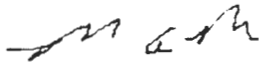


Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP

FROM: Marcus Mueller, Acting Planning Director 

DATE: October 1, 2020

RE: Ordinance 2020-43, Amending KPB 21.44.110, Nonconforming Uses, to Clarify Expansion Related to Agricultural Purposes, that a Nonconforming Use Runs with the Land, and to Extend the Nonconforming Use Application Deadline for C & H Estates (Mayor)

The amendments will clarify a source of conflict and confusion in current KPB 21.44.110. Following the formation for the C & H Estates Local Option Zoning District (LOZD), an issue that has been expressed by property owners in the LOZD is that current KPB 21.44.110 does not explicitly state that a nonconforming use runs with the land and is therefore transferable upon the sale or lease of a property. The proposed amendments address those concerns.

The clear focus of KPB 21.44.110 is on the use not the owner. The code amendments will simply reflect current practice and interpretation.

The amendments also address a concern related to agricultural use property and this issue of whether a growth in farming activity or, say, a crop rotation to another area of a parcel is considered a prohibited expansion of the use. The amendments will clarify that a nonconforming use determination for agricultural purposes is for the entire parcel and that adjustments to the farmable area is not considered an expanded use for purposes of KPB 21.44.110.

Finally, the one-year deadline under KPB 21.44.110 for C & H Estates LOZD property owners to apply for a nonconforming use expires January 7, 2021. This ordinance extends that deadline to April 7, 2021 to account for these amendments.

Your consideration of this ordinance is appreciated.