

Introduced by:	Mayor, Johnson
Substitute Introduced:	04/05/16
O2016-03 (Johnson, Mayor):	See Original for Prior History
Hearing:	04/05/16
Action:	Amended and Postponed to 05/03/16
Vote:	5 Yes, 4 No, 0 Absent
Date:	05/03/16
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2016-03
(MAYOR, JOHNSON) SUBSTITUTE**

**AN ORDINANCE AMENDING KPB CHAPTERS 21.44 AND 21.46 REGARDING
LOCAL OPTION ZONING, AND REPEALING KPB 21.50.050 RELATING TO FINES
AND REENACTING AS KPB 21.50.055**

WHEREAS, there are 14 local option zones within the Kenai Peninsula Borough; and

WHEREAS, in 2000 there was an omnibus review and rewrite of the local option zoning provisions; and

WHEREAS, various interpretation issues have arisen regarding the process and standards applicable to local option zoning over the past 15 years; and

WHEREAS, the current process has made it difficult for citizens wishing to form a local option zone district to be successful; and

WHEREAS, revisions to the local option zoning code will promote clarity and consistency in the local option zoning process; and

WHEREAS, revisions will promote consistency in the standards for the existing local option zones; and

WHEREAS, the 2005 Kenai Peninsula Borough Comprehensive Plan supports broader use of local option zoning to address land use conflicts in specific areas; and

WHEREAS, the 2005 Kenai Peninsula Borough Comprehensive Plan recommends streamlining local option zoning requirements to make it easier to adopt local option zoning districts; and

WHEREAS, the Planning Commission at its regularly scheduled meeting of March 28, 2016 recommended approval by majority consent;

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

SECTION 1. That KPB Chapter 21.44 is hereby amended as follows:

CHAPTER 21.44 – LOCAL OPTION ZONING

21.44.010. Purpose.

A. The purpose of this chapter is to provide property owners in the rural district an opportunity to [PETITION THE ASSEMBLY FOR] request the borough adopt greater restrictions on land use than otherwise provided by this title. This chapter shall:

1. control building sites, placement of structures and land uses through:
 - a. separating conflicting land uses,
 - b. regulating certain uses detrimental to residential areas,
 - c. setting minimum lot sizes, widths and setback standards,
 - d. setting standards for the number and type of structures developed on a parcel;
2. preserve open space; and
3. provide consistency with the goals and objectives of the Kenai Peninsula Borough Comprehensive Plan and Coastal Management Program.

21.44.020. State and federal agencies regulated.

[UNLESS SPECIFICALLY EXEMPTED] To the extent allowed by law, all state and federal agencies are required to comply with this ordinance and obtain all necessary permits.

21.44.030. [INITIATION PROCEDURES] Formation methods.

A. [THE RECORD OWNERS OF AT LEAST THREE-FOURTHS OF THE PARCELS WITHIN A DESCRIBED AREA OF THE RURAL DISTRICT MAY PETITION THE ASSEMBLY FOR A GREATER RESTRICTION ON LAND USES AND DEVELOPMENT STANDARDS THAN OTHERWISE PROVIDED BY THIS TITLE. EACH PARCEL IS ENTITLED TO ONE VOTE REGARDING FORMATION OF A DISTRICT. IF THERE ARE MULTIPLE RECORD OWNERS OF A PARCEL, THE MAJORITY VOTE OF THE RECORD OWNERS WILL DETERMINE THE PARCEL'S VOTE. IN THE EVENT OF A TIE VOTE REGARDING A PARCEL WITH MULTIPLE RECORD OWNERS, THE VOTE SHALL BE COUNTED AGAINST FORMATION. FAILURE TO SIGN THE PETITION CONSTITUTES A NO VOTE.] Any number of property owners within the rural district interested in forming a local option zoning district (LOZD) may meet with the planning department to discuss application requirements and proposed LOZD

boundaries. Application forms for LOZDs are available from, and shall be submitted to, the Borough Planning Department. The planning department shall process an application for an LOZD.

[B.] [ADVISORY PLANNING COMMISSIONS MAY PROPOSE LOCAL OPTION ZONING DISTRICTS THROUGH A PUBLIC PROCESS. THE PROCESS MAY OCCUR IN CONJUNCTION WITH A LAND USE PLANNING PROCESS, THE UPDATE OF EXISTING LAND USE PLANS, OR A SEPARATE PROCESS USED SOLELY FOR THE CREATION OF LOCAL OPTION ZONING DISTRICTS. THIS PROCESS MUST INCLUDE AND MEET THE PUBLICATION, NOTICE, PUBLIC HEARING AND ALL OTHER REQUIREMENTS OF THIS CHAPTER, AND MUST COMPLY WITH THE REQUIREMENTS OF KPB 21.44.030(A)].

[C.] B. [LOCAL OPTION ZONING DISTRICTS] Any type of LOZD may be proposed at the time of preliminary or final plat approval. Recommendations for a specific [LOCAL OPTION ZONING DISTRICT] LOZD must be in concurrence with the current owners of the property subject to the plat. The planning commission shall make a recommendation to the assembly regarding the formation of the [LOCAL OPTION ZONING DISTRICT] LOZD. Plats must be [OF] 12 contiguous lots or more, separated only by a street, alley, right-of-way, or easement. [IF A LOCAL OPTION ZONING DISTRICT IS INITIATED UNDER THIS PROCEDURE, THEN THE REQUIREMENTS OF SECTION 21.44.040, AREA AND PETITION REQUIREMENTS, ARE NOT REQUIRED.]

21.44.040. [AREA AND PETITION] Formation requirements.

A. Except as otherwise provided, the minimum area that may be included in [A LOCAL OPTION ZONING DISTRICT] an LOZD is 12 lots. [THE MINIMUM AREA THAT MAY BE INCLUDED IN A LOCAL OPTION ZONING DISTRICT IN AN INDUSTRIAL DISTRICT AS DESCRIBED IN KPB 21.44.200 IS SIX LOTS.] At least [THIRTY] 30 percent of the lots within a proposed R-W district must be [DIRECTLY ADJACENT TO THE] waterfront lots. [TWO-THIRDS OF THE PARCELS WITHIN THE PROPOSED DISTRICT MUST BE OF THE AVERAGE SIZE PREVAILING WITHIN THE PROPOSED DISTRICT. HOWEVER, DISTRICTS WITH DISPARATE PARCEL SIZES MAY BE FORMED WHERE 100 PERCENT OF THE PARCELS VOTE IN FAVOR OF THE DISTRICT.] Lots [AND PARCELS] in [A PETITION AREA] an LOZD must be contiguous [OR] and separated only by a street, alley, right-of-way, or easement. [PETITIONERS SHALL COORDINATE WITH T] The Planning Department [TO DESIGNATE APPROPRIATE DISTRICTS] shall create a proposed local option zoning map for a proposed district based on land use, location, access, soils, topography, availability of utilities, encumbrances and permits

B. An LOZD formed under KPB 21.44.030(A) requires an application signed by the record owners of at least six lots within the proposed LOZD. The applicants shall be owners of parcels proposed for regulation, except that the Kenai Peninsula Borough may not be a signatory on such an application unless it is the sole owner of all lots within the LOZD. The formation of the

LOZD may include portions of subdivisions. The [PETITION] application shall:

1. show opposite each signature of an applicant lot owner, a[N] street address if available and adequate legal description of the property owned,
2. set forth whether the district will form a R-1, R-2, R-R, R-W, R-M or C-3[, I, OR R-C] zone [INCLUDING A COPY OF THE STANDARDS FOR THE APPLICABLE ZONE], and
3. include a map of the proposed [LOCAL OPTION ZONING DISTRICT] LOZD area.

C. [PETITION FORMS FOR LOCAL OPTION ZONING DISTRICTS ARE AVAILABLE FROM, AND SHALL BE SUBMITTED TO, THE BOROUGH PLANNING DEPARTMENT. THE PLANNING DEPARTMENT SHALL PROCESS AN APPLICATION FOR A LOCAL OPTION ZONING DISTRICT PETITION AND MAY MEET WITH THE SPONSORS PRIOR TO PLANNING DEPARTMENT APPROVAL OF THE PETITION FOR CIRCULATION TO THE PROPERTY OWNERS WITHIN THE PROPOSED DISTRICT. THE CITIZEN SPONSORS FOR A LOCAL OPTION ZONING DISTRICT SHALL HAVE 60 DAYS FROM APPROVAL OF THE PETITION BY THE PLANNING DEPARTMENT TO GATHER THE REQUIRED SIGNATURES TO FORM A LOCAL OPTION ZONING DISTRICT.] The planning department shall hold a meeting in a public facility regarding the application. After considering the standards set forth in KPB 21.44.010(A) and land attributes set forth in KPB 21.44.040(A) the planning department shall make a recommendation to the planning commission and assembly regarding the formation and boundaries of the proposed LOZD. The date of introduction for assembly consideration of the [LOCAL OPTION ZONING DISTRICT] LOZD shall be within [60] 90 days [OF] after filing the completed [PETITION] application with the planning department.

D. The date of application shall be the date for determining whether a proposed LOZD meets the formation requirements set forth in this section. If there is an approved preliminary plat within the area of the proposed LOZD that does not meet the formation requirements for the type of LOZD proposed the area may not be included in the LOZD.

E. The owner of a parcel contiguous to a proposed LOZD which is larger than the maximum allowed lot size within the LOZD may request that the borough include the parcel in the LOZD.

21.44.050. Public hearings and notification requirements.

The planning commission shall hold at least one public hearing on local option zoning [PETITIONS] applications. Public notice of the hearing shall comply with KPB 21.11.020. In addition, property owners within the proposed district and within 300 feet of the boundaries of the district shall receive a copy of the public notice at least seven days prior to the hearing. The planning commission shall recommend to the assembly approval,

disapproval, or modifications of the proposed [LOCAL OPTION ZONING DISTRICT] LOZD. The planning department shall distribute a summary of the LOZD's regulations and boundaries to property owners within the proposed LOZD. The summary shall include an opportunity for property owners to show support for the LOZD by their signature.

21.44.060. Assembly action.

A. The assembly shall approve, disapprove, or modify the proposed [LOCAL OPTION ZONING DISTRICT] LOZD. The assembly, in its legislative capacity, [RESERVES THE RIGHT TO] may disapprove [A LOCAL OPTION ZONING DISTRICT] an LOZD [IN ITS LEGISLATIVE CAPACITY] notwithstanding the district's meeting the criteria of this chapter.

B. Any LOZD approved must meet the formation criteria set forth in KPB 21.44.040 and the minimum requirements of the LOZD being formed.

C. Prior to introduction to the assembly the planning department will provide the owners of each parcel within the proposed LOZD a summary statement of the LOZD's regulations and boundaries as required by KPB 21.44.050. In order for the LOZD to be submitted to the assembly for introduction the owners of 60 percent of the parcels within the LOZD must be in favor of formation of the LOZD as represented by a parcel owner's signature on the LOZD summary distributed by the planning department. If the borough owns less than 100 percent of the parcels in the proposed LOZD, it may not sign the summary. Additionally, in that case the 60 percent requirement shall be calculated by first subtracting from the total number of parcels in the LOZD the number of parcels owned by the borough. The owners of 60 percent of the remaining parcels must sign the LOZD summary for the LOZD to be submitted to the assembly.

[21.44.070. VARIANCES.

VARIANCES MAY BE GRANTED PURSUANT TO THE TERMS OF KPB 21.05.]

21.44.080. Application.

A. The standards of the [LOCAL OPTION ZONING DISTRICT] LOZD shall be effective within 30 days [OF] after approval by the assembly. [THE REGULATIONS SET BY THIS CHAPTER SHALL APPLY UNIFORMLY TO THE DISTRICT.]

B. This ordinance does not repeal, abrogate or impair any existing deed restrictions, covenants or easements. The borough will not enforce private covenants, easements, or deed restrictions.

C. [ALL LOCAL OPTION ZONING DISTRICTS MUST COMPLY WITH KPB 21.25, CONDITIONAL LAND USE PERMITS; KPB 21.06, FLOODPLAIN MANAGEMENT; AND KPB 21.18, ANADROMOUS STREAMS HABITAT PROTECTION; AND MUST BE

CONSISTENT WITH THE ENFORCEABLE POLICIES OF THE KENAI PENINSULA BOROUGH COASTAL MANAGEMENT PROGRAM. HOWEVER, APPLICATION OF OTHER ORDINANCES MAY NOT RESULT IN ALLOWING A USE NOT OTHERWISE ALLOWED IN A DISTRICT FORMED UNDER THIS ORDINANCE.] All property in an LOZD must comply with applicable local, state, and federal regulations.

[D. THE PROVISIONS OF THIS CHAPTER SHALL APPLY TO LOCAL OPTION ZONING DISTRICTS PREDATING ADOPTION OF THIS CHAPTER, EXCEPT WHERE THERE IS A DIRECT CONFLICT BETWEEN THIS CHAPTER AND THE STANDARDS FOR THE PRE-EXISTING DISTRICT. IN CASES OF CONFLICT THE TERMS OF THE PRE-EXISTING DISTRICT SHALL APPLY.]

21.44.090. Local option zoning map.

Within 30 days [OF] after assembly approval, a map of the boundaries of the adopted [LOCAL OPTION ZONING DISTRICT] LOZD shall be [DEVELOPED BY THE PLANNING DEPARTMENT AND ADOPTED AS THE OFFICIAL ZONING MAP FOR THE DESIGNATED LOCAL OPTION ZONE. THE MAP SHALL BE AT A SCALE OF 1:500, AND SHOW THE BOUNDARIES AND LABELS OF THE ZONES INTO WHICH THE PARCELS AND DISTRICTS HAVE BEEN DESIGNATED.] available on the borough's website or at the planning department upon request.

21.44.095. Variances.

Variances may be granted within an LOZD pursuant to the terms of KPB 21.05.

21.44.100. Prior existing structures.

Any structure, which existed prior to the [ADOPTION] formation of an LOZD [THIS CHAPTER] [BUT] that does not meet the provisions of this chapter, shall be allowed to continue subject to the following conditions:

- A. No alterations may be made which increase the nonconformity;
- B. Any prior existing building which has been destroyed or damaged to the extent of 50 percent or more of the assessed value of the structure shall thereafter conform to the provisions of this chapter. The right to reconstruct in nonconformity with this chapter is forever lost if
 1. the application for reconstruction is not made within [SIX] 12 months of the date of damage, or
 2. [IF] the application for reconstruction is approved but the structure is not reconstructed within 24 months of the date of the approval of the application for reconstruction.
- C. Nothing in this section prohibits reconstruction at any time in conformity with this chapter.

21.44.110. Nonconforming uses.

A. Determination. Nonconforming uses in effect on the date of initial adoption of the [LOCAL OPTION ZONING DISTRICT] LOZD are allowed to continue operation. The burden of proof that the nonconforming use existed before adoption of an LOZD [OF THIS CHAPTER] is on the applicant. If the planning director denies nonconforming use status, the applicant must [QUALIFY FOR ANY PERMIT REQUIRED BY THE ZONE] comply with the requirements of the LOZD. [IN ORDER TO CONTINUE THE USE.] Failure to apply for a nonconforming use determination within one year from the date of notice of the adoption of [A LOCAL OPTION ZONING DISTRICT] an LOZD ordinance shall result in termination of all right to continued operation as a nonconforming use and require full [CONFORMANCE] compliance with all provisions of this chapter. Written notice of the nonconforming use application requirements shall be given by certified mail or personal delivery to [THE PROPERTY OWNER OR OPERATOR OF THE NONCONFORMING USE] all property owners within an LOZD. If notice cannot effectively be given by these methods, the planning director may post the subject property.

B. Decision. The planning director shall give notice of the application for a nonconforming use determination to property owners within the district. The notice shall include a summary of the application, a vicinity map, and a deadline for submitting written comments or evidence regarding the existence of the use prior to making a determination. The planning director shall issue a decision regarding the nonconforming status based on the written application, written comments, or evidence regarding the existence of the use prior to the [ADOPTION OF THIS CHAPTER] adoption of an LOZD. The planning director's decision may be appealed by the applicant or affected property owners to the planning commission within 15 days of distribution of the decision.

C. Discontinuance. Any nonconforming use of land or building which has ceased by discontinuance for an uninterrupted period of 365 days shall thereafter conform to the provisions of this chapter. Lack of intent to cease use or abandon the use does not suspend the 365-day time period. If a nonconforming use of a temporary structure is discontinued, it shall not be recommenced.

D. Expansion Prohibited. A nonconforming use of a building or land may not be increased, intensified, or expanded or moved to any other part of the lot, tract, or parcel it occupies after the ordinance forming the district is adopted, nor may the use be moved to a parcel[, LOT OR TRACT] which is subject to this chapter.

E. Change of Use. The use of a nonconforming building may be changed only to a use conforming to this chapter.

F. Standards. In order to qualify as an allowed nonconforming use, the use must meet the following standards on the date the assembly approves formation of the district:

1. A use must have been legally established under prior law.
2. A use must be operational in accordance with the type of use.
3. The purchase, clearing, or improvement of land preparatory to the use is inadequate to qualify the parcel for nonconforming use status, unless the site has been prepared or construction completed to the extent that it is no longer feasible to use the property for a conforming use.

G. Conditions may be placed on nonconforming uses by the planning director to protect the [SAFETY OR HEALTH OF RESIDENTS OF THE] residential character of the LOZD by limiting excessive noise, excessive traffic, fire hazards, and to provide appropriate screening, lighting, and hours of operation. [LOCAL OPTION ZONING DISTRICT.]

21.44.120. Nonconforming lots.

An undeveloped lot which is nonconforming as to lot dimension or area may be used for any use allowed in the district in which it is located provided:

- A. It was legally created and of record prior to the date of original adoption of the [LOCAL OPTION ZONING DISTRICT] LOZD; and
- B. All development complies with all other ordinance requirements.

21.44.130. Home occupations.

A. Purpose. It is the purpose of this section to promote peace, quiet, and domestic tranquility within residential [LOCAL OPTION ZONING DISTRICTS] LOZDs, and to limit excessive noise, excessive traffic, diminished property values, fire hazard, threats to safety and health, and other possible negative effects of commercial uses conducted in residential areas.

B. Application. A single h[H]ome occupation[s] may be operated on a lot in R-1, R-2, R-R, R-W, and R-M[, AND R-C] zones subject to the provisions of this section without a permit:

C. Standards.

1. The outside appearance of a building or parcel shall [BE CONSISTENT WITH A RESIDENTIAL LOCAL OPTION ZONE DISTRICT] not change so that it detracts from the dwelling's and parcel's principal use as a residence.
2. The home occupation shall not generate traffic, parking, sewage or water use in excess of what is normal in a residential subdivision. [NOT MORE] There may be no more than [TEN ROUND] twenty vehicle trips per day of combined residential and home occupation traffic [MAY BE DRAWN TO THE PARCEL AS A RESULT OF THE HOME OCCUPATION].

3. The home occupation shall not create a hazard to person or property, or become a nuisance.
- [4. THE HOME OCCUPATION SHALL NOT RESULT IN NOISE, VIBRATION, GLARE, FUMES, HEAT, ODORS, SMOKE, OR COMMERCIAL ELECTRICAL INTERFERENCE DETECTABLE TO THE NORMAL SENSES OFF THE PARCEL. NO EQUIPMENT OR PROCESS SHALL BE USED WHICH CREATES VISUAL OR AUDIBLE INTERFERENCE IN ANY RADIO OR TELEVISION RECEIVERS OFF THE PREMISES, OR CAUSES FLUCTUATIONS IN LINE VOLTAGE OFF THE PARCEL.]
- [5]4. One permanent sign no greater than 16 square feet may be used to advertise a home occupation. Signs [MUST] may not be illuminated.
- [6]5. Retail sales of goods which generate traffic of customers, deliveries, or suppliers to the parcel are not allowed on the parcel, except [AS ALLOWED BY AN ADMINISTRATIVE CONDITIONAL USE PERMIT OR AS] where the sale of goods is incidental to the service provided by the home occupation[S OPERATED IN ACCORDANCE WITH THESE STANDARDS UNDER KPB 21.44.130(E)(2), (6), (9), AND (12)].
- [7]6. The use of a dwelling unit for home occupations shall be conducted solely within the confines of the main dwelling and accessory buildings, and shall be clearly incidental and [WITHIN] subordinate to the main use of the dwelling [SUBORDINATE TO ITS RESIDENTIAL USE,] as a residence. [AND SHALL NOT EXCEED MORE THAN 30 PERCENT OF THE FLOOR AREA, WITH THE EXCEPTION OF BED AND BREAKFAST OPERATIONS, WHERE THE USE SHALL NOT EXCEED MORE THAN 60 PERCENT OF THE FLOOR AREA,] In-home adult or child care, or preschools may use outdoor space on the lot as long as the area used for the home occupation is fenced for the safety of persons on the premises as a result of the home occupation.
- [8]7. The storage of toxic, explosive, or other dangerous or hazardous materials, substances, or chemicals for commercial purposes are not allowed on the premises, except for fuel storage of 55 gallons. [BULK FUEL STORAGE CONTAINERS OF NO MORE THAN ONE 55-GALLON TANK FOR USE IN GUIDE SERVICE RELATED ACTIVITIES.]
8. There shall not be outside storage or display of any kind that is visible from the street or neighboring property other than personal or seasonal decorations.
9. No commercial outdoor storage or outdoor loading of vehicles related to the home occupation shall be allowed, except that one operational work trailer, and one operational and registered work vehicle may park on the property. Licensed fishing guide operations are limited to two boats for the business per lot, each not exceeding 28 feet in length.
10. No on street parking shall be allowed or necessary to conduct the home occupation.

11. The home occupation shall be conducted by the inhabitants of the principal permitted dwelling, and no more than one nonresident employee shall be permitted to work on site.

12. All operators of home occupations are required to meet applicable registration requirements to collect borough sales tax as set for in KPB chapter 5.18.

D. Conditions. [THE] All standards set forth in KPB 21.44.130 must be met on a continuing basis and are mandatory [CONDITIONS OF THE ADMINISTRATIVE CONDITIONAL USE PERMIT] to operate a home occupation. [THE PLANNING DIRECTOR MAY IMPOSE ADDITIONAL CONDITIONS CONSISTENT WITH THE PROVISIONS OF KPB 21.44.130(A) AND (C) AND THE APPLICABLE ZONE.]

E. [THE FOLLOWING ARE ALLOWED H] Home occupations allowed in the R-1, R-R, R-W, and R-M[, AND R-C] districts[:] may include but are not limited to:

[1.] [A] accountant / [B] bookkeeping [S] services;

[2.] [B] beauty parlor or salon / barber shop;

[3. CATERING SERVICES;]

[4.] [C] computer programming, software instruction, web page development, and related computer services;

[5.] [C] consulting services;

[6.] [D] dressmaking, sewing, [MILLINERY] and tailoring;

[7.] [E] event [P]planning [S]services;

[8.] [I] in-home adult or child care, or preschool[, WITHOUT REGARD TO FLOOR SPACE RESTRICTIONS IN KPB 21.44.130(7)];

[9. H] home cooking and preserving;

[10.] [H] home crafts, such as model making, needlework, and rug weaving[, LAPIDARY WORK AND CABINET MAKING];

[11.] [P] photography [S]studio;

[12.] [P] painting, sculpting, writing or other fine arts related crafts;

[13.] [T] telephone answering, telecommuting, secretarial and administrative services;

[14.] [T] tutoring and musical instruction.

F. Home occupations not allowed in the R-1, R-2, R-R, R-W, and R-M districts. The following occupations are prohibited as home occupations: service, repair or painting of any vehicle; kennels; sexually oriented businesses; commercial composting; sale, repackaging or use of hazardous materials; retail sales unless clearly incidental and necessary to the service being provided by the home occupation; commercial marijuana facilities as defined in AS 17.38, restaurants, alcoholic beverage premises licensed under

title 4 of the Alaska statutes and other similar uses which are inconsistent with the purpose statement of KPB 21.44.010.

G. Violation of the home occupation provisions of this section shall be processed in accord with the provisions of KPB 21.50. Each day a violation continues is a separate violation.

[F. PERMIT REQUIRED. ALL HOME OCCUPATIONS NOT SPECIFICALLY LISTED IN KPB 21.44.130(E) REQUIRE AN ADMINISTRATIVE CONDITIONAL USE PERMIT, UNLESS OTHERWISE ALLOWED BY KPB 21.44.170 AND KPB 21.44.180. AN APPLICANT FOR A HOME OCCUPATION MAY OBTAIN AN ADMINISTRATIVE CONDITIONAL USE PERMIT APPLICATION FROM THE PLANNING DEPARTMENT. THE APPLICATION SHALL INCLUDE AT A MINIMUM THE NAME, PHYSICAL AND MAILING ADDRESS, AND PHONE NUMBER OF THE APPLICANT; THE TYPE OF HOME OCCUPATION; EQUIPMENT OR MACHINERY USED IN THE OCCUPATION; A BOROUGH TAX COMPLIANCE CERTIFICATE; A PARKING AND TRAFFIC CIRCULATION PLAN; A DRAWN SITE PLAN; PHOTOGRAPHS OF THE PREMISES, ANY REQUESTED VARIANCES, AND ADDITIONAL INFORMATION REQUIRED TO AID THE PLANNING DIRECTOR'S REVIEW. STAFF MAY PERFORM A SITE INSPECTION AS PART OF THE APPLICATION AND COMPLIANCE PROCESSES. AN APPLICANT WHO IS A RESIDENT, BUT NOT THE OWNER, OF THE PREMISES MUST HAVE THE OWNER'S NOTARIZED PERMISSION TO PROCEED WITH THE HOME OCCUPATION. AN APPLICATION FEE MAY BE ESTABLISHED BY PLANNING COMMISSION RESOLUTION.]

[G. TIME FRAME/NOTICE. THE PLANNING DIRECTOR MAY ISSUE ADMINISTRATIVE CONDITIONAL USE PERMITS, WITHIN 60 DAYS OF APPLICATION, THAT COMPLY WITH THE PROVISION OF THIS TITLE, AND MAY REQUIRE ADDITIONAL TERMS AND CONDITIONS CONSIDERED NECESSARY TO ASSURE COMPLIANCE WITH THE STANDARDS OF THE APPLICABLE ZONE. ALL PROPERTY OWNERS WITHIN THE LOCAL OPTION ZONING DISTRICT SHALL BE NOTIFIED OF HOME OCCUPATION PERMIT APPLICATIONS, AND WRITTEN COMMENTS SHALL BECOME PART OF THE OFFICIAL RECORD.]

[H. APPEAL. DECISIONS APPROVING OR DENYING A HOME OCCUPATION PERMIT MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN 30 DAYS OF A DENIAL. A PUBLIC HEARING SHALL BE HELD BY THE PLANNING COMMISSION AS PART OF THE APPEAL PROCESS. A PUBLIC NOTICE OF THE PUBLIC HEARING SHALL BE GIVEN IN COMPLIANCE WITH KPB 21.11.020. THOSE PROPERTY OWNERS WHO SUBMITTED WRITTEN COMMENTS TO THE PLANNING DEPARTMENT ARE ENTITLED TO WRITTEN NOTICE OF THE APPEAL. PURSUANT TO KPB 21.20, ONLY PERSONS WHO SUBMIT WRITTEN COMMENTS OR TESTIFY BEFORE THE PLANNING COMMISSION MAY APPEAL THE APPROVAL OR DENIAL OF A HOME OCCUPATION PERMIT.]

[I. RENEWAL. EVERY FIVE YEARS A HOME OCCUPATION PERMITTEE SHALL APPLY FOR A RENEWAL PERMIT, OR THE PERMIT WILL EXPIRE. IF THE PLANNING DIRECTOR DETERMINES THAT THE PERMITTEE CONTINUES TO MEET THE STANDARDS SET FORTH IN KPB 21.44.130, THE RENEWAL PERMIT SHALL BE

GRANTED. IF IT APPEARS THE PERMITTEE NO LONGER MEETS THE STANDARDS SET FORTH IN KPB 21.44.130, THE PLANNING DIRECTOR MAY DENY OR PLACE ADDITIONAL CONDITIONS ON RENEWAL OF THE PERMIT. THE PLANNING DIRECTOR MAY CONDUCT A SITE INSPECTION AND AN INVESTIGATION, INCLUDING A HEARING IF NECESSARY, ON PERMIT RENEWAL, AND SHALL ESTABLISH PROCEDURES FOR ANY SUCH INVESTIGATION OR HEARING. A DECISION REGARDING PERMIT RENEWAL MAY BE APPEALED PURSUANT TO KPB 21.44.130(H).]

[J. CHANGE IN USE. ANY CHANGE IN THE TYPE OF USE OR ANY CHANGE IN THE EXTENT OR VOLUME OF USE, AREA OF THE DWELLING UNIT BEING USED, OR MECHANICAL OR ELECTRICAL EQUIPMENT BEING USED THAT DIFFERS FROM THAT ALLOWED BY THE PERMIT OR THIS CHAPTER MUST BE APPROVED BY THE PLANNING DIRECTOR AFTER COMPLYING WITH THE PROVISIONS OF KPB 21.44.130. NONCOMPLIANCE WITH THIS PROVISION SHALL SUBJECT THE PERMITTEE TO THE ENFORCEMENT, REVOCATION, AND REMEDY PROVISIONS OF KPB 21.50. EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION.]

21.44.135. New Structures-Development Notice.

Structures or buildings with a permanent foundation require a development notice to ensure compliance with the setback requirements. Development notices shall be on a form provided by the planning department and shall include the dimensions and the proposed structure's location on the lot.

21.44.140. Rezoning.

A. Amendments to [LOCAL OPTION ZONING DISTRICTS] LOZDs may be initiated to repeal a zone, change the type of zone or modify the boundaries of the zoning district by following the process for establishing a LOZD set forth in KPB 21.44.040.

- [1. ANY RESIDENT OF THE DISTRICT MAY REQUEST AN AMENDMENT TO A ZONING DISTRICT PROVIDED THAT A PETITION IS SUBMITTED BEARING SIGNATURES OF MORE THAN THREE-FOURTHS OF THE PROPERTY OWNERS WITHIN THE AREA BEING REZONED;
2. A LANDOWNER OF PROPERTY CONTIGUOUS WITH THE BOUNDARIES OF THE LOCAL OPTION DISTRICT MAY REQUEST AN AMENDMENT TO THE DISTRICT TO INCLUDE HIS OR HER PROPERTY. CONTIGUOUS PROPERTY OWNERS ARE NOT REQUIRED TO MEET THE AREA AND PETITION REQUIREMENTS (KPB 21.44.040) OF THIS TITLE.]

[B. THE BOROUGH PLANNING DEPARTMENT WILL PROVIDE PETITION FORMS.]

[C. THE REZONING PROCESS MUST MEET THE NOTIFICATION AND PUBLIC HEARING REQUIREMENTS OF KPB 21.44.]

[D]B. The planning commission shall make a recommendation to the assembly regarding the repeal or change in zone or modification of boundaries. All rezone petitions are subject to assembly approval.

21.44.150. Violations—Enforcement.

Violations of KPB 21.44 are subject to enforcement by the remedies set forth in KPB 21.50. Each day which the violation exists shall constitute a separate offense.

21.44.160. Single-family residential district (R-1).

A. Allowed Principal Use. [ONLY S]Single-family residential (R-1) dwelling units are the allowed principal use in this district.

B. Allowed [SECONDARY] Compatible Uses. [SECONDARY] Compatible uses allowed in the R-1 zone are parks, playgrounds, open space, schools, community centers, libraries, churches, and home occupations.

C. Development Standards. Development standards apply to principal[E] and accessory structures.

1. Setbacks. Setbacks for structures shall be 30 feet from the front yard line, 20 feet from the rear yard line, 15 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.

2. Maximum building height. Maximum building height shall be 2½ stories above ground or 35 feet above average grade, whichever is less

3. [MINIMUM LOT] Lot size. Minimum lot size shall be 40,000 square feet. Maximum lot size is 5 acres.

4. Coverage. Maximum coverage by structure is 20 percent of the lot.

[4.]5. Drainage Ways. Existing natural drainage ways shall be retained.

[5. BUFFERS. A FORESTED BUFFER OF AT LEAST 20 FEET SHALL BE RETAINED BETWEEN THE BUILDING SITE AND THE ROADWAY. DEAD AND DISEASED TREES WHICH ARE A SAFETY HAZARD OR WHICH THREATEN STRUCTURES MAY BE REMOVED. THIS SECTION DOES NOT REQUIRE REVEGETATION OF A BUFFER AREA THAT WAS CLEARED BEFORE THE FORMATION DATE OF THE LOCAL OPTION ZONING DISTRICT.]

6. Accessory structures. Accessory structures commonly associated with residential dwellings, i.e., garages, barns, storage sheds, greenhouses, wind turbines, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district. A single accessory structure may constitute the principal use of the lot where an adjacent lot with the primary residence is in the same ownership.

7. Livestock and pets.
 - a. Dog Lots: Dog lots and kennels are prohibited.
 - b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.
 - c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.
 - d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.
8. Prohibited uses and structures. The following uses and structures are prohibited in the R-1 district:
 - a. A lot within the LOZD shall not be offered for sale or lease for non-allowed uses.
 - b. No more than two of either travel trailers or motor homes may be on each lot at any time.
 - c. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

21.44.165. Small lot residential district (R-2).

- A. Allowed Principal Use. One single-family dwelling unit is the allowed principal use in this district.
- B. Allowed Compatible Uses. Compatible uses allowed in the R-2 zone are parks, playgrounds, open space, schools, community centers, libraries, churches, and home occupations.
- C. Development Standards. Development standards apply to principal and accessory structures.
 1. Setbacks. Setbacks for structures shall be 20 feet from the front yard line, 20 feet from the rear yard line, and 10 feet from the side yard lines.
 2. Maximum building height. Maximum building height shall be 2½ stories above ground or 35 feet above average grade, whichever is less.
 3. Lot size. Minimum lot size shall be 20,000 square feet. Maximum lot size is 50,000 square feet.
 4. Coverage. Maximum coverage by structure is 30 percent of the lot.
 5. Drainage Ways. Existing natural drainage ways shall be retained.

6. Accessory structures. Accessory structures commonly associated with residential dwellings, i.e., garages, barns, storage sheds, greenhouses, wind turbines, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district. A single accessory structure may constitute the principal use of the lot where an adjacent lot with the primary residence is in the same ownership.

7. Livestock and pets.

a. Dog Lots: Dog lots and kennels are prohibited.

b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.

c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.

d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.

8. Prohibited uses and structures. The following uses and structures are prohibited in the R-2 district:

a. A lot within the LOZD shall not be offered for sale or lease for non-allowed uses.

b. No more than two of either travel trailers or motor homes may be on each lot at any time.

c. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

21.44.170. Rural residential district (R-R).

A. Allowed Principal Use. [ONLY S]Single-family [RESIDENTIAL (R-1)] dwelling units are the allowed principal use in this district.

B. Allowed [SECONDARY] Compatible Uses. [SECONDARY] Compatible uses allowed in the R-R zone are parks, playgrounds, schools, community centers, open space, libraries, churches, and home occupations.

C. Development Standards. Development standards apply to principal[E] and accessory structures:

1. Setbacks. Setbacks shall be 60 feet from the front yard line, 40 feet from the rear yard line, 25 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.

2. [MINIMUM LOT] Lot size. Minimum lot size shall be 100,000 square feet. Maximum lot size is 10 acres.

3. Drainage ways. Existing natural drainage ways shall be retained.
4. Buffers. A natural vegetative buffer of at least 30 feet shall be retained between the building site and the public right-of-way. To provide for screening, aesthetics, and the reduction of surface water run-off, [NO LOT SHALL BE CLEAR-CUT MORE THAN 50 PERCENT OF THE TOTAL LOT AREA EXCEPT THAT] trees may be selectively pruned and thinned within the buffer, and dead and diseased trees which are a safety hazard or which threaten structures may be removed. [UNDERGROWTH MAY BE REMOVED PROVIDED THAT THE AREA IS PROMPTLY RE-SEEDED OR SODDED. A FORESTED BUFFER OF AT LEAST 30 FEET SHALL BE RETAINED BETWEEN THE BUILDING SITE AND THE COMMON DRIVE OR ROADWAY.] This section does not require revegetation of a buffer area that was cleared before the formation date of the [LOCAL OPTION ZONING DISTRICT] LOZD.
5. Accessory Structures. Accessory structures commonly associated with residential dwellings, i.e., garages, storage sheds, barns, greenhouses, workshops, wind turbines, and a single[, NONCOMMERCIAL] guesthouse per parcel, are allowed within the district. A single accessory structure may constitute the primary use of the lot where an adjacent lot with the primary residence is in the same ownership.
6. Animals are categorized and are allowed as follows:
 - a. Dog lots and commercial kennels are prohibited.
 - b. One large livestock per two acres is allowed. Animals less than 6 months of age are not included in this limitation.
 - c. Up to five small livestock are allowed per acre.
 - d. Up to 10 poultry or fowl are allowed per acre.
 - e. Manure shall be handled as follows:
 - i. Manure shall be removed in a regular and reasonable manner or otherwise composted or spread in such a manner as to protect surface and groundwater, minimize the breeding of flies, and to control odors. Manure shall not be buried.
 - ii. Manure piles shall be set back from the lot line in accordance with the zoning district accessory use setback requirements.
 - iii. Animals shall not be allowed to create excessive odor problems or present a health hazard to occupants of surrounding lands.
 - iv. Adequate drainage facilities or improvements shall be provided by the landowner and constructed to protect any adjacent land from run-off containing contaminants such as sediment or organic wastes.
7. Prohibited uses and structures. The following uses and structures are prohibited in the R-R district:

- a. A lot within the LOZD shall not be subleased, subcontracted, or marketed for non-allowed uses.
- b. No more than five of either travel trailers or motor homes may be on each lot at any time.
- c. No more than five of either inoperable or unregistered vehicles are allowed on each lot at any time.

[D. HOME OCCUPATIONS: IN ADDITION TO THE HOME OCCUPATION USES LISTED IN KPB 21.44.130, THE FOLLOWING HOME OCCUPATIONS ARE ALLOWED PROVIDED THEY DO NOT VIOLATE ANY OF THE PROVISIONS OF THIS TITLE :

1. BED AND BREAKFAST;
2. GUIDE AND GUIDE SERVICES.]

21.44.175. Residential Waterfront (R-W).

A. Purpose. The purpose of this district is to promote orderly development adjacent to anadromous water bodies as defined by AS 41.17.950(1) consistent with the purpose clause of KPB 21.18.020 or lakes of 10 acres or larger.

B. Allowed principal use. One of the following uses is allowed per lot for a permanent residence in this district:

1. No more than [TWO] one single-family dwelling[s];
2. One duplex.

C. Allowed [SECONDARY] compatible uses. [SECONDARY] Compatible uses allowed in the R-W district are parks, playgrounds, schools, community centers, libraries, churches, open space and home occupations as provided in 21.44.175(D).

D. Development standards. The following development standards apply to principal use and accessory structures:

1. Setbacks. Setbacks shall be a minimum 30 feet from the front yard line, a minimum of 20 feet from the rear yard line, a minimum of 15 feet from the side yard lines, and 50 feet from the mean high water mark of the river/lake, and where applicable subject to the provisions of KPB 21.18.
2. Maximum building height. Maximum building height shall be 2½ stories above ground or 35 feet above average grade, whichever is less.
3. [MINIMUM L] Lot size. Minimum lot size shall be 40,000 square feet. Maximum lot size is 5 acres.
4. Coverage. Maximum coverage by structures is 10 percent of the lot.
- [4.]5. Drainage ways. Existing natural drainage ways shall be retained.

[5. BUFFERS. A FORESTED BUFFER OF AT LEAST 20 FEET SHALL BE RETAINED BETWEEN THE BUILDING SITE AND ALL RIGHTS-OF-WAY. DEAD AND DISEASED TREES WITHIN THE BUFFER AREA WHICH ARE A SAFETY HAZARD OR WHICH THREATEN STRUCTURES MAY BE REMOVED. THIS SECTION DOES NOT REQUIRE REVEGETATION OF A BUFFER AREA THAT WAS CLEARED BEFORE THE FORMATION DATE OF THE LOCAL OPTION ZONING DISTRICT.]

6. Accessory structures. Accessory structures commonly associated with residential dwellings, i.e. garages, storage sheds, greenhouses, wind turbines, workshops, and [A SINGLE, NONCOMMERCIAL GUESTHOUSE PER PARCEL] accessory dwellings are allowed within the district. Two rental cabins, not to exceed 500 square feet, are allowed if the principal dwelling is a single family residential. If the principal dwelling is a duplex, one rental cabin is allowed.

7. Prohibited uses and structures. The following uses and structures are prohibited in the R-W district:

a. [THE OWNER OF THE PROPERTY] A lot within the LOZD shall not be subleased, subcontracted, or marketed [THE PROPERTY] for non-allowed uses.

b. No more than two travel trailers or motor homes may be [KEPT] on each lot at any time.

[C. PIT-STYLE OUTHOUSES ARE NOT ALLOWED.]

c. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

[d.][DOG LOTS AND KENNELS ARE PROHIBITED.]

[E. DOMESTIC FARM ANIMALS ARE PROHIBITED.]

8. Livestock and pets.

a. Dog Lots: Dog lots and kennels are prohibited.

b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.

c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.

d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.

[E. HOME OCCUPATIONS. IN ADDITION TO THE HOME OCCUPATION USES LISTED IN KPB 21.44.130, THE FOLLOWING HOME OCCUPATIONS ARE ALLOWED PROVIDED THEY DO NOT VIOLATE ANY OF THE PROVISIONS OF THIS TITLE:

1. BED & BREAKFAST;
2. GUIDE & GUIDE SERVICES;
 - A. LICENSED FISHING GUIDE OPERATIONS ARE LIMITED TO TWO BOATS PER LOT, EACH NOT EXCEEDING 22 FEET IN LENGTH.
3. ONE RENTAL CABIN, NOT TO EXCEED 500 SQUARE FEET, MAY BE OCCUPIED FROM MAY 1-OCTOBER 31.]

21.44.180. [MIXED] Multi-Family residential district (R-M).

A. Allowed Principal Use: No more than one [S]single-family [(R-1)- AND] or multi-family [(MF)] residential (no more than 4 units) dwelling unit[S ARE] is allowed [IN THIS DISTRICT] per lot.

B. Allowed [SECONDARY] compatible Uses: [SECONDARY] Compatible uses allowed in the R-M zone are parks, playgrounds, schools, community centers, libraries, churches, and home occupations.

C. Development Standards. Development standards apply to principal[E] and accessory structures:

1. Setbacks. Setbacks shall be 60 feet from the front yard line for [MF] multi-family units, 40 feet from the front yard line for [R-1] single family units, 40 feet from the rear yard line for [MF] multi-family units, 20 feet from the rear yard line for [R-1] single family units, 25 feet from the side yard lines for [MF] multi-family units, 15 feet from the side yard lines for [R-1] single family units, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
2. [MINIMUM LOT] Lot size. Minimum lot size shall be [80,000] 65,340 square feet for [MF] multi-family units and 40,000 square feet for [R-1] single family units. Maximum lot size is 5 acres.
3. Drainage Ways. Existing natural drainage ways shall be retained.
4. Coverage. Maximum coverage by structure is 20 percent of the lot.

[4. BUFFERS. TO PROVIDE FOR SCREENING, AESTHETICS, AND THE REDUCTION OF SURFACE WATER RUN-OFF, NO LOT SHALL BE CLEAR-CUT MORE THAN 50 PERCENT OF THE TOTAL LOT AREA EXCEPT THAT TREES MAY BE SELECTIVELY PRUNED AND THINNED, AND DEAD AND DISEASED TREES WHICH ARE A SAFETY HAZARD OR WHICH THREATEN STRUCTURES MAY BE REMOVED. UNDERGROWTH MAY BE REMOVED PROVIDED THAT THE AREA IS PROMPTLY RE-SEEDED OR SODDED. A FORESTED BUFFER OF AT LEAST 30 FEET SHALL BE RETAINED BETWEEN THE BUILDING SITE AND THE COMMON DRIVE OR ROADWAY. THIS SECTION DOES NOT REQUIRE REVEGETATION OF A BUFFER AREA THAT WAS CLEARED BEFORE THE FORMATION DATE OF THE LOCAL OPTION ZONING DISTRICT.]

5. Accessory Structures. Accessory structures commonly associated with residential dwellings, i.e., garages, barns, storage sheds, greenhouses, wind turbines, and workshops[, AND A SINGLE, NONCOMMERCIAL GUESTHOUSE PER PARCEL,] are allowed within the district.
6. Livestock and pets.
 - a. Dog Lots: Dog lots and kennels are prohibited.
 - b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.
 - c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.
 - d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.
7. Prohibited uses and structures. The following uses and structures are prohibited in the R-M district:
 - a. A lot within the LOZD shall not be offered for sale or lease for non-allowed uses.
 - b. No more than two of either travel trailers or motor homes may be on each lot at any time.
 - c. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.

[D. HOME OCCUPATIONS. IN ADDITION TO THE HOME OCCUPATION USES LISTED IN KPB 21.44.130, THE FOLLOWING HOME OCCUPATIONS ARE ALLOWED PROVIDED THEY DO NOT VIOLATE ANY OF THE PROVISIONS OF THIS TITLE:

1. BED AND BREAKFAST;
2. GUIDE AND GUIDE SERVICES.]

21.44.190. Mixed use district (C-3).

- A. Allowed Principal Uses: Commercial, business, residential, institutional and public uses are allowed in this district. Industrial uses are prohibited in a C-3 LOZD.
- B. Allowed [SECONDARY] Compatible Uses: [SECONDARY] compatible uses allowed in the C-3 zone are uses allowed in R-1 and R-M districts.
- C. Development Standards. Development standards apply to principal[E] and accessory structures.
 1. Setbacks. Setbacks shall be 30 feet from the front yard line, 20 feet from the rear yard line, 15 feet from the side yard lines, and 100 feet

from the shore and where applicable subject to the provisions of KPB 21.18.

2. [MINIMUM L]Lot size. Minimum lot size shall be 40,000 square feet. Maximum lot size is 5 acres.
3. Drainage ways. Existing natural drainage ways shall be retained.
- [4. BUFFERS. A FORESTED BUFFER OF AT LEAST 20 FEET SHALL BE RETAINED BETWEEN THE BUILDING SITE AND THE ROAD WAY. THIS SECTION DOES NOT REQUIRE REVEGETATION OF A BUFFER AREA THAT WAS CLEARED BEFORE THE FORMATION DATE OF THE LOCAL OPTION ZONING DISTRICT.]
4. Coverage. Maximum coverage by structures is 20 percent of the lot.

D. Prohibited Uses. The following uses are prohibited in C-3 LOZDs: commercial marijuana establishments licensed under AS 17.38 and applicable regulations, alcoholic beverage premises licensed under Title 4 of the Alaska statutes, and sexually oriented business establishments.

21.44.195. Reserved.

[21.44.200. INDUSTRIAL DISTRICT (I).

A. ALLOWED PRINCIPAL AND SECONDARY USES: LIGHT AND/OR HEAVY INDUSTRIAL LAND USES, AND UTILITY/TRANSPORTATION LAND USES ARE ALLOWED IN THIS DISTRICT.

B. DEVELOPMENT STANDARDS:

1. SETBACKS. SETBACKS SHALL BE 40 FEET FROM THE FRONT YARD LINE, 20 FEET FROM THE REAR YARD LINE, 25 FEET FROM THE SIDE YARD LINES, AND 100 FEET FROM THE SHORE AND WHERE APPLICABLE SUBJECT TO THE PROVISIONS OF KPB 21.18.
2. MINIMUM LOT SIZE. MINIMUM LOT SIZE SHALL BE 40,000 SQUARE FEET.
3. DRAINAGE WAYS. EXISTING NATURAL DRAINAGE WAYS SHALL BE RETAINED.
4. BUFFERS. TO PROVIDE FOR SCREENING, AESTHETICS, AND THE REDUCTION OF SURFACE WATER RUN-OFF, NO LOT SHALL BE CLEAR-CUT MORE THAN 75 PERCENT OF THE TOTAL LOT AREA EXCEPT THAT TREES MAY BE SELECTIVELY PRUNED AND THINNED, AND DEAD AND DISEASED TREES WHICH ARE A SAFETY HAZARD OR WHICH THREATEN STRUCTURES MAY BE REMOVED. UNDERGROWTH MAY BE REMOVED PROVIDED THAT THE AREA IS PROMPTLY RE-SEEDED OR SODDED. A FORESTED BUFFER OF AT LEAST 30 FEET SHALL BE RETAINED BETWEEN THE BUILDING SITE AND THE COMMON DRIVE OR ROADWAY, AND A FORESTED BUFFER OF AT LEAST 50 FEET SHALL BE RETAINED BETWEEN THE INDUSTRIAL AND OTHER LOCAL OPTION ZONING DISTRICTS. THIS SECTION DOES NOT REQUIRE REVEGETATION OF A BUFFER AREA THAT WAS CLEARED

BEFORE THE FORMATION DATE OF THE LOCAL OPTION ZONING DISTRICT.]

[21.44.210. RESIDENTIAL CONSERVATION DISTRICT (R-C).

A. PURPOSE. THE PURPOSE OF THIS DISTRICT IS TO RETAIN COMMUNITY RURAL CHARACTER, REDUCE DEVELOPMENT COSTS, ALLOW GREATER FLEXIBILITY AND VARIETY IN THE CREATION OF RESIDENTIAL SUBDIVISIONS, CONSERVE ENVIRONMENTALLY SENSITIVE LANDS, AND TO INCREASE THE TAX BASE. THIS IS ACCOMPLISHED BY CLUSTERING RESIDENTIAL UNITS ON AREAS OF A PROJECT SITE THAT ARE BEST SUITED FOR DEVELOPMENT, AND BY PROTECTING THE REMAINING LAND AS OPEN SPACE. THIS MAY ALLOW EQUAL OR GREATER DENSITIES OF DEVELOPMENT THAN WOULD OTHERWISE BE ALLOWED, AND CONSERVE WETLANDS, WILDLIFE AND FISHERIES HABITAT.

B. ALLOWED PRINCIPAL USE. SINGLE- AND MULTI-FAMILY (UP TO TWO UNITS) RESIDENTIAL DWELLING UNITS ARE ALLOWED IN THIS DISTRICT.

C. SECONDARY USES. PARKS, PLAYGROUNDS, SCHOOLS, COMMUNITY CENTERS, LIBRARIES, CHURCHES, AND HOME OCCUPATIONS.

D. DEVELOPMENT STANDARDS. DEVELOPMENT STANDARDS APPLY TO PRINCIPLE AND ACCESSORY STRUCTURES:

1. SETBACKS. SETBACKS SHALL BE 30 FEET FROM THE FRONT YARD LINE, 10 FEET FROM THE REAR YARD LINE, 5 FEET FROM THE SIDE YARD LINES, AND 50 FEET FROM THE SHORE AND WHERE APPLICABLE SUBJECT TO THE PROVISIONS OF KPB 21.18.
2. MAXIMUM BUILDING HEIGHT. MAXIMUM BUILDING HEIGHT SHALL BE 2½ STORIES OR 35 FEET ABOVE AVERAGE GRADE, WHICHEVER IS LESS.
3. MINIMUM AREA. MINIMUM AREA SHALL BE 20 CONTIGUOUS ACRES OF GROSS PROJECT AREA IN SIZE.
4. MINIMUM LOT SIZE: MINIMUM LOT SIZE SHALL BE 10,000 SQUARE FEET (PROVIDED THAT AN ADEC APPROVED COMMUNITY SEWER AND WATER SYSTEM IS UTILIZED).
5. DRAINAGE WAYS. EXISTING NATURAL DRAINAGE WAYS SHALL BE RETAINED.
6. POLLUTION CONTROL. THE LOCATION AND NATURE OF THE SEPTIC SYSTEMS WHICH WILL SERVE THE HOMESITES INDIVIDUALLY OR COLLECTIVELY WILL ASSURE THAT EFFLUENT FROM THE SEPTIC SYSTEMS WILL NOT REACH THE GROUND OR SURFACE WATERS IN A CONDITION WHICH WOULD CONTRIBUTE TO HEALTH HAZARDS, TASTE, ODOR, TURBIDITY, FERTILITY OR IMPAIR THE AESTHETIC CHARACTER OF NAVIGABLE WATERS
7. BUFFERS. TO PROVIDE FOR SCREENING, AESTHETICS, AND THE REDUCTION OF SURFACE WATER RUN-OFF, NO LOT SHALL BE CLEAR-CUT MORE THAN FIFTY (50) PERCENT OF THE TOTAL LOT AREA EXCEPT THAT

TREES MAY BE SELECTIVELY PRUNED AND THINNED, AND DEAD AND DISEASED TREES WHICH ARE A SAFETY HAZARD OR WHICH THREATEN STRUCTURES MAY BE REMOVED. UNDERGROWTH MAY BE REMOVED PROVIDED THAT THE AREA IS PROMPTLY RE-SEEDED OR SODDED. A FORESTED BUFFER OF AT LEAST 20 FEET SHALL BE RETAINED BETWEEN THE BUILDING SITE AND THE COMMON DRIVE OR ROADWAY. THIS SECTION DOES NOT REQUIRE REVEGETATION OF A BUFFER AREA THAT WAS CLEARED BEFORE THE FORMATION DATE OF THE LOCAL OPTION ZONING DISTRICT.

8. OPEN SPACE.

A. AT LEAST 50% OF THE GROSS PROJECT AREA SHALL BE DEDICATED AS PERMANENT OPEN SPACE. OPEN SPACE SHALL BE RESTRICTED TO PROHIBIT DEVELOPMENT AND MAY BE:

I. DEDICATED TO THE PUBLIC;

II. RETAINED BY THE FORMER OWNER;

III. HELD IN COMMON BY THE RESIDENTS OF THE RESIDENTIAL CONSERVATION DISTRICT; OR

IV. HELD AS OUTLOTS BY INDIVIDUAL OWNERS OF THE CONSERVATION DISTRICT.

B. LANDS DEDICATED TO THE PUBLIC MUST BE ACCEPTED BY THE PLANNING COMMISSION AS PART OF THE PLATTING PROCESS.

C. OPEN SPACE SHALL BE DEED RESTRICTED TO FORESTRY, RECREATIONAL AND ENVIRONMENTAL PROTECTION USES. HOWEVER, A SANITARY WASTE DISPOSAL SYSTEM MAY BE LOCATED IN THE AREA PROVIDED NO SUITABLE SITE IS AVAILABLE ON THE LOT SERVED BY THE SYSTEM. OPEN SPACE SHALL BE CONTIGUOUS.

9. ACCESSORY STRUCTURES. ACCESSORY STRUCTURES COMMONLY ASSOCIATED WITH RESIDENTIAL DWELLINGS, I.E. GARAGES, STORAGE SHEDS, GREENHOUSES, AND WORKSHOPS ARE ALLOWED WITHIN THE DISTRICT.

10. DOG LOTS. DOG LOTS AND KENNELS ARE PROHIBITED.

11. DENSITY. THE NUMBER OF PLATTED HOMESITES SHALL NOT EXCEED 150% OF WHAT WOULD HAVE BEEN POSSIBLE IF THE SAME LAND WERE PLATTED IN ACCORDANCE WITH THE MINIMUM LOT SIZES AND SETBACKS PROVIDED BY THE APPLICABLE PROVISIONS OF KPB CODES AND ORDINANCES. THE MAXIMUM NUMBER OF HOME SITES SHALL BE DETERMINED BY DIVIDING THE GROSS PROJECT AREA OF THE SUBDIVISION, EXCLUDING STREETS, BY THE MINIMUM LOT SIZE OF 40,000 SQUARE FEET, PLUS 50 PERCENT OF THAT NUMBER.

12. DESIGN STANDARDS.

- A. ROADWAYS, LOTS AND BUILDING ENVELOPES SHALL BE LOCATED IN AREAS WHERE THEY WILL HAVE THE LEAST EFFECT ON WETLANDS, RIVERS, STREAMS AND OTHER ENVIRONMENTALLY SENSITIVE AREAS, CROPLAND, PASTURE, MEADOW, AND HISTORIC STRUCTURES, AND WHERE THEY WILL RETAIN OR ENHANCE THE VISUAL CHARACTER OF THE RURAL LANDSCAPE. HOWEVER, IN RESOLVING CONFLICTS BETWEEN THESE INTERESTS, PRIORITY SHALL BE GIVEN TO PROTECTION OF WATERWAYS AND THEIR BUFFERS, STEEP SLOPES, REGULATED FLOODPLAINS AND AVOIDANCE OF A FRAGMENTED LANDSCAPE.
- B. CONSIDERATION OF THE DESIGN OF THE SUBDIVISION AND THE OPEN SPACE PROVISIONS SHALL INCLUDE THE BOROUGH COMPREHENSIVE PLAN, TRAILS PLAN AND COMMUNITY PLANS, COASTAL MANAGEMENT PLAN, AS WELL AS RECOMMENDATIONS FROM ALASKA DEPARTMENT OF FISH AND GAME AND OTHER PERMITTING AUTHORITIES.
- C. BUILDING SITES. THE FOLLOWING STANDARDS APPLY TO BUILDING SITES.
 - I. BUILDING SITES SHALL INCLUDE AT LEAST 2,500 SQUARE FEET OF BUILDABLE AREA EXCLUDING SITES DESIGNATED FOR SANITARY SYSTEMS AND ALL AREAS WHERE CONSTRUCTION OF BUILDINGS AND RELATED INFRASTRUCTURE IS PRECLUDED BY THE PROVISIONS OF THE BOROUGH'S ORDINANCES.
 - II. BUILDINGS AND ROADS SHALL BE LOCATED AS TO MINIMIZE CONFLICTS WITH USES OF ADJACENT LANDS.
 - III. BUILDING SITES SHALL NOT INCLUDE WETLANDS OR FLOODPLAINS.
- D. ROADWAYS AND INFRASTRUCTURE. THE FOLLOWING STANDARDS APPLY TO ROADWAYS AND INFRASTRUCTURE:
 - I. ROADWAYS AND, WHERE PRACTICABLE, INFRASTRUCTURE SHALL NOT BE LOCATED IN OPEN FIELDS BUT SHALL BE SITED ALONG FOREST EDGES AND SHALL BE DESIGNED TO MAXIMIZE THE AMOUNT OF FOREST IN THE CONSERVATION DISTRICT WHICH IS CONTIGUOUS WITH ADJACENT FORESTED LANDS.
 - II. ROADWAYS SHALL FOLLOW EXISTING CONTOURS TO MINIMIZE THE EXTENT OF CUTS AND FILLS.
 - III. ROADWAYS SHALL BE LOCATED TO MINIMIZE THE AMOUNT OF WETLAND FILL.
 - IV. WHERE SITES INCLUDE LINEAR FEATURES SUCH AS EXISTING ACCESS ROADS, TREE LINES AND FENCE ROWS, ROADWAYS SHALL, WHERE PRACTICABLE, FOLLOW THESE FEATURES TO MINIMIZE THEIR VISUAL IMPACT.

V. ROAD AND UTILITY CROSSINGS OF ANADROMOUS STREAMS SHALL BE MINIMIZED AND CONSOLIDATED AT A SINGLE LOCATION TO MINIMIZE IMPACTS TO BOTH INDIVIDUAL STREAM CHANNELS AND WATERSHEDS.

VI. BRIDGES AND CULVERTS SHALL BE LARGE ENOUGH TO PROVIDE FREE PASSAGE TO ANADROMOUS FISH AND SHALL BE POSITIONED TO MINIMIZE CHANGES IN DIRECTION OR VELOCITY OF STREAM FLOW.

VII. ALL DRIVEWAYS SHALL SERVE A MINIMUM OF TWO UNITS.

VIII. THE MAXIMUM NUMBER OF UNITS SERVED BY A COMMON DRIVEWAY SHALL BE FOUR UNLESS THE APPLICANT DEMONSTRATES THAT A GREATER NUMBER WILL PROMOTE THE OBJECTIVES OF THE RESIDENTIAL CONSERVATION DISTRICT.

IX. MAXIMUM LENGTH OF COMMON DRIVEWAYS SHALL BE 1,000 FEET.

X. ALL ROADS MUST BE CONSTRUCTED TO KENAI PENINSULA BOROUGH ROAD CONSTRUCTION STANDARDS, KPB 14.06.080-250.

E. SITE DEVELOPMENT AND LAND DISTURBING ACTIVITIES. EXISTING NATURAL VEGETATION SHALL BE PRESERVED IN AREAS WHERE DISTURBANCE OUTSIDE THE BUILDING ENVELOPE IS NOT ESSENTIAL.

13. PROCEDURE FOR ESTABLISHING A RESIDENTIAL CONSERVATION DISTRICT. THE PROCEDURE FOR ESTABLISHING A RESIDENTIAL CONSERVATION DISTRICT SHALL BE AS FOLLOWS:

A. PETITION. A PETITION IN COMPLIANCE WITH KPB 21.44.210 SHALL BE SUBMITTED TO THE PLANNING DIRECTOR.

B. REVIEW AND HEARING. THE PETITION SHALL BE SUBMITTED TO THE PLANNING COMMISSION, WHICH SHALL GIVE NOTICE AND HOLD A PUBLIC HEARING. THE PLANNING COMMISSION DECISION SHALL REFLECT THE RECOMMENDATIONS OF ANY FEDERAL, STATE OR LOCAL AGENCY WITH WHICH THE BOROUGH PLANNING DEPARTMENT CONSULTS.

C. FINDINGS AND CONDITIONS OF APPROVAL. THE PLANNING COMMISSION SHALL MAKE WRITTEN FINDINGS AS TO THE COMPLIANCE OR NONCOMPLIANCE OF THE PROPOSED RESIDENTIAL CONSERVATION DISTRICT WITH EACH OF THE APPLICABLE REQUIREMENTS SET FORTH IN KPB 21.44.210. IF THE PLAT IS GRANTED IN WHOLE OR PART, THE PLANNING COMMISSION SHALL ATTACH SUCH WRITTEN CONDITIONS TO THE APPROVAL AS ARE REQUIRED BY AND CONSISTENT WITH KPB 21.44.210. THE CONDITIONS AND APPROVAL SHALL IN ALL CASES ESTABLISH THE SPECIFIC RESTRICTIONS APPLICABLE WITH REGARD TO MINIMUM LOT

SIZES, SETBACKS, LOCATION OF SEPTIC SYSTEMS AND THE PRESERVATION OF GROUND COVER AND OPEN SPACE.

- D. PLANNING STUDIES. A LANDOWNER OR PETITIONER MAY AT HIS OWN EXPENSE DEVELOP THE FACTS REQUIRED TO ESTABLISH COMPLIANCE WITH THE PROVISION OF KPB 21.44.210 OR MAY BE REQUIRED TO CONTRIBUTE FUNDS TO THE BOROUGH TO DEFRAY ALL OR PART OF THE COST OF SUCH STUDIES BEING UNDERTAKEN BY THE BOROUGH OR ANY AGENCY OR PERSON WITH WHOM THE BOROUGH CONTRACTS FOR SUCH WORK.]

21.44.220. Record notice of local option zoning district.

A notice of local option zoning district shall be recorded in the State of Alaska district recorder's office where the parcels subject to the [LOCAL OPTION ZONING DISTRICT] LOZD are located. The notice shall provide a legal description of the parcels within the district and the type of zone. The notice shall be in a form approved by the Borough attorney's office. [THE PETITIONERS FOR A LOCAL OPTION ZONING DISTRICT OR REZONE SHALL PAY THE RECORDING FEES.] Notice of rezones under KPB 21.44.140 shall also be recorded.

21.44.230. Definitions.

Adequate legal description means a written description of real property by government survey, metes and bounds, or lot number of a recorded plat or by aliquot part in a conveyance document such that the parcel can be identified, located, and distinguished from other parcels. It shall include, if available, the street address, city, state and zip code of the real property.

Accessory structure means a structure on the same lot and of a nature customarily incidental and subordinate to the principal structure.

Affected property owners are those owners within an LOZD who have filed written or oral testimony in a matter pertaining to the LOZD.

Animal, small means any animal, other than livestock or animals considered to be predatory or wild which are kept outside a dwelling unit all or part of the time. Animals considered predatory or wild, shall be considered small animals when they are taken into captivity for the purposes of breeding, domestication, training, hunting, or exhibition.

Average grade means the average grade calculated from the grade elevations at the four points where an imaginary line parallel to the front and rear yard setback lines and touching the (proposed) structure intersects the required side yard setback lines.

[*AVERAGE SIZE* MEANS THE MATHEMATICAL MEAN OF THE LOT SIZES WITHIN THE PROPOSED LOCAL OPTION ZONING DISTRICT. FOR A LOT TO QUALIFY AS AVERAGE SIZE, IT MUST BE WITHIN 50 PERCENT, PLUS OR MINUS, OF THE MATHEMATICAL MEAN OF ALL LOTS WITHIN THE PROPOSED LOCAL OPTION ZONING DISTRICT.]

[*BEAUTY PARLOR OR SALON/BARBER SHOP* MEANS A COMMERCIAL ESTABLISHMENT PROVIDING SERVICES SUCH AS HAIRCUTS AND HAIR TREATMENT, MANICURE, AND FACIALS.]

[*BED AND BREAKFAST* MEANS A TRANSIENT OCCUPANCY COMMERCIAL ESTABLISHMENT [WITH NO MORE THAN 12 BEDROOMS OR GUEST CABINS OR 24 GUESTS] THAT PROVIDES A CONTINENTAL OR COOK-AND-SERVE BREAKFAST AS PART OF THE PURCHASE PRICE OF THE OVERNIGHT ACCOMMODATIONS. THE OWNER OR OPERATOR OF THE ESTABLISHMENT MUST LIVE ON THE PARCEL IN ORDER FOR SUCH A TRANSIENT OCCUPANCY ESTABLISHMENT TO BE CONSIDERED AS A BED AND BREAKFAST AS OPPOSED TO A HOTEL, MOTEL OR OTHER TYPE OF TRANSIENT ACCOMMODATION.]

Commercial means [ANY USE OPERATED FOR PRODUCTION OF INCOME WHETHER OR NOT INCOME IS DERIVED, INCLUDING SALES, BARTER, RENTAL, OR TRADE OF GOODS AND SERVICES, AND INCLUDING ALL ACTIVITIES DIRECTLY SUBSIDIARY] a land use or other activity involving the offering of goods or services for financial gain.

[*CONSULTING SERVICES* MEANS PROFESSIONAL ADVICE GIVEN IN ONE'S FIELD OF SPECIAL EXPERTISE ON A COMMERCIAL BASIS.]

Dog lot means the keeping or raising of five or more dogs over the age of six months on a parcel.

[*DOMESTIC FARM ANIMALS* MEANS CATTLE, CALVES, HORSES, LLAMAS, MULES, SWINE, SHEEP, GOATS, FOWL, OR OTHER SIMILAR BIRDS AND ANIMALS COMMONLY ASSOCIATED WITH FARMS. TYPES OF FOWL INCLUDE, BUT ARE NOT LIMITED TO, CHICKENS, DUCKS, GEESE, PHEASANTS, QUAILS, AND TURKEYS.]

Duplex means a structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except that a common exterior stairwell may serve both dwelling units.

Dwelling means a building designed or used as living quarters or private residence for people.

[*FAMILY CHILD CARE HOME* MEANS A PRIVATE RESIDENCE WHERE CARE, PROTECTION, AND SUPERVISION ARE PROVIDED FOR A FEE AT LEAST TWICE A WEEK TO NO MORE THAN FIVE CHILDREN AT ONE TIME EXCLUDING CHILDREN OF THE ADULT PROVIDER.]

[FORESTED BUFFER MEANS THE USE OF NATIVE AND NATURAL TREE AND SHRUB LAYERS TO SUFFICIENTLY SCREEN DEVELOPMENT FROM VIEW OF ADJOINING PROPERTIES AND ROADWAYS.]

Front yard means that portion of a lot which is bounded by a dedicated public right-of-way.

[GUIDE SERVICE MEANS COMMERCIAL ACTIVITIES RELATED TO THE HUNTING, CATCHING, AND PROCESSING OF FISH AND GAME AND PROVIDING OVERNIGHT ACCOMMODATION OR MEALS FOR FISHING AND HUNTING CLIENTELE, AND MAY ALSO INCLUDE, BUT NOT BE LIMITED TO GUIDED TOURS SUCH AS HIKING, BIKING, SKIING, SLED DOG TOURS, AND SNOW MACHINING.]

Habitable space means that portion of a structure that is used for actual and daily living [SPACE] purposes including working, sleeping, eating, cooking, or recreation or a combination thereof. Habitable floor space [IT] does not include [BASEMENTS, ATTICS, CRAWL SPACES,] storage sheds, garages or other space used only for parking or storage. [PORTIONS OF A STRUCTURE THAT HAVE NOT BEEN IMPROVED OR MEET BUILDING AND SANITARY CODES.]

Hazard means a source of danger or adverse condition that has potential to harm people or property.

Hazardous chemical means a chemical that is a physical hazard or a health hazard.

Hazardous substance means substances defined at AS 46.08.900(6) and AS 46.09.900(4) as amended.

[HAZARDOUS WASTE MEANS ALL WASTE SUBSTANCES DEFINED BY AS 29.35.590(8), AND 18 AAC 63.900 AS AMENDED.]

Home occupation is that accessory use of a dwelling that shall constitute either entirely or partly the livelihood of a person living in the dwelling unit.

[HOTEL MEANS COMMERCIAL OPERATION OFFERING TRANSIENT LODGING WHICH MAY PROVIDE ADDITIONAL SERVICES SUCH AS RESTAURANTS, MEETING ROOMS, AND RECREATION FACILITIES.]

Household pets means small animals that are kept within a dwelling unit.

Industrial means any activity which includes manufacturing, processing, warehousing, storage, disposal, distribution, shipping, and other related uses. Examples of industrial uses include, but are not limited to material sites, asphalt and cement batch plants, energy generating plants, oil and gas pipeline pumping stations, oil and petrochemical refining or liquefaction processes, septic or sewage processing or treatment facilities, and other uses or activities of similar

character and impact. Industrial includes both heavy and light industrial uses.

Industrial, heavy means the manufacture of materials or products predominantly from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that involve hazardous or commonly-recognized offensive conditions.

Industrial, light means a use engaged in the manufacture predominantly from previously-prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Inoperable vehicle means a vehicle that

- (A) is not currently registered under AS 28.10, except for a vehicle not currently registered under AS 28.10 and used exclusively for competitive racing;
- (B) is stripped, wrecked, or otherwise inoperable due to mechanical failure;
- (C) has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle; or
- (D) is in a condition that exhibits more than one of the following elements:
 - 1. broken glass;
 - 2. missing wheels or tires;
 - 3. missing body panels or parts; or
 - 4. missing drive train parts.

[*JUNKYARD* MEANS A FACILITY OR AREA FOR STORING, KEEPING, SELLING, DISMANTLING, SHREDDING, COMPRESSING, OR SALVAGING SCRAP OR DISCARDED MATERIAL OR EQUIPMENT. SCRAP OR DISCARDED MATERIAL INCLUDES BUT IS NOT LIMITED TO METAL, PAPER, RAGS, TIRES, BOTTLES, MOTOR VEHICLE PARTS, MACHINERY, STRUCTURAL STEEL, EQUIPMENT, AND APPLIANCES. THE TERM INCLUDES FACILITIES FOR SEPARATING TRASH AND DEBRIS FROM RECOVERABLE RESOURCES, SUCH AS PAPER PRODUCTS, GLASS, METAL CANS, AND OTHER PRODUCTS WHICH CAN BE RETURNED TO A CONDITION IN WHICH THEY MAY AGAIN BE USED FOR PRODUCTION.]

Kennel means a premises where a person owns or keeps five or more dogs over the age of six months in the operation of a business, which includes buying, selling, training, boarding, grooming, or breeding.

Livestock means grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to the following: cattle, riding

and draft horses, hogs excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder, which are kept as pets or small animals, sheep, and/or goats.

Livestock, Large means cattle, horses, and other livestock generally weighing over 500 pounds.

Livestock, Small means hogs, excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder, which are kept as household pets or small animals, sheep, goats, miniature horses, llamas, alpaca, and other livestock generally weighing under 500 pounds.

[*LODGING* MEANS OVERNIGHT ACCOMMODATIONS OR SLEEPING QUARTERS.]

[*MOTEL* MEANS A GROUP OF ATTACHED BUILDINGS, CONTAINING INDIVIDUAL SLEEPING OR LIVING UNITS OFFERED AS TEMPORARY LODGING FOR COMPENSATION AND PROVIDING AT LEAST ONE PARKING SPACE FOR EACH UNIT LOCATED ON THE SAME PREMISES AND CONVENIENT TO EACH UNIT.]

[*MOTEL* INCLUDES AUTO COURTS AND MOTOR LODGES (SEE HOTELS).]

Multi-family dwelling unit means a building with multiple dwelling units, each with self-contained bathroom and kitchen facilities.

Nonconforming use means a lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

[*NORMAL TRAFFIC, PARKING, SEWAGE AND WATER USE* MEANS THE AVERAGE ESTIMATED NUMBER OF VEHICLE TRIPS, PARKING SPACES, AND WATER USE FOR A DEVELOPMENT TYPE AS PROPOSED IN THE PETITION FOR A LOCAL OPTION ZONING DISTRICT.]

Nuisance means a substantial and unreasonable interference with the use or enjoyment of real property, including water, especially a continual or repeated invasion of a use or activity which invades the property line of another so as to cause harm or discomfort to the owner or resident of that property. Excessive or noisy vehicular traffic, dust, glare, and smoke are examples of nuisances.

Open Space means land used for recreation, resource protection, amenity, aesthetics and/or buffers. In no event shall any area of a lot constituting the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space. Open space may be private or public and contain accessory structures. Examples of open spaces include but are not limited to fields, school yards, wetlands, and parks.

Outhouse means a detached enclosed structure having one or more holes in a seat built over a pit and serving as an outdoor toilet.

Planning Director means the planning director of the Kenai Peninsula Borough or the planning director's designee.

Rear yard means that portion of a lot bounded by the lot line which is opposite and most distant from the front yard lot line.

Restaurant means a structure or lot which has as the principal use the preparation and sale of food and beverage.

Retail sales are sales made to the ultimate consumer, often in small quantities.

[SECONDARY USE MEANS A USE ALLOWED IN A ZONE WITHOUT A PERMIT WHICH IS NOT THE PRINCIPAL ALLOWED USE IN THE ZONE.]

Sexually oriented business is a commercial enterprise whose major business is the offering of services or goods which is intended to provide sexual stimulation or sexual gratification to the customer.

Shore setback means the distance measured from the ordinary high water mark of a watercourse, lake, pond, flowage, or saltwater environment.

Side yard means that portion of a lot bounded by a line which is neither a front yard nor a rear yard lot line.

Sign means any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed primarily for the purpose of advertising or identifying any establishment, products, goods or services.

Structure means anything that is constructed or erected and located on or under the ground. For purposes of minimum setback requirements under KPB 21.44 the following items are not considered structures: fences; retaining walls; parking areas; roads, driveways or walkways; window awnings; a temporary building when used for 30 days or less; utility poles and lines; guy wires; clothes lines; flag poles; planters; incidental yard furnishings; water wells; monitoring wells and tubes; patios, decks, or steps less than 18 inches above average grade.

[SUBSTANTIALLY COMPLETE MEANS ESSENTIALLY COMPLETED AND AVAILABLE FOR THE OWNER'S BENEFICIAL USE FOR THE PURPOSE AND IN THE MANNER INTENDED FOR THE STRUCTURE.]

[TELECOMMUTING MEANS WORKING IN THE HOME BY USING A COMPUTER TERMINAL CONNECTED BY A TELEPHONE LINE TO A CENTRAL OFFICE OR CENTRAL COMPUTER.]

Temporary structure means a transportable structure for one-time use not to exceed six consecutive months.

Toxic means those substances or substance combinations, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism, either directly

from the environment or indirectly by ingestion through the food chains, will, on the basis of information available, cause death, disease, behavioral or physiological abnormalities, malignance, genetic mutation, or physical deformations, in affected organisms or their offspring.

[*TUTORING* MEANS OFFERING LESSONS OR INSTRUCTION TO NO MORE THAN FOUR PUPILS IN THE SAME SESSION ON A COMMERCIAL BASIS.]

Wrecked vehicle means a vehicle that is disabled and cannot be used as a vehicle without substantial repair or reconstruction.

[21.44.240. - TABLE 1. LOCAL OPTION ZONING DISTRICTS.

LOCAL OPTION ZONING DISTRICTS
LOZ DISTRICTS, USES AND STANDARDS (KPB 21.44)

LOCAL OPTION ZONING	ALLOWED USES	FRONT YARD SETBACK	REAR YARD SETBACK	SIDE YARD SETBACK	SHORE SETBACK	MAXIMUM BUILDING HEIGHT	MINIMUM LOT SIZE**	BUFFER BETWEEN ROW AND SITE
R-1	SINGLE-FAMILY RESIDENTIAL DWELLINGS PARKS, PLAYGROUNDS, SCHOOLS, COMMUNITY CENTERS, LIBRARIES, CHURCHES, HOME OCCUPATIONS	30'	20'	15'	50'	35'*	40,000 SQ. FT.	20'
R-R	RURAL RESIDENTIAL USES ALLOWED IN R-1	60'	40'	25'	50'	N/A	100,000 SQ. FT.	30'
R-W	WATERFRONT RESIDENTIAL USES ALLOWED	30'	20'	15'	50'	35'*	40,000 SQ. FT.	20'
R-M	MIXED RESIDENTIAL USES ALLOWED IN R-1, AND MULTI-FAMILY DWELLINGS (NO MORE THAN 4 UNITS PER STRUCTURE)	MF: 60' SF: 40''	40' 20'	25' 15'	50' 50'	N/A N/A	80,000 SQ. FT. 40,000 SQ. FT.	30' 30'
R-C	RESIDENTIAL CONSERVATION DISTRICT USES ALLOWED IN R-1, AND MULTI-FAMILY DWELLINGS (NO MORE THAN 2 UNITS PER STRUCTURE)	30'	10'	5'	50'	35'	10,000 SQ. FT. (WITH AN ADEC APPROVED COMMUNITY WATER SYSTEM)	20'

c-3	MIXED USE USES ALLOWED IN R- 1, R-M, AND COMMERCIAL AND BUSINESS USES	30'	20'	15'	100'	N/A	40,000 SQ. FT.	20'
i	INDUSTRIAL LIGHT, HEAVY OR INDUSTRIAL PARK LAND USES, AND UTILITY/TRANSPORTA TION LAND USES	40'	20'	25'	100'	N/A	40,000 SQ. FT.	30'

* OR 2½ STORIES, WHICHEVER IS LESS.

** SMALLER LOTS ARE ALLOWED ONLY WITH AN ADEC APPROVED COMMUNITY WATER SYSTEM.

SEE KPB 21.44 FOR A COMPLETE DESCRIPTION OF ALL DISTRICTS, USES, AND STANDARDS.]

SECTION 2. That KPB 21.46.040(A) is hereby amended by adding new subsections 7 and 8 as follows:

21.46.040. Single-Family Residential (R-1) Districts.

A. The following Single-Family Residential (R-1) districts and official maps are hereby adopted:

...

7. College Heights Subdivision Zoning District as described in KPB 21.09.030.

8. North Fork One Zoning District described as described in KPB 21.40.030.

SECTION 3. That KPB 21.46.050(A) is hereby amended as follows:

21.46.050. [MIXED]Multi-Family Residential (R-M) Districts.

A. The following [MIXED] Multi-Family Residential (R-M) districts and official maps are hereby adopted:

...

SECTION 4. That KPB 21.46.060-Residential Conservation (R-C) Districts, KPB 21.46.080-Industrial Mixed Use (C-4) Districts and KPB 21.46.090-Industrial (I) Districts are hereby repealed.

SECTION 5. That KPB Chapter 21.46 is amended by adding a new section KPB 21.46.100 as follows:

21.46.100. Small Lot Residential (R-2) Districts.

A. The following Small Lot Residential (R-2) districts and official maps are hereby adopted:

1.

SECTION 6. That KPB Chapter 21.46 is amended by adding a new section KPB 21.46.110 as follows:

21.46.110. Residential Waterfront Lot Residential (R-W) Districts.

A. The following Residential Waterfront (R-W) districts and official maps are hereby adopted:

1. Keystone Estates Subdivision Zoning District as described in KPB 21.42.030.

SECTION 7. That KPB Chapter 21.46 is amended by adding a new section KPB 21.46.130 as follows:

21.46.130 Preexisting LOZDs.

A. College Heights Subdivision Zoning District (KPB 21.09), North Fork One Zoning District (KPB 21.40) are recognized as single family residential zoning districts (R-1) under KPB 21.44.160. Keystone Estates Subdivision Zoning District (KPB 21.42) is recognized as a residential waterfront (R-W) zoning district.

B. Lots, structures, and uses established in LOZDs as of January 5, 2016, are considered lawful prior existing lots, structures and uses. Applications for prior existing use status shall be filed in accord with KPB 21.44.110. Modifications to these prior existing lots, structures, and uses require compliance with KPB 21.44.

SECTION 8. That KPB 21.50.040(B)(2) is hereby amended as follows:

21.50.040. Remedies for violations.

...

B. For any violation of this title, the borough may bring an administrative enforcement proceeding under this chapter against the violator for any one or more of the following:

1. To correct or abate the violation.
2. To recover a civil penalty not exceeding \$500.00 per day for each violation in accord with the fine schedule set forth at KPB [21.50.050] 21.50.055.

...

SECTION 9. That KPB 21.50.050 is hereby repealed.

SECTION 10. That KPB 21.50.055 is hereby enacted as follows.

21.50.055. Fines.

A. Following are the fines for violations of this title. Each day a violation occurs is a separate violation. Violations begin to accrue the date the enforcement notice is issued and continue to the date the enforcement is initially set for hearing. The fine for a violation may not be reduced by the hearing officer to less than the equivalent of one day's fine for each type of violation.

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
KPB 21.05.040(C)	Violation of variance conditions	\$300.00
KPB 21.06.040	Failure to obtain a Development Permit/Floodplain Management	\$300.00
KPB 21.06.045	Failure to obtain a SMFDA Development Permit/Floodplain Management	\$300.00
KPB 21.06.055	Failure to obtain floodplain logging or fuel storage permit/ Violation of permit conditions/ Floodplain Management	\$300.00
KPB 21.18.071	Failure to obtain staff permit/ Violation of staff permit/ Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.072	Failure to obtain limited commercial activity permit/ Violation of permit conditions/ Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.075	Prohibited use or structure/ Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.081	Failure to obtain Conditional Use Permit/ Violation of Conditional Use Permit Condition/ Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.090	Failure to obtain prior existing use/structure permit/ Violation of permit conditions/ Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.135(C)	Violation of emergency permit conditions/ anadromous stream habitat protection	\$300.00
KPB 21.25.040	Failure to Obtain a Permit/ Material Site/ Correctional community residential center/ Concentrated Animal Feeding Operation	\$300.00
KPB 21.28.030	Violation of permit conditions/ Concentrated Animal Feeding Operations	\$300.00
KPB 21.29.020	Failure to Obtain a counter permit/ Material Site Permits	\$300.00
KPB 21.29.050	Violation of Conditional Land Use Permit Conditions/ Material Site Permits	\$300.00
KPB 21.29.060	Violation of Reclamation Plan/ Material Site Permits	\$300.00
KPB 21.44.100	Violation of Pre-existing structures/ Local Option Zoning	\$300.00
KPB 21.44.110(D)	Prohibited expansion of nonconforming use/ Local Option Zoning	\$300.00
KPB 21.44.110(E)	Prohibited Change in Use/ Local Option Zoning	\$300.00
KPB 21.44.110(G)	Violation of Conditions on Nonconforming Use/ Local	\$300.00

	Option Zoning	
KPB 21.44.130(C)(D)	Violation of Home Occupation Standards and Conditions/ Local Option Zoning	\$300.00
KPB 21.44.130(F)	Disallowed Home Occupation/Local Option Zoning	\$300.00
KPB 21.44.135	Failure to file development notice	\$300.00
KPB 21.44.160(A)(B)	Prohibited use	\$300.00
KPB 21.44.160(C)	Violation of Development Standards/ Single Family Zoning/ Local Option Zoning	\$300.00
KPB 21.44.165(A)(B)	Prohibited use	\$300.00
KPB 21.44.165(C)	Violation of Development Standards/ Small Lot Residential Zoning/ Local Option Zoning	\$300.00
KPB 21.44.170(A)(B)	Prohibited use	\$300.00
KPB 21.44.170(C)	Violation of Development Standards/ Rural Residential District/Local Option Zoning	\$300.00
KPB 21.44.175(B)(C)	Prohibited Use	\$300.00
KPB 21.44.175(D)	Violation of Development Standards/ Residential Waterfront	\$300.00
KPB 21.44.180(A)(B)	Prohibited Use	\$300.00
KPB 21.44.180(C)	Violation of Development Standards/ Multi-Family Residential District/Local Option Zoning	\$300.00
KPB 21.44.190(A)(B)	Prohibited Use	\$300.00
KPB 21.44.190(C)	Violation of Development Standards/ Industrial District/Local Option Zoning	\$300.00
KPB 21.46.030(b)	Failure to maintain bear-resistant garbage cans/Local option zone/Birch and Grove Ridge subdivisions Rural Residential District	\$300.00
KPB 21.50.100(F)	Removal of posted enforcement notice	\$300.00
KPB 21.50.100(G)	Violation of enforcement notice/stop work order	\$500.00
KPB 21.50.130(I)	Violation of an enforcement order	\$500.00

B. For enforcement notices involving a failure to obtain a permit, if a permit is subsequently granted by staff or the planning commission, the permit fee shall be doubled. This section is applicable to violations of KPB 21.06.040, 21.06.045, 21.06.055, 21.09.090(E), 21.18.071, 21.18.072, 21.18.081, 21.18.090, 21.29.020, 21.40.100, 21.42.110(D).

SECTION 11. That KPB 21.50.110(B)(1) and (C) are hereby amended as follows:

21.50.110. Hearing officers.

...

B. Hearing officers shall have jurisdiction over all matters submitted to the officer on an enforcement notice signed by an administrative official in accordance with the procedures set forth in this title including the following:

1. civil fines included on the schedule set forth in KPB [21.50.050] 21.50.055.
2. requests for revocation of permits granted pursuant to this title.

3. requests for correction of a violation as defined in KPB 21.50.130(G)(1).

C. The hearing officer may assess civil fines and costs assessable pursuant to KPB [21.50.050] 21.50.055 and 21.50.130(G) but may not assess attorney's fees, and make other orders in connection with violations within his jurisdiction pursuant to subsection B of this section.

...

SECTION 12. That KPB 21.50.130(G)(2) is hereby amended as follows:

21.50.130. Hearing.

...

G. Within 10 days after completion of the presentation of evidence, and any closing argument that the hearing officer may permit, the hearing officer shall issue a written decision on all matters at issue under the enforcement notice, with supporting findings of fact and conclusions of law. The borough clerk shall distribute the decision to each party by personal delivery or certified mail, or by facsimile or email to a party who has consented in writing to service by facsimile or email. The decision shall include a concise disposition statement either prescribing the fine imposed and the remedy for each violation, dismissing the enforcement notice, or declaring such other specific relief ordered by the hearing officer within the hearing officer's jurisdiction as defined by KPB 21.50.110(B) A decision shall also identify the violator or violators to whom the remedy applies and indicate that it is appealable and set forth the method and timing for such appeal. The remedies may include:

...

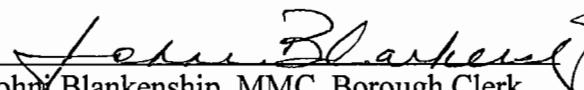
2. An order to a violator to pay to the borough a fine. The fine shall not exceed \$500 for each day of each such violation. Fines shall accrue from the date of the enforcement notice to the date the matter is initially set for hearing. Accumulated fines for each violation may not be reduced by the hearing officer to less than the equivalent of one day's fine. The hearing officer may suspend a portion of a fine for a violation as a condition of compliance with other portions of the decision. If a suspension of fine is ordered the respondent must pay not less than the equivalent of a one day fine. The hearing officer may not reduce or waive the double permit fee required by KPB [21.50.050] 21.50.055(B). The fine shall be paid to the borough clerk who shall notify the administration of compliance with the order.

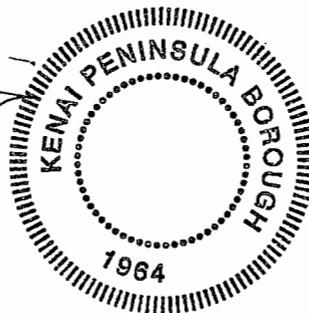
SECTION 13. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF MAY, 2016.


Blaine Gilman, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



04/05/16 Vote on motion to postpone as amended to 05/03/16:

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

05/03/16 Vote on motion to enact as amended:

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