

Introduced by: Mayor  
Date: 09/20/16  
Shortened Hearing: 10/11/16  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2016-36**

**AN ORDINANCE ADOPTING THE MOST RECENT FEMA FLOOD INSURANCE  
STUDY AND ASSOCIATED COASTAL FLOOD MAPS FOR SEWARD, COOPER  
LANDING, NINILCHIK AND ANCHOR POINT DATED OCTOBER 20, 2016 AND  
AMENDING KPB 21.06 TO UPDATE AND CLARIFY LANGUAGE**

**WHEREAS,** since 1986 the Kenai Peninsula Borough has had an accredited floodplain management program under the National Flood Insurance Program (NFIP) which makes federal disaster insurance, federal hazard mitigation grants, federally subsidized mortgages, and affordable individual homeowner flood insurance available within the borough; and

**WHEREAS,** continued participation in the NFIP is predicated upon continued good standing in that program; and

**WHEREAS,** in an April 20, 2016, letter, the Federal Emergency Management Agency (FEMA) indicated that, in order to maintain good standing in the NFIP, appropriate measures much be taken to adopt the new FEMA Flood Insurance Rate Maps (FIRMs) for areas in Seward, Cooper Landing, Ninilchik and Anchor Point; and

**WHEREAS,** the Kenai Peninsula Borough has six months from the date of that FEMA letter to accept and adopt the new FIRMs by ordinance, or our community risks being placed on probation; and

**WHEREAS,** the proposed amendments to KPB 21.06 increase flood safety and clarify the code pertaining to FEMA minimum regulations; and

**WHEREAS,** at its meeting of August 22, 2016, the Seward-Bear Creek Flood Service Area Board recommended approval of all amendments by unanimous consent; and

**WHEREAS,** at its meeting of September 26, 2016, the Kenai Peninsula Borough Planning Commission recommended approval by unanimous consent;

**WHEREAS,** the borough's best interest will be served by maintaining a good standing in the NFIP by adopting the new FIRMs and amending its floodplain management ordinance;

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

**SECTION 1.** That KPB 21.06.030(B) is hereby amended as follows:

**21.06.030. General Provisions.**

...

B. *Basis for Establishing Flood Hazard Areas.* Flood hazard areas are identified as follows:

1. By the areas of special flood hazard identified by the Federal Insurance Administration in the scientific and engineering report entitled "Flood Insurance Study" (FIS) for the Kenai Peninsula Borough, Alaska, dated May 19, 1981, revised on July 5, 1983, December 6, 1999, [AND] September 27, 2013, and October 20, 2016. These areas are depicted on the effective flood FIRM and DFIRM Panels. The map panels numbered 020012-1350 and 1700 have been deleted and the areas depicted by these panels are not subject to the terms of this chapter. Excluding these panels, the flood insurance rate maps are adopted by reference and declared to be a part of this chapter. The flood insurance rate maps are on file at the planning department. The best available information for flood hazard as outlined in KPB 21.06.040(C)(3) shall be the basis for regulation until a new FIRM or DFIRM is issued which incorporates the base [FLOOD PLAIN] floodplain data obtained pursuant to that section.
2. The 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area (SMFDA) outside the city limits of Seward, not including any Special Flood Hazard Area identified in a current, effective FIRM or DFIRM. A map showing this floodplain and flood data and a list of properties represented by this map shall be retained by the planning department and made available to the public. If any portion of a lot is included in the flood data mapped area, the entire lot shall be subject to the provisions of this chapter. Special provisions for development permits in the KPB mapped flood data area are set forth in KPB 21.06.045. Data available from other federal, state or other sources shall be reviewed and reasonably utilized including but not limited to the following:
  - a. Flood of October 1986 at Seward Alaska," USGS Water-Resources Investigation Report 87-4278. Jones, S.H., and Zenone, Chester. (1988).

- b. "Hydrologic Reconnaissance near Fourth of July Creek, Seward, Alaska." USGS Water Resources Investigations 81-21. Nelson, G.L. (1981).

**SECTION 2.** That KPB 21.06.040 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). 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 [IN DUPLICATE] 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.
- B. *Designation of the Borough Administrator.* The planning department is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.
- C. *Duties and Responsibilities of the Planning Department.* Duties of the planning department shall include[,] but not be limited to the following:
  - 1. *Permit Application Review.*
    - a. Review all development permit applications to determine that the permit requirements have been met[,];
    - b. Review all development permit applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required[,];

- c. Review all development permit applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of KPB 21.06.050(C)(1) are met.

2. *Issue Permit.*

- a. Upon determination that the submitted and recorded information connected with the permit application meets the terms of this chapter, the planning department shall issue a floodplain development permit to the original applicant. If the project involves the construction of a residential structure in a special flood hazard area, the planning department floodplain management office will issue an initial permit based on the building plans in the application. A final permit will be issued after the applicant submits an elevation certificate and floodplain management staff determines that the building is in compliance with all floodplain regulations.
- b. The floodplain development permit shall be valid [FOR A PERIOD OF 1 YEAR FROM THE ISSUE] until the expiration date[, AND] provided that the start of construction [MUST] occurs within 180 days of the permit issue date. If construction does not begin within this time period, the permit will expire 180 days from the issue date. The planning department floodplain management office shall be notified at least three days prior to start of construction for possible site inspection and notice-to-proceed.
- c. The floodplain development permit is not assignable without permission from the planning department.

3. *Use of Other Base Flood Data.* When base flood elevation data has not been provided in accordance with KPB 21.06.030(B), the [P]planning [D]department shall obtain, review, and reasonably utilize any base flood and floodway elevation data available from a federal, state or other source, in order to administer subsections (B)(1), (B)(2) and (C) of KPB 21.06.050

4. *Information to be Obtained and Maintained.*

- a. Where base flood elevation data is provided through the Flood Insurance Study or required in subsection (C)(2) of this section, record the actual elevation as submitted (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

- b. For all new or substantially improved floodproofed structures:
  - i. Record the actual elevation as submitted (in relation to mean sea level), and
  - ii. Maintain the floodproofing certifications required in KPB 21.06.040(A)(3);
- c. Maintain for public inspection all records pertaining to the provisions of this chapter in perpetuity.

5. *Alteration of Watercourses.*

- a. Notify adjacent communities and the Department of Community and Regional Affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

6. *Fee Required.* The planning department shall charge fees for permits and exceptions. Fees shall be the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees to be paid by the applicant at the time that the floodplain development permit application is submitted.

**SECTION 3.** That KPB 21.06.050 is hereby amended as follows:

A. *General Standards.* In all flood hazard areas, the following standards are required:

1. *Anchoring.*

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

2. *Construction Materials and Methods.*

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. *Utilities.*

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and,
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. *Subdivision Proposals.*

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All proposed improvements such as water, sewer, natural gas, telephone and electrical facilities shall be located and constructed in a manner which will minimize damage in the event of a flood.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals which contain 50 lots or 5 acres, whichever is less. The floodplain requirements for subdivision plats, detailed in KPB 20.30.280, apply to all subdivision proposals.

- e. It is the responsibility of the subdivider to provide all necessary information regarding flood protection measures at the time the preliminary plat is presented for consideration by the planning commission.

5. *Review of [BUILDING] Development Permits.* Where elevation data is not available, applications for [BUILDING] development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

B. *Specific Standards.* In all flood hazard areas where base flood elevation data has been provided as set forth in KPB 21.06.030(B), the following provisions are required:

1. *Residential Construction.*

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - i. A minimum of two openings located on separate walls and having a total net area of not less than 1 square inch for every square foot of enclosed space subject to flooding shall be provided.
  - ii. The bottom of all openings shall be no higher than 1 foot above grade.
  - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - iv. Enclosed areas below the base flood elevation must be unfinished and usable only for parking, access or storage of materials easily moved during a flood event.
  - v. Before a final floodplain development permit is issued by the planning department for a residential structure with enclosed areas below the base flood elevation, the owners shall sign a non-conversion agreement stating that the enclosed space shall remain in compliance with KPB

21.06.050(B)(1)(b)(iv). The non-conversion agreement shall be recorded by the Kenai Peninsula Borough placing future buyers of properties on notice of the hazards of enclosed spaces below the base flood elevation and the requirements to keep the permitted structure compliant with KPB floodplain regulations.

- c. For zones AH and AO, drainage paths are required around structures on slopes to drain floodwaters away from proposed structures.
2. *Nonresidential Construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
    - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
    - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in KPB 21.06.040(C)(4)(b).
    - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standard for space below the lowest floor as described in KPB 21.06.050(B)(1)(b).
    - e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as 1 foot below that level).
    - f. For zones AH and AO, drainage paths are required around structures on slopes to drain floodwaters away from proposed structures.
3. *Manufactured Homes.* All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (A)(1) of this section.



4. *Recreational vehicles.* Recreational vehicles that are placed on sites within a Special Flood Hazard Area as identified by the current effective FIRM or DFIRM panel are required to either:
  - a. Meet the requirements of chapter 21.06.050(A) and (B), or
  - b. Be on the site for fewer than 180 consecutive days, or
  - c. Be fully licensed and ready for highway use, on its wheels or jacking system, and attached to the site only by a quick disconnect type utilities and security devices[.].
  
5. *Before regulatory floodway.* In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Special Flood Hazard Area zones AE, A1-A30 as identified in the current effective FIRM or DFIRM panel at that location unless the applicant demonstrates in the application that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
  
6. Fuel storage tanks. Any fuel storage tanks shall be elevated above the base flood elevation or made watertight and anchored to resist flotation, collapse, and lateral movement. The tank must also be installed within an impervious containment basin of a size sufficient to contain 110 percent of storage capacity plus 12 inches of freeboard.
  
7. *Logging or clearing.* Within any special flood hazard area of the current effective FIRM or DFIRM, [LOGGING OR CLEARING IS ALLOWED ONLY FOR 20 PERCENT OF THE TOTAL AREA OF A PARCEL, EXCEPT CLEARING FOR THE FOOTPRINT OF A BUILDING MAY EXCEED THIS 20 PERCENT LIMIT. MULTIPLE CLEARED AREAS MAY EXIST ON A PARCEL, BUT THE TOTAL OF ALL SUCH AREAS MAY NOT EXCEED 50 PERCENT OF THE TOTAL AREA OF THE PARCEL. L] logging or clearing may not increase runoff and/or erosion to such levels that it may significantly damage the floodplain function, riparian habitat or wetlands.

C. *Floodways.* Located within flood hazard areas established in KPB 21.06.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to erosion potential and the velocity of floodwaters which carry debris, the following provisions apply:

1. All encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is

provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. [LETTER-OF-MAP-REVISION-BASED-ON-FILL FOR PROJECTS WITHIN A FLOODWAY ARE NOT ALLOWED.]

2. If subdivision (1) of this subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

D. *Coastal High Hazard Areas.* [WHEN]Where FEMA has identified coastal high hazard areas (Zones V, VE, and V1-V30) on the FIRM or DFIRM, [ZONES VE, V1-V30, AND V (COASTAL HIGH HAZARD AREAS)] construction shall meet the following requirements in addition to all other provisions in this chapter:

1. All new construction shall be located landward of the reach of mean high tide and shall be anchored to prevent unintended lateral movement, floatation or collapse.
2. All new construction, manufactured homes, and substantial improvements [WITHIN ZONES V1-V30 ON THE FIRM] within coastal high hazard areas shall be elevated on adequately anchored pilings or columns such that:
  - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and
  - b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a 1 percent chance of being equaled or exceeded in any given year (100-year or 1-percent annual exceedence probability mean recurrence interval); and
  - c. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall provide a certification that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subdivisions (2)(a) and (2)(b) of this subsection. The certification and related records will be maintained in the planning department permit files in perpetuity.

3. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such enclosed space shall not be used for human habitation and must be in compliance with the residential construction standards in KPB 21.06.050(B)(1)(b)(iv) and (v). For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a 1 percent chance of being equaled or exceeded in any given year (100-year or 1-percent annual exceedence probability mean recurrence interval).
4. The use of fill for structural support of buildings within coastal high hazard areas [ZONES V1-V30] on the FIRM or DFIRM is prohibited.
5. Manufactured Homes. [MANUFACTURED HOMES] All manufactured homes to be placed or substantially improved within coastal high hazard areas [ZONES VE, V1-30, AND V] shall meet the requirements for new and substantial improvement construction.

**SECTION 4.** That KPB 21.06.060(B) is hereby amended as follows:

**21.06.060. Exceptions procedure.**

...

B. *Conditions for Exceptions.*

1. Generally, the only condition under which an exception from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subparagraphs (a) through (k) of subsection (A)(4) of this section have been fully considered. As the lot size increases the technical justification required for issuing the exception increases.
2. Exceptions may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
3. Exceptions shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
4. Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.
5. Exceptions shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the exception would result in exceptional hardship to the applicant;
  - c. A determination that the granting of a exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
6. Exceptions, or variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, or to economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, exceptions from the flood elevations should be quite rare.
7. Exceptions may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-flood proofing where it can be determined that such action will have low damage potential, complies with all

other exception criteria except subsection (B)(1) of this section, and otherwise complies with KPB 21.06.060(A) and (B).

8. Any applicant to whom an exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**SECTION 5.** That KPB 21.06.070 is hereby amended 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 exceedence 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 exceedence 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.

"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.

"Federal Emergency Management Agency" is the agency responsible for administration of the National Flood Insurance Program.

"Flood hazard area" means the land area covered by the flood, having a 1 percent chance of occurring in any given year. See also "100-year or 1-percent annual exceedence probability flood."

"Flood Insurance Rate Map (FIRM) and Digital Flood Insurance Rate Map (DFIRM)" means the map of the community issued by the FEMA which delineates the area subject to the 100-year or 1-percent annual exceedence probability flood, the water surface elevation of the base flood and the flood insurance rate zones.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Logging" means the process, work, or business of cutting down trees and transporting the logs to sawmill(s), or for sale or export.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than the basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at KPB 21.06.050(B)(1) and (B)(2).

"Manufactured home" means a structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Minimum Flood Corridor" means the active physical bank full channel of the stream, river or creek as measured at the seasonal high water flows.

"Planning department" means the planning department of the Kenai Peninsula Borough.

"Primary structure" means a dwelling, a building suitable for commercial use, or any structure which will be served by water or wastewater disposal systems or a fuel storage tank. This definition is applicable only in the SMFDA.

"SMFDA" means the Seward Mapped Flood Data Area which includes the 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area outside of the current, affective FIRM or DFIRM, and outside the city limits of Seward.

"Special Flood Hazard Area (SFHA)" means areas of high risk as defined in the current effective FIRM and DFIRM panels for the Kenai Peninsula Borough.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building including liquid or gas storage tank, as well as a manufactured home that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damage condition would equal or exceed 50 percent of the assessed [MARKET] value of the structure before damage occurred.

"Substantial evidence" means evidence a reasonable mind might accept to support a conclusion.

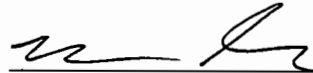
"Substantial improvement" means any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed [MARKET] value of the structure before the improvement or repair is started or, if the property has been damaged and is being restored, before the damage occurred. This term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified or cited by the local code enforcement official, and which are the minimum necessary to assure safe living conditions, or


(2) Any alteration of a structure listed on the National Register of Historic Places or State Register of Historic Places.

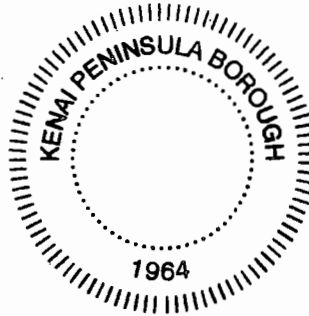
**SECTION 6.** The ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS  
11TH DAY OF OCTOBER, 2016.

  
Blaine Gilman, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Cooper, Dunne, Holmdahl, Johnson, Knopp, Ogle, Welles, Gilman  
No: None  
Absent: None