

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Cindy Ecklund, Assembly Memk <sup>CE</sup>  
Mike Tupper, Assembly Member <sup>MT</sup>

**DATE:** January 18, 2022

**SUBJECT:** Amendment to Ordinance 2021-41, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Johnson, Mayor)

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

- Amend Section 2, KPB 21.29.050(A)(2)(a), as follows:

**21.29.050. Permit conditions.**

- A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel, or material sites:

...

2. *Buffer Area.* Material sites shall maintain buffer areas in accord with this section.

- a. A buffer area of a maximum of 100 feet shall be established between the area of excavation and the parcel boundaries. The buffer area may include one or more of the following: undisturbed natural vegetation, a minimum six-foot fence, ~~[a minimum six-foot berm]~~ **a minimum six-foot earthen berm with at least a 2/1 slope** or a combination thereof.

**Clerk's Note: This amendment was approved at the 01/18/22 meeting. 8 Yes, 0 No, 1 Absent**

- Amend Section 2, KPB Section 21.29.050(A)(2)(c), as follows:

**21.29.050. Permit conditions.**

- A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel, or material sites:

...

- 2. Buffer Area. Material sites shall maintain buffer areas in accord with this section.

**Clerk's Note: This amendment was approved at the 01/18/22 meeting. 5 Yes, 3 No, 1 Absent**

- c. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable. **d. The vegetation and fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission or the planning director.**

- Amend Section 2, KPB Section 21.29.050(A)(2)(d), as follows:

- A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel, or material sites:

...

- 2. Buffer Area. Material sites shall maintain buffer areas in accord with this section.

...

- d. The buffer area may be reduced where the planning commission or planning director, as applicable, has approved an alternate buffer plan. The alternate buffer plan must consist of natural undisturbed vegetation, ~~a minimum six-foot berm~~, **a minimum six-foot earthen berm with at least a 2/1 slope** or a minimum six-foot fence or a combination thereof; unless the permittee proposes another solution approved by the planning

Page 3 of 3

January 18, 2021

Re: Ecklund and Tupper Amendments to O2021-41

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commission or planning director, as applicable, to meet this condition.

- Amend Section 2, KPB 21.29.055, as follows:

**21.29.055. Decision.**

~~[The planning commission or planning director, as applicable, shall approve permit applications meeting the mandatory conditions or shall disapprove permit applications that do not meet the mandatory conditions. The decision shall include written findings supporting the decision, and when applicable, there shall be written findings supporting any site-specific alterations to the mandatory condition as specifically allowed by KPB 21.29.050(A)(2)(a), (2)(c), (2)(d), (2)(e), (2)(g), (3), (4)(d), (5), (11)(b), (12), (14), (17)(c), (18), (19), and (20) and as allowed for the KPB 21.29.060 reclamation plan.]~~

The planning commission or planning director, as applicable, shall approve permit applications whereby mandatory standards under KPB 21.29.040 have been met through implementation of imposed and volunteered conditions set forth in KPB 21.29.050, or shall disapprove permit applications when the imposed and volunteered conditions do not meet the mandatory standards in KPB 21.29.040.

The decision shall include written findings detailing how the imposed and volunteered condition under KPB 21.29.050 meet, or do not meet the mandatory standards set forth in KPB 21.29.040, and evidence to support those findings. When applicable, there shall be written findings supporting any site-specific alterations to the mandatory condition as specifically allowed by KPB 21.29.050(A)(2)(a), (2)(c), (2)(d), (2)(e), (2)(g), (3), (4)(d), (5), (11)(b), (12), (14), (17)(c), (18), (19), and (20) and as allowed for the KPB 21.29.060 reclamation plan.

Your consideration of these amendments is appreciated.