

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Richard Derkevorkian, Assembly Member

DATE: July 11, 2023

SUBJECT: **Derkevorkian Amendment #13 Replacement for KPB 21.29.120(A) and (D)**
Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB
21.50.055 Regarding Conditional Land Use Permits and Material Site Permits,
Updating Notice, Applicability, Permit Types, Application Requirements,
Standards and Permits Conditions (Johnson, Chesley)

[Please note the bold underlined language is new and the strikethrough language in brackets is to be deleted.]

➤ Amend KPB 21.29.120 as follows:

21.29.120. Prior-existing uses.

A. *Determination.* Prior-existing uses (PEU) in effect on October 1, ~~[2022]~~ **2023** are allowed to continue operation subject to the requirements of this section. The burden of proof that the prior-existing use existed prior to October 1, ~~[2022]~~ **2023 and after May 21, 1996**, is on the applicant. **All other PEUs prior to May 21, 1996, are already recorded with the borough and are recognized.** If the planning director denies prior-existing use status, the applicant must comply with the permit requirements of this chapter. Failure to apply for a prior-existing use determination by January 1, ~~[2024]~~ **2025**, will result in ~~[termination]~~ **suspension** of all rights to continued operation as a nonconforming use **until 1) the operator applies for a prior-existing use determination; 2) the application is approved; and 3) the operator demonstrates full compliance with the provisions of this chapter relating to PEUs** ~~[and require full compliance with all provisions of this chapter]~~. **The operator will have one year from the date of the notice of the planning director's review of an operator's five-year-renewal to come into full compliance with the provisions of this chapter, otherwise the suspended PEU permit will be terminated.**

...

D. *Expansion Prohibited.* A prior-existing use may not be increased, intensified, or expanded or moved ~~[to any other part of the lot, tract, or parcel it occupies]~~ after October 1, 2022, nor may the prior-existing use be moved to a parcel which is subject to this chapter. If a parcel is subdivided, the pre-existing use may not be expanded to any lot, tract, or parcel where material extraction or processing had not previously occurred or was not lawfully established in accordance with this section.

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Your consideration is appreciated.