
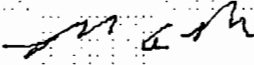




Kenai Peninsula Borough
Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor 
Marcus Mueller, Acting Planning Director 

FROM: Scott Huff, Planning Manager 
Sean Kelley, Deputy Borough Attorney 

DATE: June 23, 2020

RE: Ordinance 2020-36, Amending KPB 20.70 Vacation Requirements and KPB 21.20 Hearings and Appeals to Improve Vacation and Hearing Officer Appeal Procedures (Mayor)

Amendments to KPB 20.70, Vacation Requirements, and KPB 21.20, Hearings and Appeals, are needed to clarify and improve vacation and appeal procedures. A sectional summary of the proposed code changes is provided below.

The amendments to KPB 20.70, Vacation Requirements, are as follows:

KPB 20.70.035: Approval of vacations – New section added to provide the planning commission with standards in considering vacation petition.

KPB 20.70.040(B): Application—Petition required – Amended to clarify who may submit a petition to vacate a utility easement.

KPB 20.70.050: Petition—Information required – Amended for clarity regarding the borough official that determines the format and number of copies required when a vacation petition is submitted.

KPB 20.70.080: Utility easement vacations – Amended to state that the planning director will schedule all utility easement petitions to be heard by the planning commission; to clarify processing procedures; and to explicitly tie this section of code to the definition for Utility Easement found in KPB 20.90.010.

KPB 20.70.090: Notice required – Amended to better state the notice that is required for a public hearing on a vacation petition and to clarify that certified mail notice is not required for utility easement vacations under KPB 20.70.080.

KPB 20.70.110: Vacation decision – Amended to state that both denial and approval decisions go to a city (if within a city) or the borough (if outside city)

boundaries) for veto or consent action. This section is also amended to clarify that an appeal of a city or borough action under this section must be filed with the superior court. The city or borough veto or consent action is a final legislative act.

KPB 20.70.130: Vacation plat—Preparation, approval and recording – Amended regarding extension of time to record a final vacation plat and to provide a longer time limit for section line vacation plats.

KPB 20.70.140: Vacation resolution--Easement – Amended to specify that the petitioner is responsible for providing a good legal description for a vacation resolution.

KPB 20.70.220: Section line easement vacation – Amended for consistency purposes in cross referencing other sections of borough code.

The amendments to KPB 21.20, Hearings and Appeals, are as follows:

KPB 21.20. 210: Definitions – Amended definition for “Party of record” to require an aggrieved party to own property within the notification radii.

KPB 21.20.230(B): Jurisdiction – Deleted in its entirety to affirm that the action by the borough or a city, if within a city’s boundaries, either vetoing or consenting to the planning commission’s vacation decision, is a final legislative action. The action is not subject to administrative appeal. The action may be appealed to the superior court. This section is a holdover from old code language that was never updated to be consistent with KPB 20.70.110.

KPB 21.20.250: Appeal of planning commission decision to hearing officer – Amended to specify that a notice of non-participation should be filed by the borough administration when it is not participating as a party to a hearing officer appeal.

KPB 21.20.270: Record on appeal – Amended to explicitly state that hearing officer appeals are on the record appeals and new evidence may only be provided upon prior approval of the hearing officer.

KPB 21.20.280: Written statements – Amended for clarity to state that only a party of record who enters an appearance in the appeal must file an opening statement and to clarify that, unless otherwise requested or ordered by the hearing officer, only the written statements listed will be accepted.

Your consideration of this ordinance is appreciated.