

Introduced by: Mayor  
Date: 01/19/21  
Hearing: 02/16/21  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2021-03**

**AN ORDINANCE AMENDING KPB 21.06.040, ADMINISTRATION, AND KPB  
21.06.070, “DEVELOPMENT” DEFINITION, FOR FLOODPLAIN MANAGEMENT  
PURPOSES**

**WHEREAS**, floodplain management within the borough is a critical service that the borough provides dating back to 1988; and

**WHEREAS**, the borough is a participating community in the National Flood Insurance Program (NFIP), a program that provides numerous federal benefits to property owners; and

**WHEREAS**, the borough’s eligibility in the NFIP is contingent upon the borough continuing to meet the minimum regulatory requirements as set forth by the Federal Emergency Management Agency (FEMA); and

**WHEREAS**, pursuant to the applicable federal regulations all development within the floodway requires the permit applicant to demonstrate through hydrologic and hydraulic analyses performed by a registered professional engineer that there will be no increase in flood levels during the occurrence of the base flood discharge; and

**WHEREAS**, FEMA has identified minor or small projects that do not involve filling, grading, or excavating as projects that will not increase the flood stages; and

**WHEREAS**, FEMA has determined that some projects are too small to warrant a hydrologic and hydraulic analysis, and as such these projects may be identified by the Floodplain Administrator using logic and common sense; and

**WHEREAS**, this code change will refine the definition of development to align with FEMA requirements while also recognizing that minor projects that either do not increase the natural grade, do not obstruct floodwaters, or do not increase flood stages are not considered development for purposes of floodplain management regulations; and

**WHEREAS**, requiring a hydrologic and hydraulic analysis, also known as a No-Rise Study, for minor projects would substantially increase the cost of the project to the point where the cost of the study may be greater than the cost of the project; and

**WHEREAS**, the Kenai Peninsula Borough Planning Commission, at its regular meeting of January 25, 2021, recommended approval by unanimous consent;

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

**SECTION 1.** That KPB 21.06.040(A) is hereby amended as follows:

**21.06.040. Administration.**

A. *Development Permit Required.* A development permit shall be obtained before construction or development begins within flood hazard areas established in KPB 21.06.030(B). Whether or not a project or activity meets the definition for “development” under KPB 21.06.070 is subject to a final written determination made by the planning department after consultation with the applicant. The permit shall be for all structures and for all other development including fill and other activities. Application for a development permit shall be made on forms furnished by the borough and shall include but not be limited to the following: plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; logging, placement of storage tanks (fuel or other), existing or proposed structures, substantial improvements of existing structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in KPB 21.06.050(B)(2);
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

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**SECTION 2.** That KPB 21.06.070 is hereby amend as follows:

**21.06.070. Definitions.**

For the purposes of this chapter, the following words and phrases shall be defined as follows:

"100-year or 1-percent annual exceedance probability flood" (also called "regulatory flood," "base flood" or "special flood hazard area") means a flood with a 1 percent chance of being equaled or exceeded in any year. Statistical analysis of available streamflow or storm records, or analysis of rainfall and runoff characteristics of the watershed, or topography and storm characteristics are used to determine the extent and depth of the 100-year or 1-percent annual exceedance probability flood.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building.

"Clearing" means the act of removing trees or vegetation on a cumulative 20 percent or more of a given parcel of land.

"Coastal high hazard area" means the area subject to high velocity waters due to wind, tidal action, storm, tsunami or any similar force, acting singly or in any combination resulting in a wave or series of waves of sufficient magnitude, velocity or frequency to endanger property and lives.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard. Development does not include minor projects, routine maintenance, or practices or projects that do not involve filling, grading, or excavating.

"Exception" means a grant of relief from the requirements of this chapter, which permits construction in a manner that would otherwise be prohibited by this chapter.

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**SECTION 3.** That this ordinance shall become effective immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF FEBRUARY, 2021.**

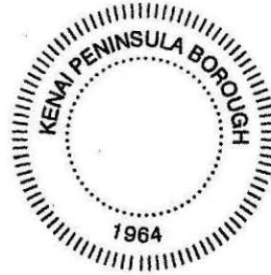


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Brent Hibbert, Assembly President

ATTEST:



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Jonni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert  
No: None  
Absent: None