

# Kenai Peninsula Borough Planning Department

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## MEMORANDUM

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

**THRU:** Charlie Pierce, Mayor CP  
Max Best, Planning Director MB

**FROM:** Bruce Wall, Planner BW

**DATE:** November 21, 2019

**RE:** Ordinance 2019-30 (Mayor) Substitute, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor)

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The borough assembly passed ordinance 2019-25 which adopted the 2019 Kenai Peninsula Borough Comprehensive Plan. Ordinance 2019-30, regarding amending code provisions relating to material site permits, was introduced prior to the assembly adopting the 2019 Comprehensive Plan. The first six "whereas clauses" found in ordinance 2019-30 reference the 2005 Comprehensive Plan. Therefore, this substitute ordinance changes the first six whereas clauses to reference the 2019 Comprehensive Plan goals.

In addition, the planning commission recommended three further amendments to this substitute ordinance which are incorporated into this substitute ordinance sponsored by the mayor. The planning commission amendments are as follows:

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

- Amend two of the whereas clauses as follows:

The 12<sup>th</sup> Whereas clause (also described as the 4<sup>th</sup> whereas clause on page two of the substitute ordinance) is amended to read: "WHEREAS, the planning commission and planning department received comments expressing concern about dust, noise, safety, and aesthetics;"

The 17<sup>th</sup> whereas clause (also described as the 9<sup>th</sup> whereas on page two of the ordinance) is amended to read: "WHEREAS, certain additional conditions placed on material site permits would facilitate a reduction in

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the negative secondary impacts of material sites, e.g. dust, noise, **safety**, and unsightliness of material sites;"

- In Section 2 amend KPB 21.29.050(A)(16) 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:

...

**16. Appeal. "No clearing of vegetation shall occur within the 100 foot maximum buffer area from the permit boundary nor shall the permit be issued or operable until the deadline for the appeal, pursuant to KPB 21.20, has expired."**

- In Section 2 amend KPB 21.29.055(A)(16) 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**, ~~explaining how the application meets the mandatory permit conditions~~ 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.

Your consideration of this substitute ordinance is appreciated.