and a deadline for submitting written comments or evidence regarding the existence of the use prior to making a determination. The planning director shall issue a decision regarding the nonconforming status based on the written application, written comments, or evidence regarding the existence of the use prior to the adoption of an LOZD. The planning director's decision may be appealed by the applicant or affected property owners to the planning commission within 15 days of distribution of the decision.
- C. Discontinuance. Any nonconforming use of land or building which has ceased by discontinuance for an uninterrupted period of 365 days shall thereafter conform to the provisions of this chapter. Lack of intent to cease use or abandon the use does not suspend the 365-day time period. If a nonconforming use of a temporary structure is discontinued, it shall not be recommenced.

- D. Expansion Prohibited. A nonconforming use of a building or land may not be increased, intensified, or expanded or moved to any other part of the lot, tract, or parcel it occupies after the ordinance forming the district is adopted, nor may the use be moved to a parcel which is subject to this chapter.
- E. Change of Use. The use of a nonconforming building may be changed only to a use conforming to this chapter.
- F. Standards. In order to qualify as an allowed nonconforming use, the use must meet the following standards on the date the assembly approves formation of the district:
 - 1. A use must have been legally established under prior law.
 - 2. A use must be operational in accordance with the type of use.
 - 3. The purchase, clearing, or improvement of land preparatory to the use is inadequate to qualify the parcel for nonconforming use status, unless the site has been prepared or construction completed to the extent that it is no longer feasible to use the property for a conforming use.
- G. Conditions may be placed on nonconforming uses by the planning director to protect the residential character of the LOZD by limiting excessive noise, excessive traffic, fire hazards, and to provide appropriate screening, lighting, and hours of operation.

21.44.120. - Nonconforming lots.

An undeveloped lot which is nonconforming as to lot dimension or area may be used for any use allowed in the district in which it is located provided:

- A. It was legally created and of record prior to the date of original adoption of the LOZD; and
- B. All development complies with all other ordinance requirements.

21.44.130. - Home occupations.

- A. Purpose. It is the purpose of this section to promote peace, quiet, and domestic tranquility within residential LOZDs, and to limit excessive noise, excessive traffic, diminished property values, fire hazard, threats to safety and health, and other possible negative effects of commercial uses conducted in residential areas.
- B. Application. A single home occupation may be operated on a lot in R-1, R-2, R-R, R-W, and R-M zones subject to the provisions of this section without a permit:
- C. Standards.
 - 1. The outside appearance of a building or parcel shall not change so that it detracts from the dwelling's and parcel's principal use as a residence.
 - 2. The home occupation shall not generate traffic, parking, sewage or water use in excess of what is normal in a residential subdivision. There may be no more than twenty vehicle trips per day of combined residential and home occupation traffic.
 - 3. The home occupation shall not create a hazard to person or property, or become a nuisance.
 - 4. One permanent sign no greater than 16 square feet may be used to advertise a home occupation. Signs may not be illuminated.

5. Retail sales of goods which generate traffic of customers, deliveries, or suppliers to the parcel are not allowed on the parcel, except where the sale of goods is incidental to the service provided by the home occupation.
 6. The use of a dwelling unit for home occupations shall be conducted solely within the confines of the main dwelling and accessory buildings, and shall be clearly incidental and subordinate to the main use of the dwelling as a residence. In-home adult or child care, or preschools may use outdoor space on the lot as long as the area used for the home occupation is fenced for the safety of persons on the premises as a result of the home occupation.
 7. The storage of toxic, explosive, or other dangerous or hazardous materials, substances, or chemicals for commercial purposes are not allowed on the premises, except for fuel storage of 55 gallons.
 8. There shall not be outside storage or display of any kind that is visible from the street or neighboring property other than personal or seasonal decorations.
 9. No commercial outdoor storage or outdoor loading of vehicles related to the home occupation shall be allowed, except that one operational work trailer, and one operational and registered work vehicle may park on the property. Licensed fishing guide operations are limited to two boats for the business per lot, each not exceeding 28 feet in length.
 10. No on street parking shall be allowed or necessary to conduct the home occupation.
 11. The home occupation shall be conducted by the inhabitants of the principal permitted dwelling, and no more than one nonresident employee shall be permitted to work on site.
 12. All operators of home occupations are required to meet applicable registration requirements to collect borough sales tax as set for in KPB chapter 5.18.
- D. Conditions. All standards set forth in KPB 21.44.130 must be met on a continuing basis and are mandatory to operate a home occupation.
- E. Home occupations allowed in the R-1, R-R, R-W, and R-M districts may include but are not limited to:
- accountant/bookkeeping services;
 - beauty parlor or salon/barber shop;
 - computer programming, software instruction, web page development, and related computer services;
 - consulting services;
 - dressmaking, sewing, and tailoring;
 - event planning services;
 - in-home adult or child care, or preschool;
 - home cooking and preserving;
 - home crafts, such as model making, needlework, and rug weaving;
 - photography studio;
 - painting, sculpting, writing or other fine arts related crafts;
 - telephone answering, telecommuting, secretarial and administrative services;

tutoring and musical instruction.

- F. Home occupations not allowed in the R-1, R-2, R-R, R-W, and R-M districts. The following occupations are prohibited as home occupations: service, repair or painting of any vehicle; kennels; adult entertainment; commercial composting; sale, repackaging or use of hazardous materials; retail sales unless clearly incidental and necessary to the service being provided by the home occupation; commercial marijuana facilities as defined in AS 17.38, restaurants, alcoholic beverage premises licensed under title 4 of the Alaska statutes and other similar uses which are inconsistent with the purpose statement of KPB 21.44.010.
- G. Violation of the home occupation provisions of this section shall be processed in accord with the provisions of KPB 21.50. Each day a violation continues is a separate violation.

21.44.135. – New Structures-Development Notice.

Structures or buildings with a permanent foundation require a development notice to ensure compliance with the setback requirements. Development notices shall be on a form provided by the planning department and shall include the dimensions and the proposed structure’s location on the lot.

21.44.140. - Rezoning.

- A. Amendments to LOZDs may be initiated to repeal a zone, change the type of zone or modify the boundaries of the zoning district as follows:
 - 1. Any resident of the district may request an amendment to a zoning district provided that a petition is submitted bearing signatures of the owners of more than three-fourths of the lots being rezoned. Lots with multiple owners require the signature of the simple majority of the owners of the lot.
 - 2. A landowner of property contiguous with the boundaries of the local option district may request an amendment to the district to include his or her property. Contiguous property owners are not required to meet the Area and Application requirements (KPB 21.44.040) of this title.
- B. The borough planning department will provide forms to request amendments under this section.
- C. The rezoning process must meet the notification and public hearing requirements of KPB 21.44, except the planning department level public meeting set forth in KPB 21.44.040(C) is not required.
- D. The planning commission shall make a recommendation to the assembly regarding the repeal or change in zone or modification of boundaries. All rezone petitions are subject to assembly approval.

21.44.150. - Violations—Enforcement.

Violations of KPB 21.44 are subject to enforcement by the remedies set forth in KPB 21.50. Each day which the violation exists shall constitute a separate offense.

21.44.160 - Single-family residential district (R-1).

- A. Allowed Principal Use. Single-family residential (R-1) dwelling units are the allowed principal use in this district.

- B. Allowed Compatible Uses. Compatible uses allowed in the R-1 zone are parks, playgrounds, open space, schools, community centers, libraries, churches, and home occupations.
- C. Development Standards. Development standards apply to principle and accessory structures.
1. Setbacks. Setbacks for structures shall be 30 feet from the front yard line, 20 feet from the rear yard line, 15 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
 2. Maximum building height. Maximum building height shall be 2½ stories above ground or 35 feet above average grade, whichever is less
 3. Lot size. Minimum lot size shall be 40,000 square feet. Maximum lot size is 5 acres.
 4. Coverage. Maximum coverage by structure is 20 percent of the lot.
 5. Drainage Ways. Existing natural drainage ways shall be retained.
 6. Accessory structures. Accessory structures commonly associated with residential dwellings, i.e., garages, barns, storage sheds, greenhouses, wind turbines, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district. A single accessory structure may constitute the principal use of the lot where an adjacent lot with the primary residence is in the same ownership.
 7. Livestock and pets.
 - a. Dog Lots: Dog lots and kennels are prohibited.
 - b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.
 - c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.
 - d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.
 8. Prohibited uses and structures. The following uses and structures are prohibited in the R-1 district:
 - a. A lot within the LOZD shall not be offered for sale or lease for non-allowed uses.
 - b. No more than two of either travel trailers or motor homes may be on each lot at any time.
 - c. Pit-style outhouses are prohibited.
 - d. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

21.44.165 – Small lot residential district (R-2).

- A. Allowed Principal Use. One single-family dwelling unit is the allowed principal use in this district.

- B. Allowed Compatible Uses. Compatible uses allowed in the R-2 zone are parks, playgrounds, open space, schools, community centers, libraries, churches, and home occupations.
- C. Development Standards. Development standards apply to principle and accessory structures.
 - 1. Setbacks. Setbacks for structures shall be 20 feet from the front yard line, 20 feet from the rear yard line, and 10 feet from the side yard lines.
 - 2. Maximum building height. Maximum building height shall be 2½ stories above ground or 35 feet above average grade, whichever is less.
 - 3. Lot size. Minimum lot size shall be 20,000 square feet. Maximum lot size is 50,000 square feet.
 - 4. Coverage. Maximum coverage by structure is 30 percent of the lot.
 - 5. Drainage Ways. Existing natural drainage ways shall be retained.
 - 6. Accessory structures. Accessory structures commonly associated with residential dwellings, i.e., garages, barns, storage sheds, greenhouses, wind turbines, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district. A single accessory structure may constitute the principal use of the lot where an adjacent lot with the primary residence is in the same ownership.
 - 7. Livestock and pets.
 - a. Dog Lots: Dog lots and kennels are prohibited.
 - b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.
 - c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.
 - d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.
 - 8. Prohibited uses and structures. The following uses and structures are prohibited in the R-2 district:
 - a. A lot within the LOZD shall not be offered for sale or lease for non-allowed uses.
 - b. No more than two of either travel trailers or motor homes may be on each lot at any time.
 - c. Pit-style outhouses are prohibited.
 - d. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

21.44.170. - Rural residential district (R-R).

- A. Allowed Principal Use. Single-family dwelling units are the allowed principle use in this district.

- B. Allowed Compatible Uses. Compatible uses allowed in the R-R zone are parks, playgrounds, schools, community centers, open space, libraries, churches, and home occupations.
- C. Development Standards. Development standards apply to principle and accessory structures:
1. Setbacks. Setbacks shall be 60 feet from the front yard line, 40 feet from the rear yard line, 25 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
 2. Lot size. Minimum lot size shall be 100,000 square feet. Maximum lot size is 5 acres.
 3. Drainage ways. Existing natural drainage ways shall be retained.
 4. Coverage. Maximum coverage by structure is 10 percent of the lot.
 5. Buffers. A natural vegetative buffer of at least 30 feet shall be retained between the building site and the public right-of-way. To provide for screening, aesthetics, and the reduction of surface water run-off, trees may be selectively pruned and thinned within the buffer, and dead and diseased trees which are a safety hazard or which threaten structures may be removed. This section does not require revegetation of a buffer area that was cleared before the formation date of the LOZD.
 6. Accessory Structures. Accessory structures commonly associated with residential dwellings, i.e., garages, storage sheds, barns, greenhouses, workshops, wind turbines, and a single guesthouse per parcel, are allowed within the district. A single accessory structure may constitute the primary use of the lot where an adjacent lot with the primary residence is in the same ownership.
 7. Animals are categorized and are allowed as follows:
 - a. Dog lots and commercial kennels are prohibited.
 - b. One large livestock per two acres is allowed. Animals less than 6 months of age are not included in this limitation.
 - c. Up to five small livestock are allowed per acre.
 - d. Up to 10 poultry or fowl are allowed per lot.
 - e. Manure shall be handled as follows:
 - i. Manure shall be removed in a regular and reasonable manner or otherwise composted or spread in such a manner as to protect surface and groundwater, minimize the breeding of flies, and to control odors. Manure shall not be buried.
 - ii. Manure piles shall be set back from the lot line in accordance with the zoning district accessory use setback requirements.
 - iii. Animals shall not be allowed to create excessive odor problems or present a health hazard to occupants of surrounding lands.
 - iv. Adequate drainage facilities or improvements shall be provided by the landowner and constructed to protect any adjacent land from run-off containing contaminants such as sediment or organic wastes.

8. Prohibited uses and structures. The following uses and structures are prohibited in the R-R district:
 - a. A lot within the LOZD shall not be subleased, subcontracted, or marketed for non-allowed uses.
 - b. No more than two of either travel trailers or motor homes may be on each lot at any time.
 - c. Pit-style outhouses are prohibited.
 - d. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

21.44.175. Residential - Waterfront (R-W).

- A. Purpose. The purpose of this district is to promote orderly development adjacent to anadromous water bodies as defined by AS 41.17.950(1) consistent with the purpose clause of KPB 21.18.020.
- B. Allowed principal use. One of the following uses is allowed per lot for a permanent residence in this district:
 1. No more than one single-family dwellings;
 2. One duplex.
- C. Allowed compatible uses. Compatible uses allowed in the R-W district are parks, playgrounds, schools, community centers, libraries, churches, open space and home occupations as provided in 21.44.175(D).
- D. Development standards. The following development standards apply to principal use and accessory structures:
 1. Setbacks. Setbacks shall be a minimum 30 feet from the front yard line, a minimum of 20 feet from the rear yard line, a minimum of 15 feet from the side yard lines, and 50 feet from the mean high water mark of the river/lake, and where applicable subject to the provisions of KPB 21.18.
 2. Maximum building height. Maximum building height shall be 2½ stories above ground or 35 feet above average grade, whichever is less.
 3. Lot size. Minimum lot size shall be 40,000 square feet. Maximum lot size is 100,000 square feet.
 4. Coverage. Maximum coverage by structures is 20 percent of the lot.
 5. Drainage ways. Existing natural drainage ways shall be retained.
 6. Accessory structures. Accessory structures commonly associated with residential dwellings, i.e. garages, storage sheds, greenhouses, wind turbines, workshops, and accessory dwellings are allowed within the district. Two rental cabins, not to exceed 500 square feet, are allowed if the principle dwelling is a single family residential. If the principle dwelling is a duplex, one rental cabin is allowed.
 7. Prohibited uses and structures. The following uses and structures are prohibited in the R-W district:

- a. A lot within the LOZD shall not be subleased, subcontracted, or marketed for non-allowed uses.
- b. No more than two travel trailers or motor homes may be on each lot at any time.
- c. Pit-style outhouses are prohibited.
- d. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.
- e. Livestock and pets are allowed or prohibited as provided in KPB 21.44.160(C)(6).

21.44.180. Multi-Family residential district (R-M).

- A. Allowed Principal Use: No more than one single-family or multi-family residential (no more than 4 units) dwelling unit is allowed per lot.
- B. Allowed compatible Uses: Compatible uses allowed in the R-M zone are parks, playgrounds, schools, community centers, libraries, churches, and home occupations.
- C. Development Standards. Development standards apply to principle and accessory structures:
 - 1. Setbacks. Setbacks shall be 60 feet from the front yard line for multi-family units, 40 feet from the front yard line for single family units, 40 feet from the rear yard line for multi-family units, 20 feet from the rear yard line for single family units, 25 feet from the side yard lines for multi-family units, 15 feet from the side yard lines for single family units, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
 - 2. Lot size. Minimum lot size shall be 65,340 square feet for multi-family units and 40,000 square feet for single family units. Maximum lot size is 200,000 square feet.
 - 3. Drainage Ways. Existing natural drainage ways shall be retained.
 - 4. Coverage. Maximum coverage by structure is 20 percent of the lot.
 - 5. Accessory Structures. Accessory structures commonly associated with residential dwellings, i.e., garages, barns, storage sheds, greenhouses, wind turbines, and workshops are allowed within the district.
 - 6. Livestock and pets.
 - a. Dog Lots: Dog lots and kennels are prohibited.
 - b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.
 - c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.
 - d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.
 - 7. Prohibited uses and structures. The following uses and structures are prohibited in the R-1 district:

- a. A lot within the LOZD shall not be offered for sale or lease for non-allowed uses.
- b. No more than two of either travel trailers or motor homes may be on each lot at any time.
- c. Pit-style outhouses are prohibited.
- d. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

21.44.220. - Record notice of local option zoning district.

A notice of local option zoning district shall be recorded in the State of Alaska district recorder's office where the parcels subject to the [LOCAL OPTION ZONING DISTRICT] LOZD are located. The notice shall provide a legal description of the parcels within the district and the type of zone. The notice shall be in a form approved by the Borough attorney's office. [THE PETITIONERS FOR A LOCAL OPTION ZONING DISTRICT OR REZONE SHALL PAY THE RECORDING FEES.] Notice of rezones under KPB 21.44.140 shall also be recorded.

21.44.230. - Definitions.

Adequate legal description means a written description of real property by government survey, metes and bounds, or lot number of a recorded plat or by aliquot part in a conveyance document such that the parcel can be identified, located, and distinguished from other parcels. It shall include, if available, the street address, city, state and zip code of the real property.

Accessory structure means a structure on the same lot and of a nature customarily incidental and subordinate to the principal structure.

Affected property owners are those owners within an LOZD who have filed written or oral testimony in a matter pertaining to the LOZD.

Animal, small means any animal, other than livestock or animals considered to be predatory or wild which are kept outside a dwelling unit all or part of the time. Animals considered predatory or wild, shall be considered small animals when they are taken into captivity for the purposes of breeding, domestication, training, hunting, or exhibition.

Average grade means the average grade calculated from the grade elevations at the four points where an imaginary line parallel to the front and rear yard setback lines and touching the (proposed) structure intersects the required side yard setback lines.

Commercial means a land use or other activity involving the offering of goods or services for financial gain.

Dog lot means the keeping or raising of five or more dogs over the age of six months on a parcel.

Duplex means a structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except that a common exterior stairwell may serve both dwelling units.

Dwelling means a building designed or used as living quarters or private residence for people.

Front yard means that portion of a lot which is bounded by a dedicated public right-of-way.

Habitable space means that portion of a structure that is used for actual and daily living purposes including working, sleeping, eating, cooking, or recreation or a combination thereof. Habitable floor space does not include storage sheds, garages or other space used only for parking or storage.

Hazard means a source of danger or adverse condition that has potential to harm people or property.

Hazardous chemical means a chemical that is a physical hazard or a health hazard.

Hazardous substance means substances defined at AS 46.08.900(6) and AS 46.09.900(4) as amended.

Home occupation is that accessory use of a dwelling that shall constitute either entirely or partly the livelihood of a person living in the dwelling unit.

Household pets means small animals that are kept within a dwelling unit.

Kennel means a premises where a person owns or keeps five or more dogs over the age of six months in the operation of a business, which includes buying, selling, training, boarding, grooming, or breeding.

Livestock means grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to the following: cattle, riding and draft horses, hogs excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder, which are kept as pets or small animals, sheep, and/or goats.

Livestock, Large means cattle, horses, and other livestock generally weighing over 500 pounds.

Livestock, Small means hogs, excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder, which are kept as household pets or small animals, sheep, goats, miniature horses, llamas, alpaca, and other livestock generally weighing under 500 pounds.

Multi-family dwelling unit means a building with multiple dwelling units, each with self-contained bathroom and kitchen facilities.

Nonconforming use means a lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

Nuisance means a substantial and unreasonable interference with the use or enjoyment of real property, including water, especially a continual or repeated invasion of a use or activity which invades the property line of another so as to cause harm or discomfort to the owner or resident of that property. Excessive or noisy vehicular traffic, dust, glare, and smoke are examples of nuisances.

Open Space means land used for recreation, resource protection, amenity, aesthetics and/or buffers. In no event shall any area of a lot constituting the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space. Open space may be private or public and contain accessory structures. Examples of open spaces include but are not limited to fields, school yards, wetlands, and parks.

Outhouse means a detached enclosed structure having one or more holes in a seat built over a pit and serving as an outdoor toilet.

Planning Director means the planning director of the Kenai Peninsula Borough or the planning director's designee.

Rear yard means that portion of a lot bounded by the lot line which is opposite and most distant from the front yard lot line.

Restaurant means a structure or lot which has as the principle use the preparation and sale of food and beverage.

Retail sales are sales made to the ultimate consumer, often in small quantities.

Shore setback means the distance measured from the ordinary high water mark of a watercourse, lake, pond, flowage, or saltwater environment.

Side yard means that portion of a lot bounded by a line which is neither a front yard nor a rear yard lot line.

Sign means any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed primarily for the purpose of advertising or identifying any establishment, products, goods or services.

Structure means anything that is constructed or erected and located on or under the ground. For purposes of minimum setback requirements under KPB 21.44 the following items are not considered structures: fences; retaining walls; parking areas; roads, driveways or walkways; window awnings; a temporary building when used for 30 days or less; utility poles and lines; guy wires; clothes lines; flag poles; planters; incidental yard furnishings; water wells; monitoring wells and tubes; patios, decks, or steps less than 18 inches above average grade.

Temporary structure means a transportable structure for one-time use not to exceed six consecutive months.

Toxic means those substances or substance combinations, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism, either directly from the environment or indirectly by ingestion through the food chains, will, on the basis of information available, cause death, disease, behavioral or physiological abnormalities, malignance, genetic mutation, or physical deformations, in affected organisms or their offspring.